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**PROPOSED
RULES AND REGULATIONS
REGULATING THE PRACTICE
OF
ARCHITECTURE**

M A R C H 2 0 1 1

*Proposed Rules and Regulations to be Acted Upon at the
April 29, 2011 Public Hearing*

**ARKANSAS STATE BOARD
OF ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS**

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Little Rock, Arkansas 72201-3822
501/682-3171
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OF ARCHITECTS, LANDSCAPE ARCHITECTS, AND INTERIOR DESIGNERS
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*****RULES AND REGULATIONS - EFFECTIVE ~~JUNE 1, 2005~~JULY 1, 2011*****

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ARKANSAS RULES AND REGULATIONS ARCHITECTURE

The Arkansas Architectural Act and its regulations are being provided as a reference to licensees, candidates, and members of the public in this up-to-date format. All licensees and candidates for licensure should have knowledge of the board's statutes and regulations and should be familiar with and understand their provisions. While every effort has been made to ensure the accuracy of this document, it does not have legal effect. Should any difference or error occur, the law will take precedence.

If there is a question regarding interpretation of these statutes and regulations, you may contact the Arkansas State Board of Architects, Landscape Architects, and Interior Designers at 101 East Capitol Avenue, Suite 110, Little Rock, AR, 72201-3822. The board can be reached by telephone at (501) 682-3171, by fax at (501) 682-3172, or by email at arch@arkansas.gov.

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CHAPTER ONE

RULES AND REGULATIONS

SECTION I

SCOPE AND DEFINITIONS

A. Purpose

These Rules and Regulations of the Arkansas State Board of Architects, Landscape Architects, and Interior Designers are set forth for the purpose of interpreting and implementing the Arkansas Architectural Act, Arkansas Code Annotated 17-15-101 et seq., and Ark. Code Ann. § 17-35-101 and 17-36-101 et seq., which establishing the Board, and grant it full conferring upon its responsibility for registration of architects, landscape architects, and registered interior designers, as well as the and regulation of the practice of architects architecture, the practice of landscape architecture, and the use of the title "registered interior designer."

B. Citation

These rules and regulations shall be known, and may be cited, as Arkansas State Board of Architects, Landscape Architects, and Interior Designers Rules and Regulations.

B.C. Severability

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

C.D. Terms Defined by Statute

The terms defined in the Arkansas Architectural Act, Arkansas Code Annotated 17-15-101 et seq., z shall have the same meanings when used in these regulations, z unless the context or subject matter clearly requires a different interpretation.

D.E. Terms Defined Herein

As used in these regulations, the following terms shall have the following meanings, z unless the context or subject matter clearly requires a different interpretation.

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33 *Applicant*

34 An applicant is any individual who has submitted an application for registration to the
35 Board.

36
37 *Appropriate Design Professional*

38 The appropriate design professional is the individual who is most responsible for the
39 portion of the work that reflects that individual's discipline or area of expertise.
40 Examples of design professionals include architects, civil engineers, structural engineers,
41 mechanical engineers, and electrical engineers.

42
43 *Architect*

44 ~~"Architect"~~ means a An architect is any person who is technically and legally qualified
45 to practice architecture.

46
47 ~~A.R.E.RE®~~

48 The ARE® is the current Architect Registration Examination prepared by NCARB.

49
50 BEA

51 The BEA is the broadly experienced architect, as currently defined by NCARB.

52
53 CE

54 Continuing education is learning enabling a registered architect regularly to increase or
55 update knowledge of and competence in technical and professional subjects related to
56 the practice of architecture to safeguard the public's health, safety, and welfare.

57
58 *CEH*

59 ~~One continuing education hour (CEH) shall represent a minimum of fifty (50) minutes of~~
60 ~~actual course time.~~ Continuing education hour refers to one continuous hour (50 to 60
61 minutes of contact) spent in structured educational activities intended to increase or
62 update the architect's knowledge and competence in health, safety, and welfare subjects.
63 If the provider of the structured educational activities prescribes a customary time for
64 completion of such an activity, then such prescribed time shall, unless the Board finds
65 the prescribed time to be unreasonable, be accepted as the architect's time for continuing
66 education hour purposes irrespective of actual time spent on the activity.

67
68 *Construction Administration*

69 Construction administration is the portion of the architect's services that takes place
70 during the construction of a building. Construction administration services must include
71 periodic observation of the construction site at critical times to determine whether the
72 building is being built in accordance with the construction documents. The appropriate

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73 design professional must observe the portion of the work for which he or she is directly
74 responsible.

75
76 *EESA*

77 The Education Evaluation Services for Architects, is a program administrated by
78 Educational Credential Evaluators, Inc., a private organization not affiliated with
79 NCARB or any of ~~its~~sits members.

80
81 *Emeritus Architect*

82 An emeritus architect is a registrant who has retired from the active practice of
83 architecture and who is 65 years of age or older. At the discretion of the Board, however,
84 a registrant of any age who has become incapacitated may be granted emeritus status.
85 An emeritus architect may use the title "architect," but may not practice architecture as
86 defined in Arkansas Code Annotated §17-15-102~~(5)(A)(i)~~.

87
88 *Examination*

89 Examination refers to ~~the~~ current Architect Registration Examination (A-R-E[®]), ~~as~~
90 accepted by the Board prepared and administered through NCARB.

91
92 *Health, Safety, and Welfare Subjects*

93 Health, safety, and welfare subjects are topics related to technical and professional
94 courses that the Board deems appropriate to safeguard the public and that are within the
95 following enumerated areas necessary for the proper evaluation, design, construction
96 and utilization of buildings and the built environment.

- 97
98 1. Legal: law, codes, zoning, regulations, standards, life safety, accessibility, ethics,
99 insurance to protect the owner or public
100 2. Technical: surveying, structural, mechanical, electrical, communication, fire
101 protection, controls
102 3. Environmental: energy efficiency, sustainability, natural resources, natural
103 hazards, hazardous materials waterproofing, insulation
104 4. Occupant Comfort: air quality, lighting, acoustics, ergonomics
105 5. Materials and Methods: building systems, products, finishes, furnishings,
106 equipment
107 6. Preservation: historic, reuse, adaptation
108 7. Pre-Design: land use analysis, programming, site selection, site and soils
109 analysis
110 8. Design: urban planning, master planning, building design, site design, interiors,
111 safety and security measures
112 9. Construction Documents: drawings, specifications, delivery methods
113 10. Construction Administration: contracts, bidding, contract negotiations

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114 *IDP*

115 Intern Development Program training requirements for certification are established,
116 from time to time, by NCARB.

117

118 *Intern Architect*

119 An intern architect is any person who possesses a professional degree in architecture
120 from an NAAB-accredited school and is enrolled in the Intern Development Program
121 (IDP). Use of the title "intern architect" shall not be construed to allow practice of
122 architecture by unregistered individuals.

123

124 *NAAB*

125 The NAAB is the National Architectural Accrediting Board.

126

127 *NCARB*

128 The NCARB is the National Council of Architectural Registration Boards.

129

130 *Original Documents*

131 Original documents refer to the vVersion of drawings and/or sets of specifications from
132 which all lawful copies are made.

133

134 *Practice of Architecture*

135 The practice of architecture is the provision of, or the offering to provide, the services
136 defined in the Arkansas Architectural Act in connection with the design, construction,
137 enlargement, or alteration of a building or group of buildings and/or the space within
138 and surrounding such buildings, which are designed for human occupancy or
139 habitation. These services include planning, providing preliminary studies, designs,
140 drawings, specifications, and other technical submissions, and administration services
141 during construction.

142

143 *Principal*

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

147

148 *Prototype Building*

149 A prototype building is any commercial building or space within a commercial building
150 that is intended to be constructed in multiple locations, has been constructed in multiple
151 locations, or that conveys an owner's intended uniform business program, plan, or
152 image.

153

154

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155 Prototypical Building Documents
156 Prototypical building documents are technical submissions for prototypical buildings
157 that are prepared by, or under the responsible control of, an architect ~~who is~~ registered
158 in any United States jurisdiction and who holds certification issued by NCARB. ~~These~~
159 documents must identify the architect, together with the architect's registration number,
160 jurisdiction or registration, and NCARB certification number, and must be marked
161 "Prototypical Design Documents: Not for Construction." Prototypical building
162 documents do not comprise a final comprehensive set of design and construction
163 documents because a prototypical building requires adaptation for local building site
164 conditions, ~~which~~ may require additional design.

165
166 *Responsible Control*
167 Responsible control is the ~~That~~ amount of control over, and detailed knowledge of, the
168 content of technical submissions, during their preparation, ~~which, as that~~ is ordinarily
169 exercised by registered architects ~~who are~~ applying the required professional standard
170 of care. Reviewing, or ~~reviewing and~~ correcting, technical submissions after they have
171 been prepared by others does not constitute the exercise of responsible control because
172 the reviewer has neither control over nor detailed professional knowledge of the ~~control~~
173 content of such submissions throughout their preparation.

174
175 Structured Educational Activities
176 Structured educational activities in which at least 75 percent of an activity's content and
177 instructional time must be devoted to acceptable health, safety, and welfare subjects
178 related to the practice of architecture, including courses of study, monographs or other
179 activities under the areas identified as health, safety, and welfare subjects and provided
180 by qualified individuals or organizations, whether delivered by direct contact or
181 distance learning methods.

182
183 *Technical Submissions*
184 Technical submissions are the ~~d~~ Designs, drawings, specifications, studies, and other
185 technical reports prepared in the course of practicing architecture. All technical
186 submissions shall be identified by the name and address of the architect or architect's
187 firm.

188
189 VU
190 Value unit, used to calculate the hours of training earned by IDP applicants.

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SECTION II

GENERAL PROVISIONS

A. Board Operation

1. Board Hheadquarters— shall be located in Little Rock, at a location designated by the Board.
2. Board Officers— shall be President, Vice President, and Secretary-Treasurer, ~~Members.~~ Terms of office for officers shall last is 1 one (1) year, beginning ~~October~~ January 1 of each year.
3. Board Employees— shall be Executive Director, ~~Board Administrator~~ Administrative Assistant/Office Manager, ~~Executive Secretary~~ Administrative Analyst, and/or other employees, as deemed necessary by the Board.
4. The Fiscal year— shall be July 1 through June 30.
5. Board Regular meetings— shall be held Aat the discretion of the Board, but and not less than twice annually. Exact dates shall to be determined by the President.
6. Special Mmeetings— may be called by the at call of President or by any two (2) ~~B~~board members.
7. All Board Place of meetings— shall take place in the SState of Arkansas, as where directed by the President or by the two (2) bBoard members who called a special meeting.
8. Notice of any meetings— shall be sent to each Board Member by the Executive Director or Administrative Assistant/Office Manager ~~Board Administrator~~ at ~~direction of President or members calling meeting at least 10~~ least five (5) days prior to the meeting, unless such notice is waived by all members.
9. All of the following Rrecords and Rreports— shall be the responsibility of the Secretary-Treasurer. ~~The Secretary-Treasurer is responsible but~~ may designate delegate actual preparation to staff.
 - a. Minutes and official reports.
 - b. Registrationer of applicants, examinations, certifications, and renewals.
 - c. Correspondence.
 - d. Receipts and disbursements.
10. All Funds— collected shall be and deposited ~~to~~ into the account of the Board by the Secretary-Treasurer, except as he or she may delegate these duties to staff.
11. Fiduciary Bbonds— covering the Secretary-Treasurer, Executive Director, and staff shall be secured as required by the Board or by the SState of Arkansas.
12. All Board funds shall be deposited into a Depository— Checking and or savings accounts in a financial institution chartered in the State of Arkansas.
13. Disbursements— shall be made only with the by signatures of any two of the following, in accordance with the adopted Financiael Oversight Procedures:

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229 President, Executive Director, ~~Board Administrator~~ Administrative
230 Assistant/Office Manager, or Secretary-Treasurer ~~and Executive secretary.~~

231 B. Board Seal

232 The Seal of the Board— was designated in ~~1939~~ 2009. This seal shall be applied to all
233 registrations issued by the Board.

234 C. Public Information

235 At its office, ~~The~~ Board shall, ~~at its offices,~~ maintain a roster of duly registered architects
236 and business entities ~~subject to SECTION VIII, A., open to public inspection, which shall~~
237 showing each registered architect's or entity's business name, registration or certificate
238 or authorization number, and last known mailing address. This roster shall be open to
239 public inspection. A roster of all licensed architects shall, ~~furthermore~~ be published on
240 the Board's Wweb site.

241 D. ~~Communication;~~ Prohibition or Improper Contacts

242 1. Prior to the filing of an application, and after the final Board action on an
243 application, verbal and written communication with individual Board members
244 or any individual members of the Board's staff shall be freely permitted;
245 provided, however, that in no event is any no member of the Board or its staff is
246 authorized to give any indication of what specific actions the Board may take
247 upon the merits of any application which that may be filed with it. Board
248 members and staff may, however, give g General advice, ~~however, may be given~~
249 as to about the manner of completing or submitting applications, the procedures
250 to be followed in when processing applications, and the nature of the standards
251 applied by the Board in evaluating applications. ~~When~~ while an application for
252 registration ~~or an enforcement proceeding~~ is pending before the Board, no one
253 shall initiate any written or oral communication with individual Board members
254 concerning the matter; ~~but however,~~ inquiries may be made, either orally or in
255 writing, to the Executive Director or the Board staff, ~~or or~~ in writing, to the Board
256 office.

257 2. Once a complaint has been files or any enforcement action has been initiated
258 against any individual or corporation, no person shall contact any Board member
259 to discuss the circumstances of the case. No one shall initiate any written or oral
260 communication with individual Board member concerning the matter; however,
261 inquiries may be made, orally or in writing, to the Executive Director or Board
262 Staff, or in writing, to the Board office.

263 E. NCARB

264 1. The Board shall maintain membership in NCARB and shall pay the necessary
265 costs thereof.

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D. Annual Renewal Fees

Every applicant for registration renewal shall include with his or her application a nonrefundable renewal fee, determined in accordance with the schedule set forth as follows:

- | | |
|---|-----------------|
| <u>1. Annual Renewal of Individual Registration</u> | <u>\$100.00</u> |
| <u>2. Annual Renewal of Certificate of Authorization Registration</u> | <u>\$250.00</u> |
| <u>3. Annual Renewal of Emeritus Status Registration</u> | <u>\$ 20.00</u> |

E. Late Fees

Registrations for individuals and corporations which have expired or have been revoked due to non-payment of the annual renewal fee may be reinstated through the payment of the renewal fee, in effect at the time, plus a penalty of fifty dollars (\$50.00) per month for the first three (3) months in which the registration has been expired or revoked. Thereafter, an additional penalty of one hundred dollars (\$100.00) for the balance of one (1) year, for a maximum penalty of two hundred fifty dollars (\$250.00) per a year, for a maximum of three (3) years, shall be levied in accordance with the schedule set forth below:

- | | |
|---|-----------------|
| <u>1. Individual Registration/Certificate of Authorization (1 Month) Late</u> | <u>\$ 50.00</u> |
| <u>2. Individual Registration/Certificate of Authorization (2 Months) Late</u> | <u>\$100.00</u> |
| <u>3. Individual Registration/Certificate of Authorization (3 Months) Late</u> | <u>\$150.00</u> |
| <u>4. Individual Registration/Certificate of Authorization (4-12 Months) Late</u> | <u>\$250.00</u> |
| <u>5. Individual Registration/Certificate of Authorization (13 Months) Late</u> | <u>\$300.00</u> |
| <u>6. Individual Registration/Certificate of Authorization (14 Months) Late</u> | <u>\$350.00</u> |
| <u>7. Individual Registration/Certificate of Authorization (15 Months) Late</u> | <u>\$400.00</u> |
| <u>8. Individual Registration/Certificate of Authorization (16-24 Months) Late</u> | <u>\$500.00</u> |
| <u>9. Individual Registration/Certificate of Authorization (25 Months) Late</u> | <u>\$550.00</u> |
| <u>10. Individual Registration/Certificate of Authorization (26 Months) Late</u> | <u>\$600.00</u> |
| <u>11. Individual Registration/Certificate of Authorization (27 Months) Late</u> | <u>\$650.00</u> |
| <u>12. Individual Registration/Certificate of Authorization (28-36 Months) Late</u> | <u>\$750.00</u> |

F. Continuing Education Late Fees

Failure to fulfill the continuing education requirements, or failure to file the required annual continuing education affidavit properly completed, by July 31, shall result in the non-renewal of the individual's registration. A nonrefundable penalty of two hundred fifty dollars (\$250.00) per month, for a maximum of one thousand dollars (\$1000.00) per year, for a period of three (3) years, shall be levied in addition to the renewal fee and late fees, determined in accordance with the schedule set forth as follows:

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337	<u>1. Annual Continuing Education Affidavit (1 Month) Late</u>	<u>\$ 250.00</u>
338	<u>2. Annual Continuing Education Affidavit (2 Months) Late</u>	<u>\$ 500.00</u>
339	<u>3. Annual Continuing Education Affidavit (3 Months) Late</u>	<u>\$ 750.00</u>
340	<u>4. Annual Continuing Education Affidavit (4-12 Months) Late</u>	<u>\$1,000.00</u>
341	<u>5. Annual Continuing Education Affidavit (13 Months) Late</u>	<u>\$1,250.00</u>
342	<u>6. Annual Continuing Education Affidavit (14 Months) Late</u>	<u>\$1,500.00</u>
343	<u>7. Annual Continuing Education Affidavit (15 Months) Late</u>	<u>\$1,750.00</u>
344	<u>8. Annual Continuing Education Affidavit (16-24 Months) Late</u>	<u>\$2,000.00</u>
345	<u>9. Annual Continuing Education Affidavit (25 Months) Late</u>	<u>\$2,250.00</u>
346	<u>10. Annual Continuing Education Affidavit (26 Months) Late</u>	<u>\$2,500.00</u>
347	<u>11. Annual Continuing Education Affidavit (27 Months) Late</u>	<u>\$2,750.00</u>
348	<u>12. Annual Continuing Education Affidavit (28-36 Months) Late</u>	<u>\$3,000.00</u>

G. Miscellaneous Fees

349		
350	<u>1. Replacement or Duplicate Wall Certificate</u>	<u>\$ 30.00</u>
351	<u>2. ARE® Score Transfer Fee</u>	<u>\$ 50.00</u>
352	<u>3. Electronic File of Roster</u>	<u>\$ 250.00</u>
353	<u>4. Returned Check Fee</u>	<u>\$ 25.00</u>

SECTION IV

REGISTRATION STANDARDS

SECTION VII

REGISTRATION

A. Issuance

~~A Certificate of Registration shall be issued to individuals meeting all requirements of the Act and Rules and Regulations of the Board. The certificate shall bear the name and registration number of the architect. Every architect certified by NCARB, but unlicensed in Arkansas, shall apply to the Board for licensing within thirty (30) days after notification of selection (whether notified orally or in writing) as the Architect by the client/owner. Such architect shall be licensed in Arkansas prior to signing a contract or engaging in the practice of architecture, as defined by the Act.~~

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366 **B. Duration**

367 ~~Certificates of registration shall expire on July 31 of each year and shall become invalid~~
368 ~~on August 1 unless renewed. All renewals must be either received in the Board office by~~
369 ~~the close of business on July 31 or postmarked by July 31. Renewal may be effected at~~
370 ~~any time during the month of July by payment of the renewal fee as provided in~~
371 ~~SECTION VII, C. Only renewal forms which contain the completed renewal application,~~
372 ~~continuing education report form demonstrating compliance with continuing education~~
373 ~~requirements and the required renewal fees will be processed.~~

374 **E. Not Transferable**

375 ~~A registration shall not be transferable.~~

376 **F. Revocation, Suspension, Cancellation or Non-Renewal or Registration**

- 377 ~~1. Upon notice of the Board, certificates of registration suspended, revoked, or refused by the~~
378 ~~Board to renew for cause, as defined in E.2 of this Section, shall be surrendered immediately~~
379 ~~in the manner prescribed by that notice.~~
- 380 ~~2. Cause defined. Cause shall be defined as any violation of the Arkansas Architectural Act~~
381 ~~and/or the Board's current Rules and Regulations. Cause shall also be defined as not~~
382 ~~meeting the continuing education requirements, suspension or revocation of a license, or~~
383 ~~NCARB withdrawing the certification of the individual Registrant.~~

384 **A. D. Registration Standards****Initial Registration Standards**

385 To be granted registration other than through reciprocity, an applicant must meet the
386 following requirements:

- 387 1. An applicant must ~~B~~be of good moral character, as verified by employers and
388 registered architects ~~other references~~.
- 389 2. An applicant must ~~After January 1, 1985,~~ hold a professional degree in
390 architecture from a degree program that has been accredited by NAAB, ~~not~~
391 later than two years after termination of enrollment or must have
392 successfully completed the NCARB bBroadly eExperienced aArchitect (BEA)
393 or broadly experienced foreign architect (BEFA) process, ~~with NCARB and~~
394 awarded an NCARB Certificate; if prior to January 1, 1985, the applicant
395 must have 12.5 years of combined education and experience until January 1,
396 1985.
- 397 3. An applicant must ~~H~~have completed ~~satisfied~~ the IDP requirements in
398 accordance with current NCARB standards. ~~IDP requirements are waived for~~
399 ~~applicants who have received NCARB certification prior to July 1984 or have~~
400 ~~been NCARB certified and actively practiced architecture for three years or~~
401 ~~more.~~
- 402 4. An applicant must ~~H~~have passed the Examination ARE® in accordance with
403 the current NCARB standards.

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- 404 5. An applicant must ~~€completed~~ an affidavit supplied by the Board attesting
405 to havinge read and understood the Arkansas Architectural Act and Rules
406 and Regulations.
407 a. ~~Successfully passed the jurisprudence test on the Arkansas Architectural Act~~
408 ~~and Rules and Regulations of the Board.~~
- 409 2. ~~In evaluating records, the Board shall apply the current education and~~
410 ~~training standards, except that an applicant who qualified under the standards~~
411 ~~current at the time of his/her application shall be evaluated by those standards.~~
- 412 3. ~~In evaluating records, the Board may, prior to granting a registration, require~~
413 ~~substantiation of the quality of character of the applicant's experience,~~
414 ~~notwithstanding the fact that the applicant has complied with the technical~~
415 ~~registration requirements set forth above.~~

416 When evaluating qualification, the Board may require that the applicant substantiate his
417 or her qualifications.

418 Other experience may be substituted for the registration requirements set forth in this
419 section. However, the Board will make the determination of whether the substitution is
420 equivalent to, or better than, such requirements. The burden shall be on the applicant to
421 show clear and convincing evidence of the equivalency of such other experience.
422
423
424

425 **B. Reciprocal Registration Standards**

426 An applicant who holds a current and valid certification issued by NCARB and submits
427 satisfactory evidence of such certification to the Board can be registered, providing the
428 applicant meets the following requirements:

- 429 1. An applicant holds a valid registration as an architect issued by a registration
430 authority of the United States or Canada and submits satisfactory evidence of
431 such registration to the Board.
- 432 2. An applicant files his or her application in a form prescribed by the Board and
433 pays the applicable fees established by the Board.

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SECTION V

435

RECIPROCAL REGISTRATION

436

B. Information Required

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1. Application accompanied by NCARB Certificate evidencing that qualifications

438

for original registration are equivalent to those required in Arkansas on the date

439

of original registration.

440

3. Before registration, the Board may, at its discretion, require individual applicants

441

to appear before the Board when a record does not clearly indicate that the

442

applicant is qualified for registration in Arkansas.

443

C. B. Registration Prohibited

444

One or more of the following acts shall be sufficient to prevent the applicant from being

445

considered for registration and license.:

446

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1. Practicing architecture without registration or license in Arkansas or any other a

448

state, territory, district, or zone of the United States, in violation of a law

449

governing such practice.

450

2. Conviction of a felony, subject to Arkansas Act 280 of 1973.

451

3. Submitting a misstatement or misrepresentation of fact in connection with an

452

application for examination registration, application for reciprocal registration,

453

or any other official communication with the Board.

454

4. Committing an act prohibited by a provision of the Arkansas Architectural Act

455

or the Rules and Regulations of this Board in effect at that time.

456

457

D. Practice Permitted without Certificate of Registration

458

1. A non-resident architect who holds an NCARB certificate may offer to practice

459

architecture in Arkansas for an individual project, providing he or she notifies the Board

460

in writing that:

461

a. He or she holds an NCARB certificate and is not currently registered in Arkansas,

462

but will be present in Arkansas for the purpose offering to render architectural

463

services for a single project.

464

b. The applicant will deliver a copy of the notice referred to above to every potential

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client to whom he or she offers to render services.

466

c. He or she promises to apply to the Board within thirty (30) days for registration if

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selected for the project.

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2. A non-resident architect who holds an NCARB certificate may offer to seek an architectural commission in Arkansas by participating in a single architectural design competition, providing that he or she notifies the Board in writing for each competition that:
 - a. He or she holds an NCARB certificate and is not currently registered in Arkansas, but will be present in Arkansas for the purpose of offering to render architectural services for a single project.
 - b. The applicant will deliver a copy of the notice referred to above to every potential client to whom he or she offers to render services.
 - c. He or she promises to apply to the Board within thirty (30) days for registration if selected for the project.

3. A non-resident architect may provide uncompensated professional services at the scene of an emergency at the request of a public officer, public safety officer, or municipal or county building inspector acting in an official capacity.

E. Renewal

- ~~1. Certificates of registration for individuals and corporations which have expired or have been revoked due to non-payment of the annual renewal fee, may be reinstated through the payment of the renewal fee in effect at the time plus a penalty of fifty dollars (\$50.00) per month for the first three (3) months the certificates have expired or have been revoked. Thereafter, an additional penalty of one hundred dollars (\$100.00) for the balance of one (1) year for a maximum penalty of two hundred fifty dollars (\$250.00).~~

~~A registrant who does not properly renew their license may not practice architecture after the expiration of the license. A registrant who continues to practice on an expired license will be subject to disciplinary sanctions as the Board deems appropriate.~~
1. Certificates of registration shall expire on July 31 of each year and shall become invalid on August 1, unless renewed.
2. All renewals must be either received in the Board office by end of business on July 31 or postmarked by July 31.
3. Only renewal forms that contain the completed renewal application, annual continuing education affidavit attesting compliance with continuing education requirements, and the required renewal fees will be processed.

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506 4. A resident who does not properly renew his or her license may not practice
507 architecture after the expiration of the license. A registrant who continues to practice
508 on an expired license will be subject to such disciplinary action as the Board deems
509 appropriate.

510 **F. Emeritus Status Registration-Required**

- 511 1. Registrants, who are retired from the active practice of architecture and who ~~who~~ are
512 65 years of age or older, may request emeritus status by filing out the application,
513 ~~showing compliance with this Section.~~
- 514 2. Emeritus status licensees are exempt from continuing education requirements unless
515 they reactivate their licenses to active status.
- 516 3. ~~in accordance with Section G of this Section.~~ Registrants who have been on emeritus
517 status for more than one (1) year may be readmitted to active practice upon proper
518 application and completion of twenty-four (24) hours of continuing education hours.
519 Registrants who have been on emeritus status for one (1) year or less may be
520 readmitted to active practice upon proper application and completion of twelve (12)
521 hours of continuing education.
- 522 4. An emeritus seeking readmission to active practice shall pay all applicable fees, not to
523 exceed the current license fees

524 **G. Emeritus Readmission to Active Practice**

- 525 ~~1. Emeritus persons may be readmitted to the active practice upon proper application~~
526 ~~and completion of twenty-four (24) hours of continuing education hours. For~~
527 ~~individuals who have been on emeritus status for one year, they must complete~~
528 ~~twelve (12) hours of continuing education hours.~~
- 529 ~~2. Fees required. An emeritus licensee seeking readmission to active practice shall pay~~
530 ~~all applicable fees, not to exceed the current license fees.~~

533 **G. Reissuance Reinstatement of Lapsed License**

- 534
- 535 1. An individual whose license has lapsed for any reason ~~due to nonpayment of fees~~
536 and/or failure to comply with continuing education requirements may be
537 renewed/reinstated, at any time within three (3) years, from the date of cancellation
538 of the license/registration.
- 539 a. Prior to reinstatement ~~of the license,~~ the individual must
540 show/demonstrate compliance with the Act and the ~~Board's~~ current
541 Rules and Regulations.
- 542 b. The applicant must pay all ~~and make payment to the Board the~~ fees, that
543 which would have ~~been~~ accrued since the time of cancellation ~~and which~~

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544 ~~would have been paid at the time of reinstatement, together with as well~~
545 ~~as~~ the amount of penalties due. ~~outlined in Section VII C.~~

546 2. Registrants who hold an NCARB certification and have allowed their registration to
547 lapse for a period of three (3) or more years must re-apply through ~~the means of~~
548 ~~which the initial license was granted~~ reciprocity.

549
550 1.3. Registrants without NCARB certification and who were initially registered in
551 Arkansas may re-apply without retaking the ARE®.

552 2.4. The ~~examining body, Board for reasons it may deem sufficient,~~ may reissue a
553 certificate of registration to any person whose certificate has lapsed or has been
554 suspended or revoked, providing that no charges of violation of this act are pending.
555 ~~in any court of record in this state and that three (3) or more members of the~~
556 ~~examining body vote in favor of reissuance.~~

557

558

SECTION VI

559

EXAMINATION

560

A. General

561 1. Applicants for registration by examination must ~~submit to and~~ pass the Architect
562 Registration Examination (ARE®) ~~as outlined below.~~

563 2. All such applicants for registration by examination must be 21 years of age and
564 must have been approved as a candidate for ~~the~~ examination by the Board. ~~A~~
565 ~~pre-requisite for making application to the Architect Registration Examination is~~
566 ~~completing the Intern Development Program Training Requirement, in~~
567 ~~accordance with the IDP guidelines developed under the auspices of the~~
568 ~~National Council of Architectural Registration Boards (NCARB) and the~~
569 ~~American Institute of Architects and administered by the NCARB.~~

570 3. All applicants for registration by examination must establish an NCARB Council
571 record and be enrolled in the NCARB Intern Development Program.

572

B. Applications

573 ~~The Board shall consider t~~The application packet for the exam~~ination must contain the if~~
574 ~~the following items are contained therein:~~

575 1. The completed Arkansas application form, ~~and~~

576 2. An NCARB Council Record documenting the following:

577 a. A professional degree in architecture from a school or college of
578 aArchitecture on the list of accredited schools issued by the National
579 Architecture Accrediting Board (NAAB), ~~and~~

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- 580 b. Proof of enrollment in Completion of the Intern Development Program
581 (IDP). ~~Training Requirement, or satisfaction of the Canadian Intern~~
582 ~~Program; and~~
- 583 3. The Board reserves the right ~~an any time~~ to require ~~that~~ an applicant to produce
584 substantiation for ~~all or any part of the verified~~ his or her record, ~~of experience~~
585 ~~which he/she asserts as been attained.~~ The board may, ~~prior to admission to the~~
586 ~~examination,~~ require substantiation of the quality and character of the training
587 prior to admission to the examination. ~~notwithstanding that fact that the~~
588 ~~applicant has complied with the technical training requirements set forth herein;~~

589 **C. Conditions for Examination**

- 590 1. The Board will determine the eligibility of each applicant and will forward
591 eligibility information to NCARB.
- 592 2. The Board will allow the applicant to take the ARE® at any NCARB-approved
593 test center, whether or not it is located in the State of Arkansas.
- 594 3. The Board will accept the ARE® results determined by NCARB and will report
595 the results to the applicant.
- 596 4. If there is any alleged misbehavior on the part of an applicant in connection with
597 taking the examination, the Board will investigate the allegation and take
598 appropriate action. Without limitation, misbehavior may include- violation of
599 NCARB guidelines or polices, or of an applicant's confidentiality agreements
600 with respect to the examination.

601 **~~D. Format~~**

602 ~~The Board will select a test vendor who will administer the A.R.E. as prepared by~~
603 ~~NCARB. The test will be administered to all candidates who have been approved by the~~
604 ~~Board in accordance with the training and education requirements pertaining to~~
605 ~~registration by examination. The examination will be administered in compliance with~~
606 ~~those methods and procedures recommended by NCARB and adopted by the Board.~~

607 **~~E. Schedules~~**

608 ~~Examinations will be administered in compliance with NCARB Guidelines to approved~~
609 ~~candidates only. The NCARB Data Center will send candidates information on the~~
610 ~~procedure for scheduling a test session, the test content, and instructions on taking the~~
611 ~~computer based examination after it receives the candidate eligibility notification from~~
612 ~~the Board.~~

613 **~~F. Reporting~~**

614 ~~Approved candidates shall appear personally for exams at the designated date, time and~~
615 ~~place, as specified by the Test Vendor.~~

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616 **G. Grading**

617 ~~The Architect Registration Examination shall be graded in accordance with the methods~~
618 ~~and procedures recommended by the NCARB. In order for an examination candidate to~~
619 ~~achieve registration, all sections of the examination must be passed with the minimum~~
620 ~~score specified by the NCARB.~~

621 **H. Conditions**

622 ~~The Test Vendor will monitor the computer exam in strict compliance with the~~
623 ~~procedures approved by the NCARB.~~

624 **I. Re-Examination**

625 ~~A candidate is allowed unlimited retakes of the A.R.E.~~

626 **J. Score Reporting and Reviews**

627 ~~Once the scores are released, the Board will advise each candidate of his/her score. A~~
628 ~~score of PASS must be achieved by the exam candidate on all divisions of the A.R.E. in~~
629 ~~order for that candidate to be considered for initial registration.~~

630 **K.D. Fees**

631 Each examination candidate shall pay a two ~~three~~ hundred fifty dollars (\$250.00) ~~one-~~
632 ~~time~~ application fee per five-year testing period to the Board. The examination fees for
633 each division of the A.R.E.[®] will be established by NCARB and paid directly to the test
634 vendor by the candidate.

635 **L.E. Disabled Examinees**

- 636 1. Requests for modifications to the examination procedure to accommodating
637 physical or other disabilities must be made to the Board in ~~writing~~ writing ~~to the~~
638 Board.
- 639 2. A physician's report must accompany such a the request in order to by a
640 diagnostic specialist, along with supporting data, confirming to the Board's
641 satisfaction, the nature and extent of the disability. ~~After receipt of the request~~
642 ~~from the applicant, the Board may require that the applicant supply further~~
643 ~~information and/or that the applicant appears personally before the Board. It~~
644 ~~shall be the responsibility of the applicant to timely supply all further~~
645 ~~information as the Board may require.~~
- 646 3. The Board shall send ~~their~~ its recommendations for modifications to NCARB for
647 a final determination. NCARB has the final authority with regard to any
648 modifications for the examination.

649 **F. Transfer of Scores to and from Other Jurisdictions**

- 650 1. At its discretion, the Board may forward the grades achieved by an applicant in
651 the various divisions of the ARE[®] for the respective purposes of evaluating the

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- 652 applicant's eligibility for registration or permitting NCARB to evaluate the
653 applicant's edibility for NCARB certification. These grades may be sent to any
654 other state in the union or to the Canadian Architectural Registration Board
655 (NCARRB). The Board also may receive from any board or the NCARB,
656 applicant grades in the various divisions of the ARE®.
- 657 2. Any applicant making the request shall state his or her reason for requesting the
658 transfer and shall pay an applicable transfer fee established by the Board.
- 659 3. Transfer to another jurisdiction shall terminate the applicant's application
660 pending before the Board or other transmitting jurisdiction, as the case may be.

661 SECTION IV

662 CONTINUING EDUCATION

663 A. Purpose Scope

664 These rules shall apply to every architect registered in the State of Arkansas as a
665 condition for renewal on an annual basis. provide for a continuing education program to
666 insure that all registered architects remain informed of those technical and professional
667 subjects, which the Board deems appropriate to safeguard life, health, and promote the
668 public welfare. Statutory Authority: Code of Arkansas 1995, Act 784.

669 B. Policy and Administration Exemptions

670 An architect registered in the State of Arkansas may not be subject to participating in the
671 continuing education requirements set forth by these rules for one of the following
672 reasons: Continuing Education Committee shall consist of all members of the Arkansas
673 State Board of Architects. The Committee shall have the following duties:

- 674 1. To exercise general supervisory authority over the administration of these
675 rules.
- 676 2. To establish regulations consistent with these rules.
- 677 3. To organize sub-committees and delegate executive authority.
- 678 4. To exercise final authority with respect to accepting or rejecting
679 continuing education activities for credit.

680 Scope and Exemptions

- 681 1. Scope: These rules shall apply to every Arkansas registered architect as a condition
682 for renewal of registration on an annual basis.
- 683 2. Exemptions: A registrant may be exempt from participating in the continuing
684 education program required by these rules for one of the following reasons:
- 685

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- 686 a. A first-time, new registrant by examination or first-time reciprocal registrant
687 shall be exempt for his/her first renewal period.
- 688 b. Registrant is an emeritus status architect, as defined in Section 1 D.
- 689 c. Registrant is a civilian who has served on active duty in the Armed Forces of
690 the United States for a period of time exceeding ninety (90) consecutive days
691 during the annual reporting period.
- 692 ~~d. Registrants of another NCARB jurisdiction with either a mandated or~~
693 ~~voluntary program, provided that same jurisdiction accepts Arkansas~~
694 ~~continuing education requirements as satisfying their continuing education~~
695 ~~requirement, and the registrant certifies by affidavit and annual report that~~
696 ~~all requirements of that jurisdiction for current continuing education~~
697 ~~compliance and registration have been met.~~
- 698 e.d. A Registrant experiencing physical disability, illness or other extenuating
699 circumstances may request exemption from the continuing education
700 requirements. The Registrant shall provide supporting documentation for the
701 Board's review. The Board on an individual basis will consider such hardship
702 cases. The request for a hardship must be received in the Board office by June
703 1 of each year.

C. Requirements

- 706 1. Each Arkansas registered architect in addition to all other requirements for
707 registration renewal, shall must complete a minimum of twelve (12) continuing
708 education hours each ~~fiscal year~~ calendar year, beginning August 1, 1997. One
709 continuing education hour (CEH) shall represent a one continuous instructional
710 hour (50 to 60 minutes of contact) spent in structured education activities intended to
711 increase or update the architect's knowledge and competence in health, safety, and
712 welfare subjects. If the provider of the structured educational activities prescribes a
713 customary time for completion of such an activity, then such prescribed time shall,
714 unless the Board finds the prescribed time to be unreasonable, be accepted as the
715 architect's time for continuing education hour purposes irrespective of the actual
716 time spent on the activity. minimum of fifty (50) minutes of actual course time. No
717 credit will be allowed for meals, breaks, or business/administration matters related
718 to courses of study.
- 719 ~~a. Registrants shall complete a minimum of twelve (12) CEH's in structured course~~
720 ~~study. Structured course study shall consist of participation in education~~
721 ~~activities presented by individuals or groups qualified by professional, practical,~~
722 ~~or academic experience to conduct courses of study. Structured activities do not~~
723 ~~include reading magazine articles.~~

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- 725 2. ~~Topics for the twelve (12) continuing education hours shall meet the following~~
726 ~~requirements:~~All twelve (12) CEH's must be completed in health, safety, and welfare
727 subjects acquired in structured educational activities.
728 a. ~~Eight (8) CEH's (minimum) shall include the study of relevant technical and~~
729 ~~professional architectural subjects related to safeguarding life, health,~~
730 ~~property, and promoting public welfare.~~
731 b. ~~Four (4) CEH's (maximum) may consist of elective topics related to any other~~
732 ~~area in the practice or architecture.~~
- 733 3. Structured educational activities are courses of study in which at least 75 percent of
734 the activities content and instructional time is devoted to acceptable health, safety,
735 and welfare subjects related to the practice of architecture, including courses of
736 study, monographs, or other activities under the areas identifies as health, safety and
737 welfare subjects and provided by qualified individuals or organizations, whether
738 delivered by direct contact or distance learning methods.
739
- 740 4. Health, safety and welfare subjects are the technical and professional courses that the
741 Board deems appropriate to safeguard the public and that are within the following
742 enumerated areas necessary for the proper evaluation, design, construction and
743 utilization of buildings and the built environment:
744
- 745 a. Legal: law, codes, zoning, regulations, standards, life safety, accessibility, ethics,
746 insurance to protect the owner or public
747 b. Technical: surveying, structural, mechanical, electrical, communication, fire
748 protection, controls
749 c. Environmental: energy efficiency, sustainability, natural resources, natural
750 hazards, hazardous materials waterproofing, insulation
751 d. Occupant Comfort: air quality, lighting, acoustics, ergonomics
752 e. Materials and Methods: building systems, products, finishes, furnishings,
753 equipment
754 f. Preservation: historic, reuse, adaptation
755 g. Pre-Design: land use analysis, programming, site selection, site and soils
756 analysis
757 h. Design: urban planning, master planning, building design, site design, interiors,
758 safety and security measures
759 i. Construction Documents: drawings, specifications, delivery methods
760 j. Construction Administration: contracts, bidding, contract negotiations

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Acceptance of Continuing Education Hours

~~Continuing education credits shall be measured in CEH and shall be computed as follows:~~

5. Attending seminars, lectures, presentations, workshops, or courses shall constitute one CEH for each hour of attendance.
6. Successfully completing tutorials, short courses, correspondence courses, ~~televised or videotaped courses,~~ web based courses, monographs and other self-study courses shall constitute the CEH recommended by the program sponsor.
 - a. ~~Teaching or instructing a qualified seminar, lecture, presentation, or workshop shall constitute two (2) CEH for each contact hour spent in the actual first time presentation. Teaching credit shall be valid for teaching a seminar or course in its initial presentation only. TEACHING CREDIT SHALL NOT APPLY TO FULL-TIME FACULTY AT A COLLEGE, UNIVERSITY, OR OTHER EDUCATIONAL INSTITUTION.~~
7. CEH credit will not be granted to faculty members at a college, university, or other educational institution.
8. Successfully completing one or more college or university semester or quarter hours in architectural subjects shall satisfy the continuing education hours for the calendar year in which the course was completed.
9. Any structured program in health, safety, and welfare contained in the record of an approved professional registry will be accepted by the board as fulfilling the continuing education requirements of these rules.
10. The ~~board~~ Board approves the American Institute of Architects as a professional registry, ~~and The Board will accept~~ contact hours listed by in structured health, safety, and welfare in the American Institute of Architects Continuing Education Services (AIA/CES) Transcript of Continuing Education Activities for will be accepted by the board for both resident and non-resident architects. ~~The Registrant shall provide individual participant documentation from a person other than the participant for record keeping and reporting.~~

D. Reporting and Record Keeping

1. ~~At Each registrant at renewal of~~ registration time, each architect registered in the State of Arkansas shall complete and submit an affidavit prescribed by the Board attesting to ~~the his or her registrant's~~ fulfillment of the required continuing

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802 education hours listed above~~requirements~~ during the preceding calendar year.
803 ~~period of one fiscal year ending July 31.~~

804 2. No carry-over of continuing education hours from previous calendar year is
805 permitted. ~~Affidavits with an accompanying report concerning registrant's methods~~
806 ~~of completion of requirements shall be submitted on a form provided by the~~
807 ~~Committee.~~

808 3. Any untrue or false or misleading statements or the use thereof with respect to
809 course attendance or any other aspect of continuing education activity is considered
810 fraud and/or misrepresentation. ~~and~~ Such activity will subject the architect and/or
811 program sponsor to license revocation or other disciplinary action.

812 4. Documentation of health, safety and welfare (HSW) credit must be indicated by the
813 course provider. The provider must clearly indicate the course is HSW.

814
815

816 D.E. Audits

817 1. Each affidavit ~~shall~~may be reviewed by the ~~Committee~~Board and may be subject to
818 audit for verification of compliance with requirements.

819 2. Documentation of reported continuing education hours shall be maintained by the
820 architect for six years from the date of award. Registrants shall retain proof of
821 fulfillment of requirements for a period one (1) year after submission in the event the
822 Registrant is selected for audit.

823 3. The ~~Board~~Committee may, upon audit for verification of compliance, disallow
824 claimed credit for continuing education hours.

825 4. If the Board disallows any continuing education hours the architect shall have forty-
826 five (45) days from notice of such disallowance either to provide further evidence of
827 having completed the continuing education disallowed or to remedy the
828 disallowance by competing the required number of continuing education hours. The
829 registrant shall have ninety (90) calendar days after notification of disallowance of
830 credits to substantiate the original claim or earn other CEH credit, which fulfills
831 minimum requirements. If the Board determines that the information supplied on
832 the continuing education report form is false or misleading, the architect may be
833 subject to disciplinary action.

834

835 E.F. Noncompliance and Sanctions

836 1. Failure to fulfill the continuing education requirements, or failure to file the ~~annual~~
837 ~~report required affidavit~~ properly completed ~~and signed~~, by July 31 shall result in
838 non-renewal of individual registration. a penalty of two hundred fifty dollars
839 (\$250.00) per month for a maximum of one thousand dollars (\$1,000) each year in
840 addition to the renewal fee and late payment fees. If the Board finds, after proper
841 notice that the architect willfully disregarded these requirements or falsified

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842 documentation of the required continuing education hours, the architect may be
843 subject to disciplinary action in accordance with board regulation.

844 2. At the discretion of the Board, a temporary renewal of license may be issued for up to
845 forty-five ~~ninety~~ (45~~90~~) days. If the continuing education deficiency has not been
846 cleared to the satisfaction of the Board within forty-five (45) calendar days, the
847 registrant may no longer practice architecture in the State of Arkansas without
848 incurring disciplinary action. Documentation of completion of continuing education
849 credits shall be submitted to the Board within the ninety (90) day period. Failure to
850 comply with the Continuing Education requirements may result in revocation of your
851 license.

852 SECTION VIII

853 ORGANIZATIONAL PRACTICE OF ARCHITECTURE IN ARKANSAS

854 A. Permission to Practice of Architecture in as a Corporation or 855 Partnership Form

- 856 1. Any corporation, ~~(which term as used herein shall include any~~ professional
857 corporation,) and or any partnership, whether organized under the laws of this or
858 any other jurisdiction, may not offer to engage in ~~or engage in~~ the practice of
859 architecture in the State of Arkansas until such corporation or partnership has
860 obtained a certificate of authorization issued by the Board; ~~and~~ the certificate shall be
861 valid until December 31~~st~~ of the year in which it was obtained.
- 862 2. The Board shall issue a certificate of authorization to a corporation, partnership, or
863 limited liability association upon receipt of the materials listed below, and upon
864 ascertaining that the conditions set forth in Ark. Code Ann. § 17-15-101 et seq.
865 Arkansas Act 270 have been met.
- 866 a. An application of a form approved by the Board.
- 867 (1) In the case of a corporation, the application shall be signed by the
868 corporation president and secretary, and shall include the following
869 information: the jurisdiction under which such corporation is
870 organized; the name, ~~and~~ resident addresses, and states of
871 registration and registration numbers ~~of~~ each director; and the
872 identity of each director engaging in the practice of architecture in
873 Arkansas.
- 874 (2) In the case of a partnership, the application shall be signed by a
875 general partner who is a registered architect, and shall include the
876 following information: the jurisdiction under which such
877 partnership is organized; the name and resident addresses, and

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- 878 states ~~or of~~ registration and registration numbers of each general
879 partner; and the identity of each general partner engaging in the
880 practice of architecture in Arkansas.
- 881 b. In the case of a corporation, a copy of the corporation's articles of
882 incorporation or similar charter document certified by the secretary of state of
883 the jurisdiction ~~in on~~ which the corporation is organized; ~~provided~~ however,
884 ~~that~~, subject to SECTION VIII, ~~A., 3.,~~ articles of organization need not be re-
885 submitted if the corporation is seeking renewal of a certificate of
886 authorization.
- 887 c. A Payment of a fee of ~~Four two h~~undred fifty dollars (\$~~25400~~.00).
888

889 **B. Unlawful Practice of Architecture**

- 890 1. It shall be unlawful to practice architecture in an office not under the ~~day-to-~~
891 day supervision of a registered architect.
- 892 2. It shall be unlawful for an architect to falsely represent himself as being in
893 responsible control of architectural work, or to permit his/her seal, or facsimile
894 thereof, to be used by another for any purpose.
- 895 3. A firm engaged in the practice of architecture in Arkansas must employ one (1)
896 or more persons registered to practice architecture in Arkansas who is/are in full
897 authority and responsible control of the firm's architectural practice. Persons in
898 full authority and responsible control shall mean regularly employed persons in
899 that office who are in ~~an~~ unrestricted, unchecked, and ~~un~~qualified control of, and
900 are legally accountable for, the actions of such architectural practice.
- 901 4. Any office maintained for the preparation of drawings, specifications, reports,
902 and other professional work shall have in that office an architect duly registered
903 with this Board, in full authority and responsible control, having direct
904 knowledge and responsible control of such work.
- 905 5. Each firm shall provide and maintain the current mailing address and physical
906 address of its main office and each office located in Arkansas.
- 907 6. If any change occurs in any of the information provided to the Board pursuant to
908 SECTION VIII, A., 2., a., b. and 3.g during the period for which certificate of
909 authorization is granted, such change shall be reported to the board within thirty
910 (30) days after the effective date of such change.

911 **C. Suspension, Revocation, or Cancellation of Certificate of Authorization**

912 The Board may revoke, suspend, or cancel a certificate of authorization granted
913 pursuant to SECTION VIII if any officer, director, or employee of a corporation or any
914 general partner or employee of a partnership violates any provision of Ark. Code Ann. §
915 17-15-101 et seq. Arkansas Act 270, "Arkansas Architectural Act" or these regulations;
916 provided, however, that it shall be an affirmative defense to show that such individual

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917 ~~as~~ was not acting as an agent of the corporation or the partnership at the time such
918 violation occurred.
919

920 **B.D. Design and Use of Architect's Seal**

921 Pursuant to Arkansas Act 270, known as the "~~Arkansas Architectural Act~~" and subject to
922 SECTION VII, A., and SECTION VIII, A., 2., ~~e~~Each registered architect shall procure a
923 seal which shall contain the name of the registered architect, license registration
924 number, and the words:

925 "REGISTERED ARCHITECT - STATE OF ARKANSAS"

926 The ~~is~~ seal shall comply, in all respects, in size and format, with the description of the
927 design requirements as set forth below:

928 1. Seal Design Requirements

929 a. Design: ~~M~~ metal impression, rubber stamp or printed, 2 concentric circles 1
930 1/2" and 1" diameter. Space between bearing words "Registered Architect"
931 and "State of Arkansas." Space within inner circle bearing names and
932 registration numbers as follows:

- 933 1. For a registered corporation, the corporation name and registered
934 number.
- 935 2. For a ~~P~~partnership, the partnership name and registration numbers
936 of partners.
- 937 3. For an individual, ~~the~~ name and registration number.

938 b. Any method that legibly reproduces the architect's seal is permitted.

939 2. Use of Architect's Seal

- 940 a. Architects shall affix their seal, actual signature, and date of affixation to all
941 original contract documents, including index sheets identifying all drawings
942 covered, as well as cover and index pages identifying all specifications pages
943 covered. Presentation documents (renderings, and/or drawings used to
944 communicate conceptual information only) are not required to be sealed,
945 signed, or dated.
- 946 b. Contract documents considered incomplete by the architect may be released
947 for interim review without the architect's seal or signature affixed, but shall
948 bear the architect's name and be conspicuously marked to clearly indicate the
949 documents are for interim review and not intended for bidding, permit, or
950 construction purposes.
- 951 c. Those sheets or pages prepared by consultants (structural, mechanical,
952 electrical, etc.), which are retained by the architect, shall bear the seal and
953 registration number of the consultant responsible therefor.

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954 d. Once documents bearing the architect's seal are issued from the architect's
955 office, the seal shall not be removed, except as follows: ~~If~~ If the architect's
956 client requests electronic drawing files that would be used as reference
957 documents, the following statement shall be substituted for the seal:

958
959 THE RECORD COPY OF THIS DRAWING IS ON FILE AT THE OFFICES OF
960 (NAME OF FIRM), (ADDRESS OF FIRM). THIS ELECTRONIC DOCUMENT IS
961 RELEASED FOR THE PURPOSES OF REFERENCE, COORDINATION,
962 AND/OR FACILITY MANAGEMENT. THIS ELECTRONIC DOCUMENT OR
963 MODIFICATIONS THEREOF SHALL NOT BE USED FOR CONSTRUCTION.

964 e. Except as noted in Section (e f), no architect shall affix the seal and signature
965 to contract documents developed by others.

966 f. No person, other than the architect represented, shall use or attempt to use
967 the prescribed seal or shall modify documents bearing such seal, without first
968 obtaining the written authority of the architect represented, and clearly
969 indicating on the documents the extent of the modifications made.

970 g. On original documents, the use of signature reproductions, such as rubber
971 stamps or computer-generated signatures or other facsimiles, shall be
972 permitted.

973 ~~h. If, in the course of his or her work on a project, an architect becomes aware of
974 a course of action taken against the architect's advice, which may violate
975 applicable state or local building laws and regulations and which will, in the
976 architect's judgment, materially affect adversely the safety to the public of the
977 finished project, the architect shall:~~

978 ~~a. Report the course of action in writing to the owner, to the local building
979 officials, and to other responsible parties; and~~

980 ~~b. Refuse to consent to the course of action.~~

981 h. Authorized use of the prescribed seal is an individual act whereby the
982 architect must personally inscribe the seal. The architect is responsible for its
983 security when not in use.

984 C.E. **Unauthorized Use of Architect's Seal**

985 1. Registered architects whose seal appears on drawings or specifications
986 prepared by persons who are not registered or not under the architect's
987 direct supervision will be deemed to have aided or abetted in the practice of
988 architecture by a person not duly authorized to practice architecture.

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- 989 2. Registered architects whose seal appear~~ss~~ on drawings or specifications
990 bearing names of persons not so registered, unless they are identified as the
991 ~~e~~Engineer or ~~C~~onsultant, will be deemed to have aided or abetted in the
992 practice of architecture by a person not duly authorized to practice
993 architecture.
- 994 3. Registered architects whose seal appears on drawings or specifications
995 which unlicensed persons have contracted to prepare or furnish will be
996 deemed to have aided or abetted in the practice of architecture by a person
997 not duly authorized to practice architecture.

998 **D.F. _____ Architect's Consultants**

999 The architect is not required to seal and sign documents prepared and sealed by ~~the~~
1000 his/her licensed consultants, ~~except when~~ indexes and cover sheets containing
1001 descriptions of work performed by the architect ~~and as well as~~ the architect's
1002 consultants.

1003 **G. Use of Prototypical Documents**

1004 Nothing precludes the use of prototypical documents, ~~provided~~ the architect:

- 1005 1. Has written permission to revise and adapt the prototypical documents from the
1006 person who either sealed the prototypical documents or is the legal owner of the
1007 prototypical documents. The term "legal owner" shall mean the person who provides
1008 the architect with a letter that he or she is the owner of the documents and has the
1009 written permission to allow the use thereof. ~~and~~
- 1010 2. Has reviewed the prototypical documents and made necessary revisions to bring the
1011 design documents into compliance with applicable codes, regulations~~ss~~, and job
1012 specific requirements. ~~and~~
- 1013 3. Has independently performed and maintains on file all necessary calculations. ~~and~~
- 1014 4. After reviewing, analyzing, ~~and~~ making revisions and/or additions, has issued the
1015 documents with the architect's title block and seal. By applying the seal, the architect
1016 assumes professional responsibility as the architect of record. ~~and~~
- 1017 5. Maintains ~~the~~ the seal and name of the architect who originally developed the
1018 prototypical documents ~~may remain on~~ the construction documents, provided the
1019 original architect is licensed in the State of Arkansas and provided the original
1020 architect who prepared the prototypical documents agrees, in writing, to the use of
1021 the documents for the construction project by a second architect. ~~The original~~
1022 architect assumes the professional responsibility for the content of the prototypical
1023 documents.
- 1024 6. Maintains design control over the use of site adapted documents just as if they were
1025 the original design.

1026 ~~f. The term "prototypical documents" shall mean model documents of~~
1027 buildings that are intended to be built in several locations with substantially

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1028 ~~few changes and/or additions except those required to adapt the documents~~
1029 ~~to each particular site.~~

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SECTION VIIIX

1032

RULES OF PROFESSIONAL CONDUCT

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A. Competence

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

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

1052

B. Conflicts of Interest

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

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3. An architect shall not solicit or accept compensation in return for specifying or endorsing ~~their~~ products and materials.

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1064 4. When acting as the interpreter of building contract documents, ~~and~~ the judge of
1065 contract performance, a registered architect shall render decisions impartially,
1066 favoring neither party to the contract.
1067

1068 **C. Compliance with Laws**

- 1069 1. A registered architect shall not knowingly violate any state or federal ~~criminal~~-law
1070 relating to the practice of architecture.
1071 2. An architect shall neither offer nor make any payment or gift to a government official
1072 (whether elected or appointed) with the intent of influencing the official's judgment in
1073 connection with a prospective or existing project in which the registered architect is
1074 interested.
1075 3. An architect shall comply with the registration laws and regulations governing his or
1076 her professional practice in any United States jurisdiction.
1077

1078 **D. Professional Conduct**

- 1079 1. Except as provided under Section VIII ~~D(e)~~, An architect shall not sign or seal
1080 contract documents unless the documents were prepared by the architect or under the
1081 architect's supervisory control; provided, however, ~~that~~ in the case of portions of
1082 such contract documents prepared under the direct supervision of another registered
1083 architect employed by the first architect (or his or her firm), the architect may sign and
1084 seal those portions of the contract documents if the architect has reviewed such
1085 portions and has coordinated their preparation.
1086 2. An architect shall neither offer nor make any gifts, other than gifts of nominal value,
1087 (including, for example, such as reasonable entertainment and hospitality), with the
1088 intent of influencing the judgment of an existing or prospective client in connection
1089 with a project in which the registered architect is interested.
1090 3. An architect shall not engage in conduct involving fraud or wanton disregard of the
1091 rights of others.
1092 ~~4. Any office offering architectural services shall have an architect resident and regularly~~
1093 ~~employed in that office.~~
1094 ~~5. An architect may sign and seal technical submissions only if the technical submissions~~
1095 ~~were~~
1096 ~~a. Prepared by the architect; or~~
1097 ~~b. Prepared by persons under the architect's responsible control; or~~
1098 ~~c. Prepared by another registered architect in the same jurisdiction if the~~
1099 ~~signing and sealing architect has reviewed the other architect's work and~~
1100 ~~either has coordinated the preparation of the work or has integrated the work~~
1101 ~~into his/her own technical submissions.~~
1102 6.4. If, in the course of his/her work on a project, an architect becomes aware of a decision
1103 taken by his/her employer or client, against the architect's advice, ~~which~~ that violates
1104 applicable state or local building laws and regulations and which will, in the

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1105 architect’s judgment, materially and adversely affect the safety ~~of~~to the public ~~of the~~
1106 ~~finished project~~, the architect shall:
1107 a. Report the decision to the local building inspector or other public official
1108 charged with enforcement of the applicable state or local building laws and
1109 regulations,
1110 b. Refuse to consent to the decision, and
1111 c. In circumstances where the architect reasonably believes that other such
1112 decisions will be taken, notwithstanding his/her objection, said architect may
1113 terminate his/her services with reference to the project unless the architect is
1114 able to cause the matter to be resolved by other means.
1115

1116 **E. Amendments**

- 1117 1. If, following a hearing held in accordance with the Arkansas Administrative
1118 Procedures Act, a registrant is found guilty of fraud, deceit, gross negligence,
1119 incompetence, misconduct, or careless practice, or is found to be in violation of any
1120 provisions found in the statues or rules, Section IX A through F, the Board may revoke
1121 the license, suspend the license, decline to renew the license of the registrant, issue
1122 the registrant a reprimand ~~that which~~ will become a part of the registrant’s permanent
1123 record, levy a civil penalty, and /or take any other reasonable action deemed
1124 appropriate by the Board of Architects.
1125 2. The Rules and Regulations may be amended in accordance with the Arkansas
1126 Administrative Procedure Act.
1127 3. All former Rules and Regulations of the State Board of Architects pertaining to
1128 procedure, conduct, and practice are hereby repealed.

1129 **SECTION IX**

1130 **CONSTRUCTION ADMINISTRATION**

1131
1132 **A. ~~Administration of~~ Construction Administration Contracts**

- 1133 1. If, under Arkansas law, an aArchitect ~~must is required to~~ prepare or supervise and
1134 control the preparation of the architectural plans and specifications for a new building
1135 or the alteration of or an addition to an existing building, construction observation for
1136 the project shall be conducted by an aArchitect or by a person working under the
1137 Ssupervision and Ccontrol of an aArchitect. For purposes of this Ssubchapter,
1138 “construction observation” means the administration of the portion of the construction
1139 contract described and documented in the architectural plans and specifications,
1140 including the following services:
1141 a. Visiting the construction site on a regular basis, ~~as is~~ necessary to determine
1142 that the work is proceeding generally in accordance with the technical

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- 1143 submissions submitted to the building official at the time the building permit
1144 was issued;
- 1145 b. Processing shop drawings, samples, and other ~~submittals~~submissions
1146 required of the contractor by the terms of construction contract documents;
1147 and
- 1148 c. Notifying ~~an~~the ~~O~~owner and the ~~B~~building ~~O~~fficial of any code violations;
1149 changes ~~which~~ that affect code compliance;
1150 assemblies, components, or equipment prohibited by a code;
1151 substantial changes between such technical submissions and the work in
1152 progress; or any deviation from the technical submissions ~~which~~ that he or
1153 ~~/she~~ identifies as constituting a hazard to the public, ~~and which he/she~~
1154 observes in the course of performing his or ~~/her~~ duties.
1155

B. Responsibility for Construction Administration

1157 The owner of any building has the ultimate responsibility for ensuring the health, safety,
1158 and welfare of the occupants of the building, as well as the public in general, according to
1159 the laws and regulations of the State of Arkansas. The ~~O~~owner of any real property, who
1160 allows a ~~P~~project to be constructed on such real property and the construction of which
1161 requires the services of an architect, shall be deemed to have engaged in the practice of
1162 architecture unless such ~~O~~owner shall have employed or ~~shall have~~ caused others to have
1163 employed a registered architect to furnish ~~c~~Construction ~~c~~Contract ~~a~~Administration
1164 services with respect to such ~~P~~project.

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1165 SECTION X

1166 BUILDINGS CONSTRUCTED WITHOUT AN ARCHITECT

1167 A. Violation of Public Health, Safety, and Welfare

1168 The construction of a building requiring an architect under the Arkansas Architectural Act
1169 is considered to be a violation of the health, safety, and welfare of the public when the
1170 required services of an architect are not provided.

1171 B. Occupancy and Use of Buildings

1172 The occupancy and use of a building constructed without the services of an appropriate
1173 design professional or professionals seriously compromise the health, safety, and welfare
1174 of the public. Any building so constructed is declared by the Arkansas Architectural Act
1175 to constitute a nuisance and threat to public, health, safety, and welfare and may be
1176 enjoined by the examining body in the courts of this state. Even though the violation may
1177 be punishable by a fine, the intention of this section of the rules is to provide speedy
1178 means of protecting the public.

1179 C. Verification of Design Professional Responsibility

1180 When it comes to the attention of the Board that a building may have been constructed
1181 without the use of the required design professional or professionals, the Board may
1182 require proof from the owner of the property that the appropriate registered professional
1183 or professionals were in responsible control of the design and construction administration
1184 of the building.

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CHAPTER TWO

RULES OF PROCEDURE

1203

SECTION I

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1205

RULES UNDER THE ARKANSAS ARCHITECTURAL ACT AND NOTICE - HEARINGS

1206

A. Rules under the Practice Act

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This exposition of the Rules of Procedure, formulated under the Administrative Procedure Act, as amended ACA 25-15-201 et. seq., does not ~~ea~~ffect a repeal of the provisions of the Act, or of its amendments and related laws, except insofar as these Rules of Procedure were formulated under provisions of law ~~which~~ that specifically contravenes provisions of the Act, its amendments, and related laws.

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B. Notice - Hearing

Any such rule shall be made or amended only after a hearing upon notice, as set forth in these Rules of Procedure.

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SECTION II

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PRIOR RULES

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Prior Rules - Valid

Rules of the Board formulated previously are declared to be still in force until amended and certified to the Arkansas Register.

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SECTION III

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RULE-~~MAKING~~

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In any case of rule-~~making~~, every person has a right to seek ~~to cause~~ action from the Board

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~~to act to in~~ make a rule. Every person also has the right to seek to cause correction in an

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incorrect rule ~~to be corrected~~.

1228

SECTION IV

1229

VIOLATION OF RULES

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Willful violation of any rule ~~of~~ established by the Board, in addition to any other penalty

1232

provided by law, shall subject the violator to such denial, suspension, and/or revocation

1233

of approval of a license to practice architecture as may be applicable.

1234

SECTION V

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ORDER

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A. Order - Effective Only in Writing

1237

Order of the Board shall be effective only when in writing.

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B. Effective Date

1239

Each order shall contain ~~in an~~ effective date and shall concisely state the following:

1240

1. Its intent and purpose;

1241

2. The grounds on which it is based;

1242

3. The pertinent provision of law.

1243

C. Order May Be Effectuated

1244

An order may be given by service upon or delivery to the person ordered, by mail, with

1245

postage prepaid and, addressed to the person at his principal place of business or his

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home ~~as at~~ last address of record with the Board. An order may also be served by any

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officer authorized to serve legal process or by any member of the Board or any employee

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of the Board. An attempt to serve notice at the last address of record in the Board office

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shall constitute official notice.

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1250 **D. Order Formulated Upon Adjudication**

1251 ~~There shall be an~~ An order shall be formulated upon each adjudication made by the
1252 Board or its hearing officer.

1253 **SECTION VI**

1254 **DECLARATORY ORDERS - RULES**

1255 **A. Declaratory Order - Petition For**

1256 Any person who alleges that a rule, or its possible application, may injure or threaten to
1257 injure him, his business, or his property may file a petition for a declaratory order as to
1258 the applicability of any rule to be enforced by the Board.

1259 **B. Prompt Disposition**

1260 Such petition shall be promptly considered and a prompt disposition shall be made.

1261 **C. Status**

1262 Declaratory orders shall have the same status as agency orders formulated upon
1263 adjudication.

1264 **SECTION VII**

1265 **ADJUDICATION**

1266 **A. Reasonable Notice**

1267 All parties shall be afforded opportunity for hearing after reasonable notice. ~~(See Section~~
1268 ~~XI, subsection B.2. (b)(3.), infra.)~~

1269 **B. Evidence May Bbe Presented**

1270 Opportunity shall be afforded all people interested in the action to respond and to
1271 present evidence and argument on all issues involved.

1272 **C. Stipulation/Settlement/Consent or Default Not Prohibited**

1273 Nothing in these rules shall prohibit informal disposition by stipulation, settlement,
1274 consent order, or default.

1275 **D. Record**

1276 The ~~R~~record shall include the following:

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- 1277 1. All pleadings, motions, and intermediate rulings;
1278 2. All evidence received or considered, including ~~_____~~ on the request of any party ~~_____~~ a
1279 transcript of all proceedings or any part thereof;
1280 3. A statement of matters officially noticed;
1281 4. Offers of proof, objections~~_____~~ and rulings;
1282 5. Proposed findings and exceptions;
1283 6. All staff memoranda or data submitted to the hearing officer in connection with any
1284 staff consideration of the matter.

1285 **E. Findings of Fact**

1286 Findings of fact shall be based exclusively on the evidence received and on matters
1287 officially noticed.

1288 **SECTION VIII**

1289 **ADJUDICATION - DECISIONS**

1290 **A. Final Decision**

- 1291 1. In every case of adjudication~~_____~~, there shall be a final decision, or order, which shall be
1292 in writing (or stated in the record).
1293 2. The final decision shall include findings of fact and conclusions of law~~_____~~, each
1294 separately stated.
1295 3. The findings of fact, if set forth in statutory language, shall be accompanied by a
1296 concise and explicit statement of the underlying evidence supporting the findings.
1297 4. If any party submitted proposed findings of fact, the decision shall include a ruling
1298 upon each proposed finding.

1299 **B. Service of Copy - Decision**

1300 Parties shall be served either personally or by mail with a copy of any decision or orders.

1301 **C. Exemption**

1302 Where a formal hearing before a hearing officer has been held~~_____~~, at which the parties were
1303 given proper notice and at which the opportunity was offered to them to be present in
1304 person and by counsel to present testimony, briefs~~_____~~ and argument, a proposal for
1305 decision will not be required.

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1309 SECTION IX

1310 HEARING OFFICER

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1312 Where convenient and appropriate, a hearing officer may be appointed to take testimony
1313 and prepare the record for the consideration of the Board. The hearing officer may
1314 conduct hearings at any place within the State of Arkansas. In the conduct of such
1315 hearings, the hearing officer shall preside and have the power and duties of a presiding
1316 official as set forth in SECTION X, D. The decision on the record made by the hearing
1317 officer shall be made by a majority of the members of the Board.

1318 A. Hearings

1319 In every case of adjudication, and in cases of rule-making, where rules are to be made
1320 after hearing, there shall be a hearing.

1321 B. Right of ~~Council~~Counsel

1322 Any person compelled to appear before the Board or a hearing officer shall have the
1323 right to counsel.

1324 C. Impartiality

1325 ~~Every~~All members of the Board present shall conduct ~~her/himself~~themselves in an
1326 impartial manner, and the presiding official may withdraw if ~~she/he~~he ~~or she~~ deems
1327 ~~her/himself~~himself ~~or~~ herself disqualified. Any party may file an affidavit of personal
1328 bias or disqualification, which shall be ruled upon by the Board and granted if it is
1329 timely, sufficient, and filed in good faith.

1330 D. Power and Duties of Presiding Official

1331 The presiding officer of the hearing shall have power to carry out the following:

- 1332 1. Administer oaths and affirmations;
1333 2. Maintain order;
1334 3. Rule on all questions arising during the course of the hearing;
1335 4. Hold conferences for the settlement or simplification of the issues;
1336 5. Make or recommend decisions;
1337 6. Generally, to regulate and guide the course of the proceedings.

1338 E. Burden of Proof

1339 The proponent of a rule or order shall have burden of proof.

1340 F. Evidence Excluded

1341 Irrelevant, immaterial, and unduly repetitious evidence shall be excluded.

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1342 **G. Evidence Admitted**

1343 Any other evidence, oral or documentary, not privileged, may be received if it is of a
1344 type commonly relied upon by reasonable, prudent individuals in the conduct of their
1345 affairs.

1346 **H. Objections**

1347 Objections to evidence may be made and shall be noted of record.

1348 **I. Evidence May ~~B~~e Written**

1349 When a hearing can be so expedited (and the interests of the parties will not be
1350 prejudiced), any part of the evidence may be received in written form.

1351 **J. Cross Examination**

1352 Parties shall have the right to conduct such cross-examination as may be required for a
1353 full, true disclosure of the facts.

1354 **K. Official Notice**

1355 Official notice may be taken of judicially recognizable facts and of generally recognized
1356 technical or scientific facts, peculiarly within the Board's specialized knowledge.

- 1357 1. Parties shall be notified of material so noticed (including any staff memoranda or
1358 data).
- 1359 2. Parties shall be afforded a reasonable opportunity to show the contrary.
- 1360

1361 **SECTION X**

1362 **PROCEDURE ON DENIAL, SUSPENSION, OR REVOCATION**

1363 **A. Grounds for Discipline**

1364 The Board shall have sole authority over architects to deny or suspend any license to
1365 practice issued by the Board or applied for in accordance with the provisions of the Act,
1366 or to otherwise discipline a licensee upon the following determination:

- 1367 1. That the holder of the registration or certificate of license is practicing in violation of
1368 this chapter or of the proper rules and regulations of the examining body governing
1369 this chapter;
- 1370 2. That the license or certificate has been obtained by fraud or misrepresentation, or the
1371 person named therein has obtained it by fraud or misrepresentation;
- 1372 3. That any money, except the regular fees provided for, ~~have~~has been paid for the
1373 license or certificate;

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- 1374 4. That the holder of the license or certificate is falsely impersonating a practitioner or
1375 former practitioner of a like or different name or is practicing under an assumed or
1376 fictitious name;
1377 5. That the holder of the license or certificate has been guilty of a felony;
1378 6. That the holder of the license or certificate has aided or abetted, in the practice of
1379 architecture, any person not duly authorized to practice architecture under the
1380 provisions of this chapter;
1381 7. That the holder of the license or certificate has been guilty of fraud or deceit or of
1382 gross negligence or misconduct in the practice of architecture;
1383 8. That the holder of the certificate has been guilty of gross incompetence or
1384 recklessness in the designing or construction of buildings;
1385 9. That the holder of the license or certificate affixed, or permitted to be affixed, his/her
1386 seal or name to any plans, specifications, drawings or related documents ~~which~~that
1387 were not prepared by him/her or under his/her responsible supervisory control;
1388 10. That the holder of the license or certificate has been adjudged mentally incapable by
1389 a court of competent jurisdiction.

1390 **B. Proceedings**

1391 Proceedings shall be as follows:

- 1392 1. Opportunity for licensee or applicant to have a hearing. Every licensee or applicant
1393 for a licensee shall be afforded notice and an opportunity to be heard before the
1394 Board. The Board shall have authority to take any action, ~~z~~ the effect of which would
1395 be to:
1396 a. Deny permission to take an examination for licensing for which application
1397 has been duly made;
1398 b. Deny a license after examination for any cause other than failure to pass an
1399 examination;
1400 c. Withhold the renewal of a license for any cause;
1401 d. Suspend a license; and/or
1402 e. Revoke a license.
1403 2. Notice of action or contemplated action by the Board - Requests for Hearing - Notice
1404 of Hearing
1405 a. When the Board contemplates taking any action of a type specified in
1406 paragraphs ~~a-~~ and ~~b-~~ of subsection B.1- supra, it shall give written notice to
1407 the applicant, ~~z~~ including a statement:
1408 (1) That the applicant has failed to satisfy the Board with ~~of~~ his or her
1409 qualifications to be examined or to be licensed, as the case may be;
1410 (2) Indicating in what respects the applicant has failed to satisfy the Board;
1411 and
1412 (3) That the applicant may secure a hearing before the Board by depositing in
1413 the mail within twenty (20) days after service of said notice, a registered

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1414 letter addressed to the Board containing a request for a hearing. In any
1415 proceedings of the Board involving the denial of a duly made application
1416 to take an examination, or refusal to issue a ~~to~~-license after an applicant
1417 has taken and passed an examination, the burden of satisfying the Board
1418 of the applicant's qualifications shall be upon the applicant.

1419 b. When the Board contemplates taking any action of a type specified in
1420 ~~subsections paragraphs~~ c, d, and e of subsection B.1, supra, it shall give a
1421 written notice to the licensee ~~through the Board's attorney, which that~~
1422 contains a statement:

1423 ~~(1) That the Board has sufficient evidence which, if not rebutted or~~
1424 ~~explained, will justify the Board in taking the contemplated action;~~

1425 ~~(2)~~(1) _____ Indicating the general nature of the evidence, and detailed
1426 allegations of the violations ~~of ACA 17-15-308~~ with which the licensee is
1427 charged; ~~with;~~

1428 ~~(3)~~(2) _____ That a hearing will be held on a ~~date~~ certain date, no sooner than
1429 twenty (20) days after the mailing of the notice, and that at that hearing,
1430 the Board will receive evidence.

1431 c. When the Board shall summarily suspend a license pending a hearing as
1432 authorized in subsection B.2 supra, it shall give written notice of a ~~the~~ general
1433 nature of the evidence and detailed allegations of the violations ~~of ACA 17-~~
1434 ~~15-308~~ with which the licensee is charged ~~with:~~

1435 (1) That the Board has sufficient evidence ~~which~~ that, if not rebutted or
1436 explained, will justify revocation of the license by the Board; and

1437 (2) Indicating the general nature of the evidence against the licensee;

1438 (3) That, based on the evidence indicated, the Board has determined that the
1439 continuation of practice of the occupation or profession of the licensee
1440 will cause an immediate hazard to the public and has, therefore,
1441 suspended the license of the licensee, effective as of the date that such
1442 notice is served;

1443 (4) The Board will then set an immediate hearing for a full evidentiary
1444 presentation by the licensee and the Board.

1445 d. In any hearing before the Board involving the suspension or revocation of a
1446 license, the burden shall be on the Board to present competent evidence to
1447 justify the action taken or proposed by the Board.

1448 C. Method of Serving Notice of Hearing

1449 Any notice required by subsection B.2, ~~above~~, may be served either personally or by an
1450 officer authorized by law to serve process, or by registered mail or certified mail, with
1451 return receipt requested, directed to the licensee s or applicant at his or her last known
1452 address, as shown by the records of the Board. If notice is served personally, it shall be
1453 deemed to have been served at the time when the officer delivers the notice to the

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1454 person addressed. Where notice is served by registered mail, it shall be deemed to have
1455 been served on the date borne by the return receipt, z showing delivery of the notice to the
1456 addressee or refusal of the addressee to accept the notice. An attempt to serve notice at
1457 the last address of record shall constitute official notice.

1458 **D. Venue of Hearing**

1459 Board hearings held under the provisions of this rule shall be conducted at the Board
1460 office or elsewhere in Pulaski County. The hearings may be held anywhere within
1461 Arkansas if the person whose license is involved and the Board agree that the hearing
1462 should be held at some place outside Pulaski County.

1463 **E. Hearings Public**

1464 Use of Hearing Office - All hearings under this section shall be open to the public. At all
1465 such hearings, z at least a quorum of the Board shall be present to hear and determine the
1466 matter.

1467 **F. Rights of Person Entitled to Hearing**

1468 A person entitled to be heard pursuant to this section shall have the right to:

- 1469 1. Be represented ~~to~~ by counsel;
- 1470 2. Present all relevant evidence by means of witnesses and books, ~~and~~ papers and
1471 documents;
- 1472 3. Examine all opposing witnesses on any matter relevant to the issues;
- 1473 4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of
1474 witnesses and the production of relevant books, papers, z and documents upon
1475 making written request ~~therefor~~ thereof to the Board; and
- 1476 5. Have a transcript of the hearing made at his ~~or~~ /-her own expense, ~~as provided in~~
1477 Section VIII. D., hereof.

1478 **G. Powers of the Board in Connection with Hearing**

1479 In connection with any hearing held pursuant to the provisions of this section, the Board
1480 or its hearing officer shall have the power to:

- 1481 1. Have counsel to develop the case;
- 1482 2. Administer oaths to develop the case;
- 1483 3. Take testimony;
- 1484 4. Examine wWitnesses;
- 1485 5. Have a transcript of the hearing made at the expense of the Board; and
- 1486 6. Direct a continuance of any case.

1487 **H. Rules of Evidence**

1488 In proceedings held pursuant to this rule, the Board may admit any evidence and may
1489 give probative effect to evidence that is of a kind commonly relied on by reasonably

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1490 prudent men in the conduct of serious affairs. The Board may ~~in~~ at their discretion,
1491 exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence.

1492 **I. Fees - Witnesses**

1493 Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a
1494 Circuit Court.

1495 **J. Manner and Time of Rendering Decision**

1496 After a hearing has been completed, the members of the Board shall proceed to consider
1497 the case and, as soon as practicable, shall render their decision. If the hearing was
1498 conducted by a hearing officer, the decision shall be rendered by the Board at a meeting
1499 where a quorum of the members of the Board ~~are is~~ present and participating in the
1500 decision. In any case, the decision must be rendered within ninety (90) days after the
1501 hearings.

1502 **K. Service of Written Decision**

1503 Within a reasonable time after the decision is rendered, the Board shall serve ~~to upon~~
1504 the person whose license is involved a written copy of the decision, either personally or by
1505 registered mail. If the decision is sent by registered mail, it shall be deemed to have been
1506 served on the date borne on the return receipt.

1507 **L. Contents of Decision**

- 1508 1. Findings of ~~f~~Fact made by the Board;
1509 2. Conclusions of ~~l~~Law reached by the Board;
1510 3. The order of the Board based upon these ~~f~~Findings of ~~f~~Fact and ~~c~~Conclusions of
1511 ~~l~~Law; and
1512 4. A statement informing the person whose license is involved of his right to request a
1513 judicial review and the time within which such a request must be made.

1514 **M. Judicial Review**

1515 Judicial review of proceedings under this rule shall be governed by the Administrative
1516 Procedure Act or other applicable law.

1517 **SECTION XI**

1518 **JUDICIAL REVIEW**

1519 **A. Service**

1520 Service shall be had by serving a copy of the petition upon the Board and all other
1521 parties of record either by personal service or by mail.

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1522 **B. Stay of Order**

1523 Filing of the petition shall not automatically stay the enforcement of the Board decision.
1524 The Board, upon its own action, or the reviewing court may stay the order upon such
1525 terms as may be just.

1526 **SECTION XII**

1527 **ENFORCEMENT**

1528 **A. Civil Action**

1529 The Board may institute a (civil) suit or other legal proceedings ~~that as~~ may be required
1530 for enforcement of any provisions of ACA 17-15-101, et seq., as amended and related
1531 acts.

1532 **B. Criminal Action**

1533 If the Board has reason to believe that any person has violated any provisions of the Act,
1534 as amended, ~~7~~ or related acts for which criminal prosecution would be in order, it shall so
1535 inform the prosecuting attorney in whose district any such purported violation may
1536 have occurred.

1537

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