

**OKLAHOMA STATE BOARD OF LICENSURE FOR  
PROFESSIONAL ENGINEERS AND LAND SURVEYORS**



**Oklahoma Administrative Code, Title 245  
Rules of Procedure  
Effective September 14, 2018**

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# TITLE 245 STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

## CHAPTER 2. ADMINISTRATIVE OPERATIONS

### 245:2-1-1. Purpose

The Rules of Procedure of the Board are set forth for the purpose of interpreting and implementing 59 O.S., Sections 475.1 et seq., establishing the State Board of Licensure for Professional Engineers and Land Surveyors and conferring upon it the responsibility for the licensing of engineers, land surveyors, engineering and land surveying firms, regulation of the practice of engineering and land surveying, and enforcement of the Statutes. The Rules of Procedure are known and cited as OAC 245.

### 245:2-1-2. Terms defined by Statute

Terms defined in 59 O.S., Sections 475.1 et seq. shall have the same meanings when used in the Rules of Procedure unless the context or subject matter clearly requires a different interpretation.

### 245:2-1-4. Board meetings

- (a) The Board holds at least four (4) regular meetings each year within the State of Oklahoma.
- (b) All meetings shall be conducted by the current edition of "Roberts Rules of Order Newly Revised" unless otherwise provided herein or by Statute.
- (c) A quorum of the Board shall consist of a majority of the full Board that includes at least one (1) Professional Land Surveyor Member. A majority vote of those present is required to pass a motion. The Chair shall vote as a member of the Board.
- (d) In the absence of a quorum at any regular or special meeting called, those members of the Board in attendance shall reschedule such meeting to any later date.

### 245:2-1-5. Duties of Board officers

- (a) **Election of Board officers.** The Board elects annually from its membership as officers a Chair, Vice Chair, and a Secretary.
- (b) **Duties of the Chair.** The duties of the Chair are defined in the Statute. The Chair shall also serve as executive officer of the Board and shall perform the additional duties:
  - (1) preside at all meetings;
  - (2) appoint such committees as the Board may authorize or require in the conduct of the Board business;
  - (3) sign all certificates and perform all other duties usually pertaining to the office of Chair and required or permitted by law.
- (c) **Duties of the Vice Chair.** The duties of the Vice Chair are as defined in the Statute. The Vice Chair shall also serve as executive officer of the Board and perform the duties of the Chair in the absence of the Chair.
- (d) **Duties of the Secretary.** The duties of the Secretary are as defined in the Statute. The Secretary shall also sign all certificates and other official documents required or permitted by law.

### 245:2-1-6. Duties of Executive Director, Principal Assistant and Assistant Director

- (a) The Board shall employ an Executive Director who shall be responsible for the administration of the policies of the Board, the processing of its routine operations, and other administrative and ministerial duties as the Board authorizes.
- (b) The Board may employ a Principal Assistant and/or an Assistant Director for the Board, who shall not be members of the Board, and may be Professional Engineer(s) and/or Professional Land Surveyor(s). The Principal Assistant's duties shall be to assist the Executive Director in the administration of the policies of the Board and other administrative and ministerial duties as the Board authorizes. The Principal Assistant and/or Assistant Director shall act on behalf of the Executive Director in the absence of the Executive Director.
- (c) The Board shall furnish the Executive Director the necessary equipment, supplies and administrative assistance, paying for same as prescribed herein and by law.
- (d) The Executive Director or his/her designee shall make available to the Public for inspection at its official published address, all public records of the Board, and shall accept submissions and requests at said location.

(e) The Executive Director shall present financial reports to the Board for the "Professional Engineers and Land Surveyors Fund", and any other authorized funds, which shall show all funds received and disbursed from the fund.

**245:2-1-7. Vacancies**

- (a) If, for any reason, a vacancy shall occur in the Board, the Chair shall prepare a notice to the Governor asking for the appointment of a new member to fill the unexpired term.
- (b) If the vacancy shall occur in the office of the Chair, the Vice Chair shall prepare a notice to the Governor asking for the appointment of a new member to fill the unexpired term. In such case, the Board shall elect, from its own membership, at the first regular or special meeting, a new Chair to serve for the balance of the unexpired term.

**245:2-1-8. Reimbursement for travel**

Members of the Board, Board staff and authorized representatives shall be reimbursed for travel expenses incurred in the performance of their official duties, as allowed by the State Travel Act, and shall be paid on claims handled as prescribed herein and by the law.

**245:2-1-9. Official Board Seal**

The Seal of the Board shall be a circular seal, 2 1/4" in diameter, consisting of two concentric circles. The inner circle shall be 1 3/8" in diameter and shall contain the great seal of the State of Oklahoma. The outer circle shall be 2 1/8" in diameter and the area between the two circles shall contain the wording "State Board of Licensure for Professional Engineers and Land Surveyors" and the word "Oklahoma".

**245:2-1-10. Official records**

Among other official records required by law, or by rules of other agencies in support of law, the Board shall maintain accurate and current records including, but not limited to:

- (1) A record of minutes, in proper order, containing a summary of actions of all meetings of the Board.
- (2) Records of Licensees, containing the name and license number of all persons to whom Certificates of Licensure are issued, date of original license, the last known physical and e-mail addresses of all current licensees and renewals affected through biennial licensure, and the discipline(s) of engineering in which the applicant is claiming competency.
- (3) Licensee files for each current licensee containing the original application, relevant verification and evaluation data, record of examination results, and when applicable, records of alleged violations, suspensions, revocations, refusal to renew, orders issued, hearing transcriptions and penalties levied.
- (4) Certificate of Authorization files containing the name of each current firm holding a current certificate, the engineer(s) or land surveyor(s) of record, a record of all partners, officers and directors of the entity, their license number and state in which they are licensed, if applicable, and the last known address.
- (5) A system of finance records indicating funds received, budgeted, committed, spent, remaining and projections of appropriate request for consideration in budget development.

**245:2-1-11. Inactive records**

All inactive licensees and Certificates of Authorization files and records over three (3) years old may be microfilmed or imaged and disposed of according to the current State law and Archives and Records Commission Rules. Files and records containing violations and penalties over ten (10) years old may be microfilmed or imaged and disposed of according to the current State law and Archives and Records Commission Rules.

**245:2-1-12. Public records**

Public records of the Board are open for public inspection and copying at any time during normal business hours. A nominal fee shall be charged for copying. If extensive and time consuming copying or record searches are required, the person requiring such information or copying must supply personnel acceptable to Board staff, to do the tasks required, under the supervision of the Board staff. All records copied

or searched shall be kept in the order found and shall be put back in the files as such. Costs incurred by the Board shall be paid by the person requiring such information or copying.

**245:2-1-13. Confidential records**

(a) Prior to presentation to the Board for formal or informal adjudication, files of investigations in progress shall be deemed not subject to the Open Records Act and therefore, confidential. Files of investigation that are confidential shall not be subject to disclosure to the extent such files would not be discoverable under state law, are protected by an evidentiary privilege, contain the record of a lawfully constituted executive session, or contain the personal notes or personally created materials of a public official prior to taking action, or contain materials otherwise exempt from disclosure or discovery under applicable laws.

(b) Files of investigations in progress as referenced in this Section, shall mean any record, as defined by 51 O.S. 1991, Section 24A.3 and any amendments thereto pertaining to alleged violations of the Act or the Rules in this Chapter, by an individual, firm, partnership, association, corporation or entity prior to presentation to the Board for formal or informal adjudication.

(c) Upon written request, the Board or Board staff will examine its investigation files to determine the extent to which material contained in the file of an investigation in process should be deemed not confidential and, therefore, may be disclosed. In all cases, the Board will confirm a complaint has or has not been received and that an investigation is in progress.

(d) Other Board records and papers that may be kept confidential according to Title 59, Section 475.10(D): examination materials, file records of examination problem solutions, exam scores or results, letters of inquiry and reference concerning applicants, transcripts of college courses and grades, e-mail addresses, ongoing investigation files, closed complaints, information otherwise protected by law and all other matters of like confidential nature.

**245:2-1-14. Filing and disposition of petitions for declaratory rulings**

(a) Any person may file a request for a declaratory ruling by the Board as to the application or enforcement of any Rule or Statute to a given set of circumstances. Such request shall be in writing, signed by a person seeking the ruling, state the Rule or Statute involved and contain a brief and concise statement of facts to which the ruling shall apply. Requests shall be submitted to the Board at its office, either in person, by mail, or electronic media and may be in any form. The Board will consider the request at its next regular or special meeting unless the question has been resolved by prior ruling of the Board, in which event the petitioner shall be promptly notified of the prior ruling.

(b) The Board may defer action or hold such request on its agenda pending any investigation or hearing which the Board might conduct. The Board shall issue the requested rulings promptly upon the determination thereof or send an explanation to the petitioner stating why a ruling will not be issued. Unless a ruling states otherwise, rulings contemplated herein shall constitute precedent for the purpose of the Board's application and enforcement of the Rules in this Chapter and Statutes until revoked or overruled by the Board or the Courts. Such rulings shall be indexed by Statute section or Rule and shall be available for inspection by members of the public at the Board office. With respect to indexed rulings, the Board may delete nonessential and repetitive information and may edit any ruling to protect proprietary or confidential information.

**245:2-1-15. Request for promulgation, amendment, or repeal of rules**

(a) Any interested person may request the Board to promulgate, amend, or repeal a rule. Such request must be in writing and must state the reasons supporting the proposed rule, amendment or repeal. The request must also state whether the proposal conflicts with any existing rule. Further, the request must state what statutory provisions, if any, are involved. The request must be signed by the requester.

(b) These requests must be submitted to the Board's office, either in person or by mail. Requests may be considered by the Board at its next regular meeting or may be continued to a subsequent meeting for further consideration. Upon this preliminary consideration, if the Board approved the proposed change, notice will be given to requester that the proposed rule, amendment or repeal will be formally considered for adoption at a subsequent Board meeting. If, however, the Board initially determines that the proposed rule, amendment or repeal is not necessary, the request will be denied. This denial will be recorded in the regular minutes of the Board.

**245:2-1-16. National Council of Examiners for Engineering and Surveying**

The Board shall maintain membership in the National Council of Examiners for Engineering and Surveying (NCEES). At the National and Zone annual meetings, the Board may be represented by one or more members of the Board, Executive Director and/or Principal Assistant, and others whom the Board may designate.

**245:2-1-18. Fees and penalties**

- (a) Schedule of fees and penalties, effective July 1, 2013, are as follows:
  - (1) Application:
    - (A) Original
      - (i) Engineer/Surveyor - \$150.00
      - (ii) Intern - \$50.00
      - (iii) Firm - \$200.00
    - (B) Comity
      - (i) Engineer/Surveyor - \$250.00
      - (ii) Intern - \$50.00
      - (iii) Firm - \$250.00
    - (C) Re-license
      - (i) Engineer/Surveyor - \$250.00
      - (ii) Intern - \$50.00
      - (iii) Firm - \$250.00
    - (D) Requalification
      - (i) Engineer/Surveyor - \$150.00
      - (ii) Intern - \$25.00
  - (2) Biennial renewals:
    - (A) Individuals (Renewal fees are waived for Oklahoma licensed engineers and surveyors at 70 years old. Individuals must be 70 years old prior to their biennial renewal date and comply with the administrative renewal requirements of the Board to qualify.)
      - (i) Engineer/Surveyor - \$150.00
      - (ii) Intern – WAIVED
    - (B) Firm - \$200.00
  - (3) Reinstatement penalty (in addition to the renewal fee): The following reinstatement penalty schedule refers to payments received by the Board within the prescribed number of days following the expiration date of the renewal:
    - (A) 1 – 60 days:
      - (i) Engineer/Surveyor - \$100.00
      - (ii) Firm - \$100.00
    - (B) 61 – 120 days:
      - (i) Engineer/Surveyor - \$150.00
      - (ii) Firm - \$150.00
    - (C) 121 – 180 days:
      - (i) Engineer/Surveyor - \$250.00
      - (ii) Firm - \$250.00
    - (D) Reinstatement penalties for professional engineers and land surveyors may be waived if the licensee was unable to renew because they were in non-compliance with the Oklahoma Tax Commission.
  - (4) Re-examination application:
    - (A) Engineer/Surveyor - \$50.00
    - (B) Intern - \$10.00
  - (5) Temporary Permit (Engineering): \$750.00
  - (6) Administrative fee for returned checks: \$25.00
  - (7) Duplicate certificate: \$25.00
  - (8) Application fee to revise license or authorization

- (A) Engineer/Surveyor - \$50.00
- (B) Intern – no charge
- (C) Firm - \$100.00
- (9) Transcript of hearing – Actual cost
- (10) Copy of public records (per page): \$.25
- (b) The Board shall make no refunds of any fees or penalties to any applicant or licensee.
- (c) These fees and penalties apply to the Rules in this Chapter and Chapter 15 of this Title.
  - (1) The administrative fee for returned checks shall be applied to any check returned to the Board for insufficient funds.
  - (2) Any such check returned to the Board shall be replaced with a cashier’s check or money order within ten (10) days following notification from the Board of the returned check.
- (d) Any member of the Armed Forces of the United States who is deployed on active duty who at the time of deployment was duly licensed in good standing as a professional engineer or land surveyor in Oklahoma may renew their license without the payment of renewal or reinstatement fees. The license or certificate issued pursuant to the provisions of this section may be continued as long as the licensee or certificate holder is a member of the Armed Forces of the United States on active duty and for a period of at least one (1) year after discharge from active duty.

**245:2-1-19. Severability clause**

Any part of the Rules in this Chapter, found by a Court or the Attorney General to be inconsistent with the provisions thereof as presently exist or are hereafter amended, shall be interpreted so as to comply with such Statutes as they presently exist or are hereafter amended and the partial or total invalidity of any section or sections of these Rules shall not affect its valid sections. These Rules go through the legislative process, thereby giving them the same effect as law.

**245:2-1-20. Conflicting statutes**

When a Statute or a part of a Statute is found to be in conflict or inconsistent with the provisions of 59 O.S., Sections 475.1 et seq. or the Rules in Chapters 2 or 15 as promulgated by the Board or the Administrative Procedures Act, 75 O.S. Sections 301 et seq., the provisions of 59 O.S., Sections 475.1 et seq. and the Administrative Procedures Act shall govern.

**245:2-1-21. Engineering and Surveying Education Assistance Program**

- (a) The Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors Engineering and Surveying Education Assistance Program was created by the Oklahoma Legislature and is funded and administered by the Board. The fund is to be used for higher education scholarships, for additional instructional courses for persons currently licensed or seeking licensure to practice engineering or land surveying, and for other educational activities or programs that may assist students pursuing a career in engineering or surveying who may choose to pursue professional licensing. The Board shall have the authority to maintain a separate fund for this purpose and the fund may accrue interest. Scholarships may serve as an additional incentive for residents of the State who are pursuing the study of engineering or surveying at a private or public college in Oklahoma in a program of engineering that is EAC/ABET or ETAC/ABET accredited or in a program of surveying that is approved by the Board.
- (b) The Board Chair shall appoint a Scholarship and Education Committee of the Board annually from its membership to create and administer the programs. The duties of the committee shall be established by Board Policy.
- (c) Applications for scholarships and the process for awarding scholarships shall be administered by Board Policy.
- (d) Preference in the granting of scholarships shall be determined by Board policy. To be eligible for the Engineering and Surveying Assistance Program an applicant must:
  - (1) be a legal resident of the State of Oklahoma for not less than three (3) years prior to the date of application, or
  - (2) be a high school graduate from an Oklahoma public or private school, or

be an Oklahoma resident who has attended an Oklahoma college or university for one (1) year prior, and

(3) be enrolled or have been accepted to an accredited college or university in a program that is EAC/ABET or ETAC/ABET for engineering or a surveying program approved by the Board, and

(4) meet all requirements and academic standards established by the Board.

(e) Funds may be awarded to qualified students each academic year as per Board policy. Payment of the scholarship award will be sent to the college or university in direct payment for the student.

(f) Students must reapply annually to be reconsidered for the scholarship.

(g) Additional education and reimbursement programs may be created by the Scholarship and Education Committee to be financially supported through this fund upon approval by the Board.

(h) The Board may use this fund to establish and conduct instructional programs for persons who are currently licensed to practice engineering or land surveying, as well as refresher courses for persons interested in obtaining adequate instruction or programs of study to qualify them for licensure to practice engineering or land surveying. The Board may conduct, sponsor, and arrange for instructional programs and also may carry out instructional programs through extension courses or other media. The Board may enter into plans or agreements with community colleges, public or private institutions of higher learning, the State Board of Education, or with Oklahoma Department of Career and Technology Education for the purpose of planning, scheduling or arranging courses, instruction, extension courses or in assisting in obtaining courses of study or programs in the fields of engineering and land surveying. The Board shall encourage the educational institutions in Oklahoma to offer courses necessary to complete the educational requirements of Section 475.1 et seq. of this title.



## TITLE 245. STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

### CHAPTER 15. LICENSURE AND PRACTICE OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

#### SUBCHAPTER 1. GENERAL PROVISIONS

##### **245:15-1-1. Purpose**

The Rules of Procedure of the Board are set forth for the purpose of interpreting and implementing 59 O.S., Sections 475.1 et seq., establishing the State Board of Licensure for Professional Engineers and Land Surveyors and conferring upon it the responsibility for licensing of engineers, land surveyors, engineering and land surveying firms, regulation of the practice of engineering and land surveying, and enforcement of the Statutes. The Rules of Procedure are known and cited as OAC 245.

##### **245:15-1-2. Terms defined by Statute**

Terms defined in 59 O.S., Sections 475.1 et seq. shall have the same meanings when used in this Chapter unless the context or subject matter clearly requires a different interpretation.

##### **245:15-1-3. Definitions**

The following words or terms, when used in the Rules of Procedure, shall have the following meaning, unless the context clearly indicates otherwise. Definitions in 59 O.S. Section 475.2 and 65 O.S. Section 3-118 shall be read together with the definitions and interpretations provided in the Rules of Procedure of the Board.

**"Accessory to a corner"** means any exclusively identifiable physical object whose spatial relationship to the corner is recorded. Accessories may be bearing trees, bearing objects, monuments, reference monuments, line trees, pits, mounds, charcoal filled bottles, steel or wooden stakes, or other objects.

**"Certify"** or **"Certification"** or similar expressions relating to engineering or land surveying services shall mean a statement based upon facts and knowledge known to the licensee and is not a guarantee or warranty, either expressed or implied.

**"Closure error"** means the ratio between the horizontal linear error of closure to the total horizontal distance traversed, with the numerator of the ratio being the number "one".

**"Control surveying"** means the establishment of horizontal and/or vertical control which will be the basis for future phases of a project including, but not limited to: extraction of geospatial data, engineering design projects, construction staking, surveys to layout horizontal and vertical alignments, topographic surveys using field methods, collection of topographic and planimetric data using photogrammetric methods and construction surveys of engineering or architectural public works project.

**"Engineering surveys"** means all survey activities required to support the sound conception, planning, design, construction, maintenance and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements and the dependent or independent surveys or resurveys of the public land survey system. Unless a Professional Land Surveyor has provided the Professional Engineer with geocentric/geodetic control coordinates which meet the accuracy standards set forth in OAC 245:15-13-2, the Professional Engineer shall only use a coordinate system based on assumed values for the project, and so state on the documents.

**"Geospatial"** means the relative position of features on, above, or below the earth's surface defined by a localized or globalized system.

**"Land or boundary survey"** means a survey, the primary purpose of which includes, but is not limited to, the determining of the perimeter of a parcel or tract of land by establishing or reestablishing corners, monuments and boundary lines.

**"Linear closure"** means a measure of the horizontal linear error without regard to direction, between the computed location of the first and last points of a traverse when either the traverse actually

returns to its beginning point (geometrically and mathematically closed), or the traverse ends at a point of previously established control relative to the beginning point (geometrically open, but mathematically closed).

**"Mortgage Inspection Report"** means a representation of the boundaries of a parcel of real property and the improvements thereon, prepared incident to a mortgage of real property.

**"Monument"** means a physical structure that occupies the exact position of a corner.

**"Planimetric mapping surveys"** mean a map that presents the horizontal positions only for the features represented. This is distinguished from a topographic map by the omission of relief in measurable form.

**"Positional error"** means the difference between the actual position of a corner monument and its described or computed position. This error may be determined by computing the difference between the measured position and the adjusted position of the monument or by measurement of angle and distance between three of the corner monuments on the survey if made with precise surveying instruments using proper procedures.

**"Practice of land surveying"** as defined by Title 59 O.S. Section 475.2(8)(a) also includes monumenting the subdivision of land into smaller parcels and the preparation of legal descriptions in connection therewith; however, the preparation of legal descriptions by a person who does not monument the land so described is not the practice of land surveying. Preparation of the control portion of geographic information systems and land information systems means the authoritative and monumented ground survey of a system of marks or objects to establish horizontal or vertical positions.

**"Professional Engineer, Retired"** – The term "Professional Engineer, Retired" as used in these rules, shall mean an individual who has been duly licensed as a professional engineer by the Board and who chooses to relinquish or not to renew a license and who applies to and is approved by the Board to be granted the use of the title "Professional Engineer, Retired."

**"Professional Land Surveyor, Retired"** – The term "Professional Land Surveyor, Retired" as used in these rules, shall mean an individual who has been duly licensed as a professional land surveyor by the Board and who chooses to relinquish or not to renew a license and who applies to and is approved by the Board to be granted the use of the title "Professional Land Surveyor, Retired."

**"Rules of professional conduct for Professional Engineers and Land Surveyors"** means those rules promulgated by the Board.

**"Signature"** means "manual signature" or "digital signature" and shall be defined as follows:

(A) Manual signature means the handwritten name of a person applied to a document that identifies the person, serves as a means of authentication of the contents of the document, provides responsibility for the creation of the document and provides for accountability for the contents of the document.

(B) A digital signature shall carry the same weight, authority, and effects as a manual signature.

**"Significant structures"**, beginning November 1, 2020, shall mean buildings and other structures that represent a substantial hazard to human life in the event of failure or are designated as essential facilities, including but not limited to:

(A) Buildings and other structures whose primary occupancy is public assembly with an occupant load greater than 300,

(B) Elementary schools, secondary schools or day care facilities with an occupant load greater than 50,

(C) Adult education facilities, such as colleges and universities, with an occupant load greater than 500,

(D) Hospitals, nursing homes, mental hospitals and detoxification facilities with an occupant load of 50 or more resident care recipients and/or surgery or emergency treatment facilities,

(E) Prisons, jails, reformatories, detention centers, correctional centers,

(F) Any building or other structure with an occupant load greater than 5,000,

(G) Primary power-generating structures above 50 kilowatts,

- (H) Structures at water treatment facilities for potable water and wastewater treatment facilities serving more than 5,000 people,
- (I) Structures for public utility facilities containing quantities of toxic or explosive materials that are sufficient to pose a threat to the public if released,
- (J) Fire, rescue, ambulance and police stations and emergency vehicle garages,
- (K) Designated tornado, earthquake or other non-residential emergency shelters,
- (L) Designated emergency preparedness, communications and operations centers and other facilities required for emergency response,
- (M) Aviation control towers, air traffic control centers and emergency aircraft hangars,
- (N) Buildings and other structures having critical national defense functions,
- (O) Elevated water storage structures, and
- (P) Buildings and other structures with high lateral loadings including:
  - (i) those subjected to ultimate design 3 second wind gust speeds equaling or exceeding wind speeds corresponding to approximately a 3% probability of exceedance in 50 years, or
  - (ii) those that are in Seismic Design Category D and above.
- (Q) "Significant structures" shall exclude bridges and geo-structures. As defined in this document, "bridges" will not include elevated structures linking buildings. "Geo-structures" shall mean engineered structures that are loaded by the earth or whose resistance is derived from the earth.

A project defined as a "Significant structure" for which a permit has not been applied for or granted as of October 31, 2020, shall be required to have an engineer of record who is a licensed Professional Structural Engineer. Beginning November 1, 2020, all new projects defined as "significant structures", shall require an Oklahoma Licensed Professional Structural Engineer to be the engineer of record.

"Survey plat", "sketch", or "map", or similar document, shall mean any drawing of a parcel or tract of real property used for the purpose of depicting the results of a field survey.

"Topographic surveys" mean surveys that have as their major purpose the determination of the configuration (relief) of the earth (ground) and the location of natural or artificial objects thereon.

#### **245:15-1-4. Statutory charges to the Board**

Provisions of the Statutes charge the Board with adoption and enforcement of all reasonable and necessary Rules and Regulations which it may deem advisable and empowers the Board with authority to deny the issuance, restoration or renewal of, or place on probation for a period of time and subject to such conditions as the Board may specify, suspend, revoke or refuse to renew Certificates of Licensure and Certificates of Authorization for certain causes. The Statutes also empower the Board with administrative penalties (fines) and do not preclude the Board from using any necessary legal proceedings to enforce its decisions.

#### **245:15-1-5. Severability clause**

Any part of the Rules in this Chapter, found by a Court or the Attorney General to be inconsistent with the provisions thereof as presently exist or are hereafter amended, shall be interpreted so as to comply with such Statutes as they presently exist or are hereafter amended and the partial or total invalidity of any section or sections of these Rules shall not affect its valid sections. These Rules go through the legislative process, thereby giving them the same effect as law.

#### **245:15-1-6. Administrative Procedures Act**

The provisions of the Administrative Procedures Act, 75 O.S., Sections 250 et seq, shall apply to the Board.

### **SUBCHAPTER 3. APPLICATION AND ELIGIBILITY FOR LICENSING**

#### **245:15-3-1. Availability of forms and Board records**

Applications required to be submitted to the Board are available at the Board office and other locations as deemed appropriate by the Board. Completed applications, with all attachments and the required fee, when received by the Board will be entered into the Board records.

#### **245:15-3-2. Documents required for licensing**

- (a) Every individual applying for a license shall submit an application, which shall be the forms furnished by the Board, or its designee, or forms located on the Board's website, accompanied by the applicable fees.
- (b) All information filled in on the application forms must be typewritten or computer generated. In case there is not sufficient room on the form to present all the subject matter necessary, the applicant shall set forth the additional information on additional sheets of plain white paper, 8 ½" x 11" in size. Such sheets shall be typewritten or computer generated on one side only, shall be marked and numbered consecutively and in series with the regular pages of the application.
- (c) An affidavit certifying the truthfulness of the statements in the application shall constitute a part of each application. Withholding information or providing statements which are untrue or misrepresent the facts may be cause for denial of an application.
- (d) An applicant shall request the university or college, or its designee, from which credit has been obtained to forward directly to the Board, or its designee, a properly certified university or college transcript showing all academic work.
- (e) All application forms and information furnished thereon and all examinations and answers thereto shall be entirely in the English language.

#### **245:15-3-3. Non-resident applications for original license**

All applicants for original license must show proof they are a United States citizen or show proof they are lawfully present in the United States.

#### **245:15-3-4. Board action required**

- (a) Individual professional engineer, professional engineer with a structural engineer designation, and professional land surveyor comity applicants meeting the requirements of a NCEES Model Law Engineer or NCEES Model Law Surveyor, or other requirements as determined by Board statutes, rules and policy may be reviewed and evaluated by the Principal Assistant, Executive Director, or the Board's designee, to determine if the applicant meets or exceeds the approved criteria. If the applicant meets or exceeds these requirements, the applicant may receive a contingent license authorizing the individual to offer or provide engineering or surveying services in Oklahoma. A list of all engineers issued contingent licenses will be placed on the agenda of the next meeting of the Board for formal approval by the Board. A list of all surveyors who have been issued contingent licenses and who have passed the appropriate Oklahoma-specific examination will be placed on the agenda of the next meeting for formal approval by the Board. All other complete comity applicants will be reviewed and evaluated by the Board at the next regularly scheduled meeting of the Board to determine if they meet or exceed the criteria to be licensed as a professional engineer, professional engineer with a structural engineer designation or a professional land surveyor
- (b) Certificate of Authorization applications for firms which meet the statutory and rule requirements may also be approved by the Principal Assistant, Executive Director, or the Board's designee. If the firm meets or exceeds these requirements, the firm may receive a contingent authorization allowing the firm to offer or provide engineering or surveying services in Oklahoma. A list of all firms issued contingent authorizations will be placed on the agenda of the next meeting of the Board for formal approval by the Board.
- (c) Initial applicants for a professional engineer or professional land surveyor license who are applying

prior to obtaining the requisite experience for licensure, but have met the education requirement and have passed the Fundamentals of Engineering or Fundamentals of Surveying examination, respectively, may be approved to sit for the requested professional examination upon approval by the Principal Assistant, Executive Director, or the Board's designee.

(d) Intern applications for certification may be approved by the Executive Director, Principal Assistant, or the Board's designee.

(e) All other applications for Professional Engineer, Professional Land Surveyor and Certificate of Authorization submitted for a license shall be first considered by the Board for approval or disapproval.

#### **245:15-3-5. Examination dates and locations**

Examinations are offered on dates and locations as set by NCEES and/or the Board.

#### **245:15-3-6. Active and inactive applications**

(a) Incomplete applications not yet presented to the Board, will be withdrawn from consideration by the Board after one year from the date submitted to the Board and a new and complete application shall be required from an applicant seeking licensure.

(b) The Board shall adopt a policy regarding the number of attempts an examinee may be granted for any NCEES or Board-approved examination, as well as requirements for re-applying for future examination attempts. An applicant's application will be closed after a prescribed number of failures of any NCEES examination or other Board-approved examinations, regardless of the jurisdiction in which the examination is administered. For further consideration, an applicant shall file a new and complete application for re-examination, to include evidence of additional education, knowledge or skill sufficient to materially improve the applicant's qualifications for re-examination which shows that the additional requirements outlined in the Board's policy for re-examination have been met. NCEES examinations will be administered per NCEES policy and the policies of the Board.

(c) If an applicant requests that the applicant's application be withdrawn from consideration, the Board will reject the application. Any further consideration will require a new and complete application and fee.

#### **245:15-3-7. Qualifications for original professional engineer license and engineer intern certification**

To be eligible for consideration for original licensure as a Professional Engineer or certification as an Engineer Intern, the applicant must be of good character and reputation. Applicants must meet all qualifications as contained within the Statutes and the Rules of the Board. An application for an Engineer Intern certification or Professional Engineer license shall be individually reviewed by the Board or its designee. Evidence of minimum qualifications is required by the Board in accordance with Title 59, 475.12a. and the following requirements:

(1) Engineer Intern and Professional Engineer - education requirements for original license:

(A) Completion of one of the following shall be considered as minimum evidence that the applicant has fulfilled the education requirement for certification as an Engineer Intern or licensure as a Professional Engineer:

(i) a bachelor's degree in engineering from an EAC/ABET-accredited program, or the equivalent, which may include a bachelor's degree in engineering from a degree program accredited by the Canadian Engineering Accreditation Board (CEAB) or signatories of the Washington Accord, a bachelor's degree in engineering from a program that meets the NCEES Engineering Education Standard, or a bachelor's degree in engineering from a program that, upon evaluation, does not meet the NCEES Engineering Education Standard, but deficiencies outlined in the degree evaluation have been corrected with further education approved by the Board,

(ii) a bachelor's degree in a Board approved related science degree program which meets the Board's statutory definition of a related science degree,

- (iii) a master's degree in engineering from an institution that offers EAC/ABET-accredited programs,
  - (iv) a master's degree in engineering from an EAC/M-ABET-accredited program, or
  - (v) an earned doctoral degree in engineering acceptable to the Board.
- (2) Professional Engineer- experience (original license):
- (A) Experience credit may be claimed to the date of the application. Part-time experience shall be pro-rated after a review by the Board or its designee. Experience record is to be continuous from beginning to the date of the application. Experience time shall not exceed elapsed calendar time. Application fees are non-refundable. Only experience obtained directly within the professional field will be considered as qualifying experience by the Board and must be verified by reference. Experience shall be gained under the supervision of a licensed professional engineer or, if not, an explanation shall be made showing why the experience should be considered acceptable. Experience gained under the technical supervision of an unlicensed individual may be considered if the appropriate credentials of the unlicensed supervisor are submitted and approved by the Board or its designee. In evaluating experience that indicates to the Board that the applicant may be competent to practice engineering, the following will be considered:
- (i) Experience must be progressive on engineering projects to indicate that it is of increasing quality and requiring greater responsibility.
  - (ii) Experience must not be obtained in violation of the licensure act.
  - (iii) Experience gained in the armed services must be of a character equivalent to that which would have been gained in the civilian sector doing similar work. Sales experience must demonstrate that engineering principles were required and used in gaining the experience.
  - (iv) Sales experience must demonstrate that engineering principles were required and used in gaining the experience.
  - (v) Teaching experience must be in engineering or engineering-related courses at an advanced level in a college or university offering an engineering program of 4 years or more that is approved by the Board.
  - (vi) Experience may be gained in engineering research and design projects by members of an engineering faculty, where the program is approved by the Board.
  - (vii) Experience in construction must demonstrate the application of engineering principles.
  - (viii) Experience should include demonstration of knowledge of engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design.
  - (ix) Experience should include demonstration of the application of engineering principles in the practical solution of engineering problems.
  - (x) The board may deem professional experience acquired by applicants outside the United States to be equivalent to the minimum Board requirements established by regulations for professional experience in that jurisdiction.
- (B) Partial experience credit may be given for experience earned prior to receipt of a baccalaureate degree, at the discretion of the Board, if the employment is at least half-time and the work is performed under the supervision of a professional engineer. At the time the experience was gained, the applicant must have passed upper level engineering or related engineering science courses and applied relevant engineering knowledge in the claimed experience. In no case shall the experience credit exceed one half of that required for approved qualifying experience.
- (C) Concurrent time spent in engineering work while attending school will be credited either as education experience or work experience but not both.
- (D) Applicants shall submit a minimum of five (5) acceptable references, three (3) of whom shall be Professional Engineers having personal knowledge of the applicant's engineering experience, none of whom may be current members of the Board or immediate family members. References verifying experience, who have been disciplined by any professional licensure board within the past 10 years, must submit a copy of the formal disciplinary action taken for the Board's review

and consideration. References will verify the periods of experience since the beginning of the history, leaving no gaps in dates. The Board shall not give credit for engineering experience that has not been verified by one or more references.

(E) Applicants may apply for a waiver of the NCEES Fundamentals of Engineering examination by showing proof of a minimum of fifteen (15) years of acceptable progressive engineering experience following the date of the conferred degree qualifying the applicant for licensure. The required experience shall be verified by reference, and may not be self-verified. Experience earned prior to the conferred qualifying degree shall not be considered in the years of required experience. All elements of the application shall be evaluated by the Board when considering application for a waiver of the exam, including but not limited to, reference responses, disciplinary actions and all convictions.

(F) An applicant with a Board-approved doctoral degree in engineering shall be required to obtain two (2) years of experience credit after the doctoral degree is conferred, whether or not an M.S. degree was also conferred, to qualify for licensure.

(G) An applicant with an education path described in OAC 245:15-3-7(1)(A)(i) or (1)(A)(ii), who further obtains a master's degree in engineering from an institution that offers EAC/ABET-accredited programs or CEAB-accredited programs, shall be required to obtain three (3) years of experience following the master's degree to qualify for licensure. Under the same conditions, if a Board-approved doctoral degree is conferred, the applicant shall be required to obtain two (2) years of experience following the Ph.D. in engineering.

(H) An applicant with a bachelor's degree in engineering from a program that is a signatory of the Washington Accord, who chooses not to obtain a degree evaluation from a Board-approved evaluation service, shall be required to obtain six (6) years of experience following the date of the conferred bachelor's degree to qualify for licensure.

(I) Non-U.S., non-EAC/ABET-accredited degrees, non-CEAB-accredited degrees which are not approved by the Board may be considered only following a degree evaluation obtained through a degree evaluation service approved by the Board. If the degree evaluation states that the degree is equivalent to the NCEES Education Standard, then four (4) years of experience will be required following the conferred degree. If the degree does not meet the NCEES Education Standard and deficiencies outlined in the degree evaluation are corrected by further education as approved by the Board, then four (4) years of experience will be required following the conferred degree to qualify for licensure. If the applicant described in this paragraph obtains a master's degree in engineering from an institution that offers EAC/ABET-accredited programs or CEAB-accredited programs, they may be required to obtain three (3) years of experience credit following the master's degree to qualify for licensure. Under the same conditions, if a Board-approved doctoral degree is conferred, the applicant shall be required to obtain two (2) years of experience following the Ph.D. in engineering to qualify for licensure.

(J) Non-U.S., non-EAC/ABET-accredited degrees or non-CEAB-accredited degrees which are not approved by the Board which upon evaluation are not deemed equivalent to the NCEES Education Standard shall be considered at a maximum equivalent to a related science degree.

(K) No examination shall be administered following July 1, 2020, for applicants applying with a non-accredited technology degree or non-related science degree for licensure as a Professional Engineer if the applicant's application was originally approved by the Board prior to July 1, 2016.

(3) Professional Engineer – examination requirements (original license):

(A) Applicants for professional engineering licensure must take and pass the FE examination prior to being admitted to take the PE examination, unless the Board has approved a waiver request for the FE examination.

(B) Applicants applying to take the PE examination prior to obtaining the required number of years' experience for licensure shall submit a board approved application and required documents verifying their degree program and verifying passage of the FE examination. The Board or its designee shall review the application for compliance with the education and exam requirements

prior to admitting the applicant to the PE examination. Once the applicant has passed the PE examination and has obtained the required experience for professional engineering licensure, the remaining application requirements shall be submitted and verified prior to final consideration. (C) When the requirements of the Statutes and of this Chapter are met, the applicant shall be admitted to, and must pass, an examination covering the laws, rules, procedures and practices pertaining to engineering in the state of Oklahoma, prior to being licensed as a Professional Engineer.

#### **245:15-3-8. Qualifications for original land surveying license**

To be eligible for consideration for original licensure as a Professional Land Surveyor or certification as a Land Surveyor Intern, an applicant must be of good character and reputation. Applicants must meet all qualifications as contained within the Statutes and the Rules of the Board. Applications for Land Surveyor Intern certification or Professional Land Surveyor licensure shall be individually reviewed by the Board or its designee. Evidence of minimum qualifications is required by the Board in accordance with Title 59, 475.12b and the following requirements:

(1) Professional Land Surveyor - experience (original license):

(A) Experience record may be claimed to the date of the application. Part-time experience shall be pro-rated after a review by the Board or its designee. Experience record is to be continuous from the beginning to the date of the application. Experience time shall not exceed elapsed calendar time. Application fees are non-refundable. Only experience obtained directly within the land surveying area will be considered as qualifying experience by the Board. Experience shall be gained under the supervision of a licensed professional surveyor; or if not, an explanation shall be made showing why the experience should be considered acceptable. Experience gained under the technical supervision of an unlicensed individual may be considered if the appropriate credentials of the unlicensed supervisor are submitted and approved by the Board or its designee. In evaluating experience which indicates to the Board that the applicant may be competent to practice surveying, the following will be considered:

- (i) Experience must be progressive on surveying projects and must demonstrate an increasing quality and greater responsibility.
- (ii) Experience must be obtained in compliance with the Statutes and Rules of the Board.
- (iii) Experience gained in the armed services must be of a character equivalent to that which would have been gained in the civilian sector doing similar work.
- (iv) Teaching experience-must be in surveying or surveying-related courses at an advanced level in a surveying program that is approved by the Board.
- (v) A substantial portion of the experience must be spent in charge of work related to property conveyance and/or boundary line determination.
- (vi) Experience in the technical field aspects of the profession must be demonstrated.
- (vii) Experience must include demonstration of the application of surveying principles in the practical execution of surveying tasks.
- (viii) Experience may be gained in surveying research projects by members of a surveying faculty where the program is approved by the Board.
- (ix) The Board may deem professional experience acquired by applicants outside the United States to be equivalent to the minimum Board requirements established by statutes or rules for professional experience.

(B) Professional land surveyor applicants shall submit a minimum of five (5) acceptable references, at least three (3) of whom shall be Professional Land Surveyors having personal knowledge of the applicant's land surveying experience and none of whom may be current members of the Board. References verifying experience who have been disciplined by any professional licensure board within the past 10 years must submit a copy of the formal disciplinary action taken for the Board's review and consideration. References should verify the periods of experience since the beginning of the history, leaving no gaps in dates. The



Board cannot give credit for surveying experience that has not been verified by one or more references.

- (2) Professional Land Surveyor – examination requirements (original license):
  - (A) Applicants for professional land surveyor licensure must take and pass the FS examination prior to being admitted to take the PS examination.
  - (B) Applicants applying to take the PS examination prior to obtaining the required number of years' experience for licensure shall submit a Board-approved application and required documents verifying their degree program and verifying passage of the FS examination. The Board or its designee shall review the application for compliance with the education and examination requirements prior to admitting the applicant to the PS examination. Once the applicant has passed the PS examination and has obtained the required experience for Professional Land Surveying licensure, the remaining application requirements shall be submitted and verified prior to final consideration.
  - (C) When the requirements of the Statutes and of this Chapter are met, the applicant shall be admitted to, and must pass the Oklahoma Law and Surveying examination and an examination covering the laws, rules, procedures and practices pertaining to surveying in the state of Oklahoma, prior to being licensed as a Professional Land Surveyor.

#### **245:15-3-9. License by comity or endorsement for professional engineers or professional land surveyors**

- (a) Applicant for comity or endorsement license shall provide proof that the applicant is a person holding a Professional Engineer or Land Surveyor license, in good standing, issued by a proper authority.
- (b) Applicant must have been licensed, based on requirements that do not conflict with the provisions of the Statutes and Rules of the Board. If the applicant was originally licensed by standards lower than those specified in the applicable Statute in effect in Oklahoma at the time such license was issued, the applicant must provide proof that they are qualified. All disciplinary actions by a professional licensing board and all criminal activity shall be taken into consideration by the Board.
- (c) Applicant shall submit a minimum of five (5) references, three (3) of whom shall be Professional Engineers or Professional Land Surveyors, respectively, having personal knowledge of the applicant's engineering or surveying experience, none of whom may be current members of the Board or immediate relatives.
- (d) An applicant with less than the standards outlined in subsection (b) of this section may be required to obtain additional education, experience and examination requirements as the Board may determine to establish the applicant's qualifications.
- (e) Upon satisfactorily complying with minimum requirements of this section and examination requirements as described in the Board rules, the applicant shall be licensed in the State of Oklahoma.

#### **245:15-3-10. Temporary License**

The Executive Director or Principal Assistant shall be authorized to issue a Temporary License to a Professional Engineer, subject to the approval of the Board, under Title 59, 475.22(2) and the following conditions:

- (1) An applicant who is granted a Temporary License, but fails to submit their complete permanent professional engineer application within the prescribed period of time, may be considered to be in violation of the Statutes and Rules of this Board. An application shall be considered complete when all required properly completed forms and fees have been received in the Board's office.
- (2) Information relative to a license in the other state or jurisdiction shall be verified before issuance of a Temporary License.
- (3) The Temporary License fee as prescribed by law shall be remitted with the application and is non-refundable.

(4) A Temporary License shall be issued for a definite period of time not to exceed 120 days, for a specifically described single work project as set out in the application form and may not be renewed or extended.

(5) A Temporary License shall expire the earliest of the issuance of the permanent professional engineer license by this Board or the rejection of the application for licensure, but not later than 120 days after issuance.

(6) The holder of a Temporary License shall seal plans, specifications, or other documents only in accordance with the Statutes and Rules of this Board. The seal used shall be the holder's license seal of the state on which issuance of the Temporary License is based and immediately under the seal the following shall be inserted:

(A) Oklahoma Temporary License number \_\_\_\_\_

(B) Date of issue \_\_\_\_\_

(C) Date of expiration \_\_\_\_\_

(D) Signature of holder \_\_\_\_\_

(7) No person may be issued more than one (1) temporary license.

(8) A Temporary License application shall include a statement describing the circumstances which require the issuance of a Temporary License for the project. The applicant shall submit either a contract, work order, or correspondence containing the date the proposal was submitted, the scope of the project, the current status of the project and the expected date of completion of the project.

## SUBCHAPTER 5. EXAMINATIONS

### **245:15-5-1. Examinations required, scheduling, and postponements**

(a) Examination fees paid to NCEES shall only be refunded, and examinations postponed, per NCEES policy and procedures.

(b) Following the published deadline, an applicant may be approved to take an examination by the Principal Assistant or Executive Director if sufficient evidence of hardship exists to warrant such action. In no case shall an applicant be allowed to register for an examination after the NCEES cut-off date for paper and pencil examinations.

### **245:15-5-3. Examination specifications**

(a) Examinations offered by the Board will be in accordance with NCEES specifications, developed by NCEES examinations committees.

(b) Land surveyor applicants will, in addition, be tested by an examination approved by the Board, upon their knowledge of Oklahoma laws and surveying.

(c) All applicants will, in addition, be tested by an open book exam based on Oklahoma laws, approved by the Board and administered by Board policy.

### **245:15-5-4. Taking and order of taking examinations**

(a) Applicants may be approved to take one or more of the examinations listed in this subsection.

(1) NCEES Fundamentals of Engineering (FE) examination

(2) NCEES Principles and Practice of Engineering (PE) examination

(3) NCEES Structural Engineering (SE) examination

(4) NCEES Fundamentals of Surveying (FS) examination

(5) NCEES Principles and Practice of Surveying (PS) examination

(6) Oklahoma Law and Surveying (OLS) examination

(7) Oklahoma Law and Engineering/Surveying (OLE/S) examination

(b) Applicants required to take the Fundamentals of Engineering or Surveying examination, the Principles and Practice of Engineering examination, the Structural Engineering examination, or the Principles and Practice of Surveying examination, shall have received a passing score on the Fundamentals examination prior to being permitted to take the Principles and Practice examination or the Structural Engineering examination.

(c) The Structural examination shall be considered and referred to as one examination. The Structural examination shall consist of two components: the Vertical Forces (gravity/other) and Incidental Lateral component and the Lateral Forces (wind/earthquake) component. A candidate must receive acceptable results on both components to pass the Structural examination. A candidate may sit for each component in separate exam administrations but must receive acceptable results on both components within a 5-year period. Receiving acceptable results on only one component shall not be sufficient for licensure purposes.

(d) Examination subversion is the use of any means to alter the results of an examination to cause the results to inaccurately represent the competency of an examinee. Examination subversion for paper-and-pencil examination offerings includes, but is not limited to:

- (1) Communication between examinees inside of the examination room.
- (2) Giving or receiving any unauthorized assistance on the examination while an examination is in progress.
- (3) Having any unauthorized printed or written matter or other devices in his or her possession which might serve to aid the examinee on the examination.
- (4) Obtaining, using, buying, selling, distributing, having possession of, or having unauthorized access to secured examination questions or other secured examination material prior to, during or after the administration of the examination.
- (5) Copying another examinee's answers or looking at another examinee's materials while an examination is in progress.
- (6) Permitting anyone to copy answers to the examination.
- (7) Removing any secured examination materials from the examination facility.
- (8) Allowing another person to take the examination in the examinee's place.
- (9) Placing any identifying mark upon his or her examination papers other than his or her identification number or other identifiers as directed by the examination administrator.
- (10) Use by an examinee of any written material, audio material, video material, digital material, or any other mechanism not specifically authorized during the examination for the purpose of assisting any examinee in the examination.
- (11) Writing on anything other than designated examination material.
- (12) Writing or erasing anything after time is called.

(e) If there is evidence of examination subversion by an examinee prior to, during, or after the administration of the examination, one or more of the following may occur:

- (1) The examinee may be denied the privilege of taking the examination if examination subversion is detected before the administration of the examination.
- (2) If the examination subversion detected has not yet compromised the integrity of the examination, such steps as are necessary to prevent further examination subversion shall be taken, and the examinee may be permitted to continue with the examination.
- (3) The examinee may be requested to leave the examination facility if examination subversion is detected during the examination.
- (4) The examinee may be requested to submit written advisement of his or her intent to comply with and understanding of the law.
- (5) The examination results may be voided and the application fee forfeited.
- (6) The examinee may not be allowed to sit for an examination for a time prescribed by the Board following investigation.

(f) The Executive Director reserves the right not to release the examination results to the examinee pending the outcome of any investigation of examination subversion.

(g) Removal from or voidance of one part of a multiple-part examination taken during a single examination administration shall constitute removal from or voidance of all other parts of the multiple-part examination.

**245:15-5-5. Examination grading, and retention of examination results**

- (a) **Grading.** NCEES examinations will be graded and results released in accordance with NCEES policies and procedures. NCEES examination results will be reported as pass or fail only. Oklahoma examination results will be reported and results released pursuant to Board policies and procedures.
- (b) **Retention of examination results.** The Board or its representative will maintain an applicant's examination results obtained on the examinations taken for reference.

**245:15-5-7. Transfer of examination grades**

- (a) **Outgoing.** The Board or its representative, upon written request, will transfer examination results given under the Board's jurisdiction to any other duly constituted licensing board for use in evaluating such applicant's eligibility for a license or to NCEES for use in evaluating such applicant's eligibility for certification with NCEES records program.
- (b) **Incoming.** The Board will accept examination results or examinations taken in other states by applicants who met the requirements in effect in Oklahoma at the time the examinations were taken or who meet the current requirements for licensing in Oklahoma. All others will be considered by the Board on a case-by-case basis.

**SUBCHAPTER 7. LICENSURE**

**245:15-7-1. Certificate of Licensure**

- (a) Licensure certificates shall be issued to individuals meeting statutory licensure requirements and the current Rules of Procedure of the Board.  
The certificate will identify the licensee by name and license number, show the effective date, confirm the licensee's qualifications and acknowledge the licensee's right to practice engineering or land surveying, as the case may be, in the State of Oklahoma.
- (b) Certificate of Licensure will be issued by the Board for the life of the licensee, subject to powers of renewal, reinstatement, suspension, revocation, penalties, orders or refusal to renew for cause, vested in the Board by the Statutes.
- (c) When a professional engineer or land surveyor in good standing desires to retire his or her license, he or she may do so upon application to the Board, subject to reinstatement and continuing education requirements by the Board.
- (d) Individuals holding a Certificate of Licensure shall display or maintain it at the licensee's place of practice and be prepared to substantiate biennial license renewal.
- (e) Duplicate original Certificates of Licensure will be issued to a licensee provided:
  - (1) The current license renewal is effective;
  - (2) The licensee makes written request for a replacement of certificate;
  - (3) The licensee certifies that the original certificate has been lost, damaged or destroyed; and
  - (4) The licensee pays the prescribed fee.
- (f) Duplicate Certificates of Licensure will be issued for display at multiple places of practice upon a written request and payment of the prescribed fee. However, each duplicate certificate will be marked as such.
- (g) It is the duty of the licensee to notify the Board office, in writing or online, of changes in employment or contact information within 30 days of the change. Failure to properly notify the Board of these changes may be cause for an administrative action.

**245:15-7-2. Suspension, revocation, or refusal to renew Certificate of Licensure**

- (a) Upon notification of the Board, Certificates of Licensure which have been suspended, revoked or refused by the Board to renew for cause, shall be surrendered immediately in the manner prescribed by that notice.
- (b) Cause shall be defined as any violation of 59 O.S., 475.1 et seq, as amended and the current Rules of Procedure of the Board. Cause shall also be defined as any state suspending, revoking or refusing to renew the Certificate of Licensure of the individual licensee.

**245:15-7-3. Biennial licensure required**

- (a) The Statute requires all Professional Engineers and Professional Land Surveyors desiring to practice in Oklahoma to biennially renew with the Board and pay a biennial licensure renewal fee as prescribed by this Chapter. Notices will be sent to all licensees at the last known physical or e-mail address of record; however, it is the responsibility of each individual licensee to insure the renewal fees and any other required documentation are received by the Board office not later than the renewal date or the renewal process is completed online. The license expires on the last day of the month in which it is due, and becomes invalid on that date unless the renewal fee is paid and other requirements are met. Upon receipt by the Board of the individual's, and if applicable, firm's or entity's properly completed renewal forms, fees and any required forms, the license will be valid. No Certificate of Licensure or Certificate of Authorization will be valid for longer than a two (2) year period, unless otherwise required by law.
- (b) Failure to biennially renew and remit renewal fees and penalties where applicable, as prescribed by the Statute and the current Rules of Procedure of the Board will result in the inactivation of the licensee's Certificate of Licensure or the Certificate of Authorization, unless otherwise required by law.
- (c) Notices of inactivation will be sent to the last known address of licensees and firms failing to biennially renew and remit renewal fees.

**245:15-7-4. Waived renewal fees for professional engineers and professional land surveyors over the age of 70**

The biennial renewal fee for engineers or land surveyors who reach the age of 70 prior to the renewal date of their certificate of licensure will be waived. Renewal forms must be filled out and returned to the Board office or completed online prior to the renewal date to qualify. Licensees who are continuing to practice their profession are required to fulfill continuing education requirements, even if the renewal fee is waived. If all requirements of this section are not completed properly, the certificate of licensure will be inactivated and reinstatement fees and penalties will apply to re-license.

**245:15-7-5. Reinstatement of revoked, inactivated, or retired licenses**

- (a) Licenses inactivated for nonpayment of fees, failing to return the renewal form or completing the online form for licensee over the age of 70, or licenses that were voluntarily retired by the licensee, may be reinstated by making written application for reinstatement within one hundred eighty days after expiration and payment of the prescribed renewal fee and penalty. After one hundred eighty (180) days of license inactivity, a new application and fees will be required, which shall be considered specifically by the Board, both from the standpoint of competency and character. If reinstatement is within one hundred eighty (180) days following the date of inactivity, then licensure will be deemed to have been continuous. Licensees who are unable to certify completion of thirty (30) professional development hours will be held to the requirements of this section. Offering or practicing engineering or surveying with an inactive, revoked or retired license during this reinstatement period is a violation of Title 59, Section 475.1 et seq. and the Rules of this Board.
- (b) If a license revoked for non-payment or a retired license remains canceled or suspended for a period exceeding three (3) consecutive years, such former licensee may be required by the Board to take and pass a current examination as prescribed by the Board.
- (c) Licenses suspended, refused to renew, penalties, orders issued or revoked for cause, may be reinstated only by Board action and only then in the manner determined by such Board action. Request for reinstatement of a license shall show the Board that the public interest will not suffer by reason of the reinstatement and shall be addressed to the Chair at the Board office. The Board, by Statute, has the discretion as to whether or not to reinstate the Certificate of Licensure or Certificate of Authorization.

**SUBCHAPTER 9. RULES OF PROFESSIONAL CONDUCT**

**245:15-9-1. Purpose; scope; applicability**

- (a) To safeguard life, health, safety, and property, to promote the public welfare, and to establish and to

maintain integrity and high standards of skill and practice in the engineering and surveying professions, the Rules of Professional Conduct in this subchapter shall be binding upon every licensee and on all firms authorized to offer or perform engineering or land surveying services in Oklahoma.

### **245:15-9-3. Responsibility to the public**

- (a) Licensees shall at all times recognize their primary responsibility is to safeguard the health, property, safety, and public welfare when performing services for clients and employers.
- (b) Licensees shall sign, date, and seal only those design documents and surveys which conform to accepted engineering or land surveying standards and that safeguard the life, health, property and welfare of the public.
- (c) Licensees shall not reveal facts, data or information obtained in a professional capacity without the prior consent of the client, employer, or public body on which they serve except as authorized or required by law or rules.
- (d) Licensees shall not partner, practice, or offer to practice, or permit the use of their name or firm name nor associate in business ventures with any person or firm which they know, or have reason to believe, is engaging in fraudulent or dishonest business or professional practices.
- (e) Licensees who have knowledge or reason to believe that any person or firm has violated any of these "Rules of Professional Conduct" or any other violation of Title 59 O.S., Sec. 475.1 et seq, Title 65 O.S. Sec 3.116 et seq, or the rules of this Board, shall report it to the Board, may report it to appropriate legal authorities, and shall cooperate with the Board and those authorities as may be requested.
- (f) Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment is overruled under circumstances where the life, health, property, or welfare of the public is endangered.
- (g) Licensees shall make a reasonable effort to inform another licensee whose work is believed to contain a material discrepancy, error, or omission that may impact the health, safety, property or welfare of the public, unless such reporting is legally prohibited.

### **245:15-9-4. Areas of practice**

- (a) Licensees shall practice only in the areas of their competence and shall undertake assignments only when qualified by education, examination, or experience in the specific technical fields of engineering or land surveying involved. The records of the Board shall indicate a discipline(s) of engineering designated by the license holder and considered by the Board to be their area(s) of competence. All requests relating to listings for area(s) of competency require the review of the Board or its designee and shall include the following:
  - (1) Original application for licensure. Upon application for licensure, an applicant shall designate a discipline(s) of engineering by providing:
    - (A) a transcript showing a degree(s) in the discipline(s) of engineering; or
    - (B) a supplementary experience record documenting at least 4 years of experience in the discipline(s) of engineering and verified by at least one PE reference provider that has personal knowledge of the applicant's character, reputation, suitability for licensure, and engineering experience; or
    - (C) verification of successful passage of the examination (s) on the principles and practice of engineering in the discipline(s) of engineering.
  - (2) Comity application for licensure or current license holder. A comity applicant or current license holder may request that the Board change the primary area of competence or indicate additional areas of competence by providing one or more of the following items:
    - (A) a transcript showing an additional degree in the new discipline of engineering other than the degree used for initial licensure; or
    - (B) a supplemental experience record documenting at least 4 years of experience in the new discipline(s) of engineering verified by at least one PE reference provider that has personal

knowledge of the license holder's character, reputation, suitability for licensure, and engineering experience; or

(C) verification of successful passage of the on the principles and practice of engineering in the new discipline.

(b) Licensees shall not affix their signatures, date of signature, or seals to any plans or documents dealing with subject matter in which they lack competence, or areas of competence designated in the official Board records, nor to any plan or document not prepared under their direct control and personal supervision.

(c) Licensees may accept assignments for coordination of an entire project, provided that each design segment is signed, dated, and sealed by a licensee competent to practice in the discipline(s) of engineering and in direct control and personal supervision of that design segment.

(d) In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the Board's satisfaction, the Board, either upon request of the licensee or on its own volition, shall admit the licensee to an appropriate examination.

#### **245:15-9-5. Public statements**

Licensees shall issue public statements only in an objective and truthful manner.

(1) Licensees shall, to the best of their knowledge, include all relevant and pertinent information in an objective and truthful manner within all professional documents, statements and testimony.

(2) Licensees shall express a professional opinion publicly only when that opinion is founded upon an adequate knowledge of the facts and a competent evaluation of the subject matter.

(3) Licensees shall issue no statements, criticisms or arguments on engineering and surveying matters which are inspired or paid for by interested parties, unless they explicitly identify the interested parties on whose behalf they are speaking, and reveal any interest they have in the matters.

(4) Licensees shall not knowingly provide false or incomplete information regarding an applicant in obtaining licensure.

(5) Licensees shall comply with the licensing laws and rules governing their professional practice in each of the jurisdictions in which they practice.

#### **245:15-9-6. Conflict of interest**

Licensees shall act in professional matters for each employer or client as faithful agents or trustees, and shall avoid conflicts of interest.

(1) Licensees shall make full prior disclosures to their employers or clients of all known or potential conflicts of interest or other circumstances which could influence or appear to influence their judgment or the quality of their services.

(2) Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project unless the circumstances are fully disclosed to, and agreed to, in writing by all parties who compensate the licensee. Compensation shall be deemed anything of value and shall not be limited to the payment of money.

(3) Licensees shall not solicit or accept financial or other valuable consideration, directly or indirectly, from any party, including contractors, suppliers, manufacturers, distributors, or an agent of any party in consideration for specifying or influencing others to use or select services, products, or processes in connection with work for which the licensee is responsible or work undertaken by a firm or entity in which licensee is an employee, officer, director, or owner.

(4) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their organization serves as a member. Conversely, licensees serving as members, advisors, or employees of a government body or department, who are the principals or employees of a private concern, shall not participate in decisions with respect to professional services offered or provided by said concern to the governmental body which they serve.

(5) Political contributions made in excess of legal limits shall be considered a violation of these Rules of Professional Conduct.

(6) Licensees shall not use confidential information received in the course of their assignments as a means of making personal profit without the consent of the party from whom the information was obtained.

**245:15-9-7. Solicitation of work**

Licensees shall avoid improper solicitation of professional employment.

(1) Licensees shall not falsify or permit misrepresentation of their, or their associates', academic or professional qualifications. They shall not misrepresent or exaggerate their degree of participation or responsibility in prior assignments nor the complexity of said assignments. Brochures or other presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments.

(2) Licensees shall not offer, give, solicit or receive, either directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, and shall not make any political contribution with the intent to influence the award of a contract by public authority.

(3) Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other licensees, nor indiscriminately criticize other licensees' work.

**SUBCHAPTER 11. CONTINUING EDUCATION**

**245:15-11-1. Definitions**

The following words or terms, when used in this subchapter shall have the following meaning, unless the context clearly indicates otherwise:

**"Dual licensee"** means a person licensed as a Professional Engineer and Professional Land Surveyor.

**"PDH"** means a professional development hour of at least 50 minutes of instruction, as defined in this subchapter.

**"Professional development hour"** means a contact hour (nominal) of instruction or presentation; the common denominator for other units of credit.

**"College Semester / Quarter Hour"** means credit for course in an EAC/ETAC-ABET approved program, or engineering or surveying college program approved by the Board.

**245:15-11-2. Continuing education committees**

(a) The Board may establish continuing education committees consisting of at least three (3) members each, who are residents of this state. Each member of the committee shall have been engaged in the lawful practice of professional engineering or professional land surveying for at least ten (10) years, in responsible charge of engineering or land surveying projects for at least five (5) years, and be a licensed Professional Engineer or Professional Land Surveyor in this state.

(b) The continuing education committees shall have the following duties or others as assigned by the Board.

(1) Exercise general administration of the Rules in Subchapter 11 of Chapter 15 under the direction of the Board.

(2) Recommend to the Board revisions of the Rules in Subchapter 11 of Chapter 15.

(3) Perform audits of licensees as necessary to ensure continuing education requirements are met.

(4) Report annually on the activities and operation of committees to the Board.

(c) Members of these committees shall serve at the discretion of the Board.

(d) The travel expenses of members of the continuing education committees shall be paid by the Board as provided in the State Travel Reimbursement Act, Section 500.1 et seq. of Title 74 of the Oklahoma Statutes. All travel by members of the committees shall be approved by the Chair of the Board, or the Executive Director, prior to the travel occurring.



### **245:15-11-3. Scope and exemptions**

(a) Licensees shall be required to meet the continuing educational requirements for professional development in this subchapter as a condition for licensure renewal. Continuing education obtained by a licensee should maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

(b) A licensee may be exempt from the professional development educational requirements for one of the following reasons:

(1) New licensees by way of examination or comity shall be exempt for their first pro-rated renewal period and first two-year renewal period. PDH's earned during this exempt period may not be carried forward to the first non-exempt renewal period.

(2) A licensee who is deployed on active duty as a member of the Armed Forces of the United States, shall be exempt from obtaining the professional development hours required during that year when circumstances associated with military duty prevent obtaining training and a waiver request has been submitted to the Board; when the active-duty military member performs engineering and/or land surveying services respectively as part of his or her military duties as annotated in Defense Department Form 214 (DD 214), or when performing any other act typically required for renewal of the license. A licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a year shall be exempt from obtaining the PDH's required during the renewal period.

(3) A licensee experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the Board may be exempt. Supporting documentation must be furnished to the Board.

(4) A licensee who elects to choose Retired status at the time of renewal shall be exempt. In the event such person elects to return to active practice of professional engineering or professional land surveying, 30 PDH's must be earned before returning to active practice.

### **245:15-11-5. Requirements for Professional Engineers and Land Surveyors**

(a) To demonstrate that a Professional Engineer and/or Professional Land Surveyor maintains an acceptable level of competency, a licensee must obtain thirty (30) professional development hours (PDH's) within a twenty-four month (biennial) renewal period. If a licensee exceeds the requirement in any biennial renewal period, a maximum of fifteen (15) PDH's may be carried forward into the subsequent biennial renewal period.

(b) Beginning January 1, 2019, a licensee may choose either the Board's standard continuing education requirement as detailed above, or comply with the calendar year reporting method, which is equivalent to fifteen (15) PDH's per calendar year, totaling thirty (30) PDH's per renewal period, with no allowable carryover. The Board shall adopt a conversion table allowing for different renewal periods within the calendar year.

(c) A Professional Land Surveyor or a dual licensee must earn at least two (2) PDH's covering the Oklahoma Minimum Standards for the Practice of Land Surveying per renewal period, with no allowable carryover for this requirement. This requirement shall commence with the completion of the licensees first full two-year renewal period following the adoption of these administrative rules, unless exempt under one of the provisions listed in OAC 245:15-11-3(b).

(d) A licensee shall only renew their license when they can truthfully certify that they have met the continuing education requirements of this subchapter and have proper proof of completion of the required PDH's to which they are certifying.

(e) PDH's may be earned by a licensee as follows:

(1) Successful completion of college courses.

(2) Successful completion of continuing education courses, short courses, tutorials, webinars and distance-education courses offered for independent study, or group study and through synchronous or asynchronous delivery methods such as live, correspondence, archival or the Internet;

(3) Attending qualifying seminars, in-house courses, workshops, or professional or technical

presentations made at meetings, conventions, conferences, or educational institutions;

(4) Teaching or instructing in (1) through (3) of this subsection;

(5) Active participation in professional or technical societies serving the engineering or land surveying profession as defined in OAC 245:15-11-7(b) (2);

(6) Active participation in standards or code development technical committees, standards or code commissions, or licensing examination development committees;

(7) Developing professional licensure exams, or writing standards or developing code in an official capacity;

(8) Authoring published papers, articles, or books in the licensee's area(s) of competence;

(9) Authoring peer reviewed published professional or technical paper or book in the licensee's area(s) of competence; and

(10) Award of patents to the licensee or to licensee's employer when developed by the licensee.

(f) All such PDH's earned in activities as described in (e)(1) through (e)(10) of this section must be relevant to the practice of engineering and/or land surveying as applicable and may include technical, ethical or business content. Qualifying ethical or business courses or activities must contain content areas related to (1) the awareness of ethical concerns and conflicts; (2) an enhanced familiarity with the codes of conduct; (3) an understanding of standards of practice or care; (4) project management and risk-assessment management; or (5) other similar topics aimed at maintaining, improving, or expanding the skills set and knowledge relevant to the licensee's field and methods of practice.

#### **245:15-11-6. Criteria for continuing educational activities**

(a) Continuing educational activities used to earn PDH's must meet the following criteria:

(1) There is a clear purpose and objective for each activity, which will maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge.

(2) The content of each presentation is well organized and presented in a sequential manner.

(3) There is evidence of preplanning which should include the opportunity for input by the target group to be served.

(4) The presentation will be made by persons who are well qualified by education or experience.

(5) There is a provision for individual participant registration which will include information required for record keeping and reporting.

(b) The Board has final authority with respect to acceptability of courses, credit, PDH value for courses, and other methods of earning credit.

(1) Credit for college or community college approved courses will be based upon course credit established by the college.

(2) Credit for qualifying seminars and workshops meeting the criteria in 245:15-11-6(a) will be based on one PDH for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings or building code meetings will earn PDH's for the actual time of each program.

(3) Credit determination for activities referenced in 245:15-11-5(a)(7) and (a)(8) is the responsibility of the licensee (subject to review as required by the Board).

#### **245:15-11-7. Conversion of units and determination of credits**

(a) The conversion of other units of credit of continuing education to PDH's is as follows:

(1) One (1) college semester hour – 15 PDH's

One (1) college quarter hour – 10 PDH's

(2) One (1) hour of technical or professional development in a continuing education course, short course, tutorial, webinar, or distance-education course - 1 PDH

(3) One (1) hour of attendance at a qualifying seminar, in-house course, workshop, or professional or technical presentation made at a meeting, convention, conference or educational institution – 1 PDH

- (4) For teaching or making presentations in (1) – (3) above - apply multiple of 2. Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time or part-time faculty members unless the activity is outside the scope of the licensee's customary teaching responsibilities.
  - (5) Active participation in professional or technical societies serving the engineering or land surveying profession – 2 PDH's
  - (6) Active participation serving on standards or code development technical committees, standards or code commissions, or licensing examination development committees – 4 PDH's
  - (7) One (1) contact hour for developing professional licensure examinations, or writing standards or developing code in an official capacity – 1 PDH
  - (8) Each published paper, article, or book in the licensee's area of professional practice – 5 PDH's
  - (9) Each peer-reviewed published, professional or technical paper or book in the licensee's area(s) of competence -10 PDH's
  - (10) Each patent. – 10 PDH's
- (b) Determination of Credit - The Board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit.
- (1) Credit for college or community college approved courses will be based upon course credit established by the college.
  - (2) Credit for activity in subsection (a)(5), active participation in professional and technical societies (limited to 2 PDH's per organization with a maximum of 4 PDH's per renewal period), requires that a licensee serve as an officer and/or actively participate in a committee of the organization. PDH's are not earned until the end of each year of service is complete. Active participation in educational outreach activities pertaining to professional licensure or the surveying/engineering professions that involve K-12 or higher education students may count as active participation in a professional and technical society.
  - (3) Credit for activity in subsection (a)(6), active participation in standards or code development technical committees or standards or code commissions or licensing examination development committees is limited to 4 PDH's per organization with a maximum of 8 PDH's per renewal period. PDH's are not earned until the end of each year of service is complete.
  - (4) With the commencement of the licensee's first full two-year renewal period following the adoption of these administrative rules, credit for approved activities which focus on other jurisdictional professional engineering or professional land surveying licensure laws, regulations, or minimum standards may be approved, but shall be limited to 2 PDH's per two-year renewal period.

**245:15-11-8. Comity Out-of-Jurisdiction Resident**

The continuing education requirements for Oklahoma will be satisfied when a non-resident fulfills the requirements for resident licensees outlined in 245:15-11-5.

**245:15-11-9. Records – Audits**

- (a) The responsibility of maintaining records to be used to support credits claimed is the responsibility of the licensee. Records required include, but are not limited to:
  - (1) A log showing the title of the activity, sponsoring organization, date of the activity, and PDH credits earned.
  - (2) Attendance verification records in the form of completion certificates, or other approved documentation supporting evidence of attendance shall include the name of the licensee, title of the activity, sponsoring organization, date of the activity, and PDH's earned. Documentation which does not support evidence of actual attendance will not be accepted for audit purposes.
- (b) Records must be maintained for a period of five (5) years and copies may be requested by the Board for audit verification purposes.
- (c) Audits will be conducted annually by the Continuing Education Committee of the Board.

**245:15-11-11. Disallowed credit; failure to comply**

(a) If a licensee is unable to certify completion of 30 PDH's per biennial renewal period, or 15 PDH's per calendar year beginning January 1, 2019, by their expiration date, the license will not be renewed unless an exemption has been claimed and approved pursuant to OAC 245:15-11-3.

(b) If the Board, or its designee, disallows claimed PDH's completed during the designated renewal period for audit, as activities that do not meet the criteria for continuing education activities, the licensee shall have 90 days after notification to substantiate the original claim or to complete new continuing education activities to meet the minimum requirement. Further, if verification is supplied for the submitted hours, but disallowed as not acceptable verification, the licensee shall have 90 days after notification to substantiate the original claim with acceptable verification, or complete new continuing education activities to meet the minimum requirement. The total number of days a licensee will be allowed to complete new continuing education activities or provide additional verification of claimed hours is 90 days from the date of notification.

(c) Failure to comply with an audit occurs when a licensee is notified of an audit and they fail to supply a completed log form and verifications showing the required PDH's earned during the appropriate audit period, by the stated deadline, or a licensee submits false information to the Board in an attempt to renew a license. These acts are violations of Board Statutes and Rules and may lead to disciplinary action. Licensees who do not properly respond to the audit by the stated deadline, shall be in non-compliance with the audit and shall not be granted extra time to earn additional continuing education credit. If a licensee is audited for their continuing education requirements for their renewal period, the licensee shall not be allowed to retire their license to avoid complying with the audit or avoid disciplinary action if they incorrectly certified at the time of renewal that they had completed their continuing education requirements.

**245:15-11-12. Re-licensure**

A licensee may bring an inactive or retired license to active status by obtaining all delinquent PDH's. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required.

**245:15-11-13. Dual Licensees**

For an individual licensed both as an engineer and surveyor, the number of PDH's required shall remain 30 per biennial renewal period, at least 1/3 of which shall be obtained in each profession. Dual licensees must comply with the provisions of OAC 245:15-11-5(c) regarding the Oklahoma Minimum Standards for the Practice of Land Surveying.

**SUBCHAPTER 13. MINIMUM STANDARDS FOR THE PRACTICE OF LAND SURVEYING**

**245:15-13-1. Purpose; scope; applicability**

In order to better serve the public in regulating the practice of land surveying in Oklahoma, these minimum standards of practice are established to achieve no less than minimum standard degrees of accuracy, completeness, and quality so as to assure adequate and defensible real property boundary locations. When more stringent survey standards than those set forth herein are required the survey shall comply with both those standards and with the Oklahoma Minimum Standards for the Practice of Land Surveying. Where the Professional Land Surveyor elects to follow or use a more thorough method of determining accuracy, it is not the intent of these standards to interfere. Land Surveyors failing to comply with or meet these minimum standards will be subject to disciplinary action by the Board.

**245:15-13-2. Minimum Standards**

(a) **Definitions:** as used in these standards, the following terms shall have the following meanings where the context permits as provided in 59 O.S. 475.1 et seq. and Chapter 245:15-1-3 of the Rules of the Board.

(b) **Research and investigation.** Every property boundary survey shall be made in accordance with the boundary description, as provided to or as created by the professional land surveyor, as nearly as is practicable. The professional land surveyor, prior to making a survey, shall acquire available necessary survey data, which may include record descriptions, deeds, maps, Certified Corner Records, government notes, subdivision plats, road records, and other available section and boundary line location data in the vicinity. The professional land surveyor shall analyze the data and make careful determination of the record title boundary of the property to be surveyed. From the information gathered, the professional land surveyor, or those working under his or her direct control and personal supervision, shall search thoroughly for all controlling corners and all other available field evidence of boundary location. In the event of the discovery of a material disagreement with the work of another surveyor, the surveyor shall make reasonable efforts to contact the other surveyor in an attempt to resolve the disagreement.

(c) **Minimum technical standards for land or boundary surveys (field and office).**

- (1) In order for a plat, subdivision plat, map, or sketch of a survey to be acceptable in terms of this rule, it must be complete and shall be certified or otherwise stated as meeting these minimum technical standards.
- (2) All measurements made in the field shall be in accordance with the United States Standard, using either US Survey Feet or meters. All measurements shall be referenced to the horizontal or vertical plane, with the exception of geodetic surveys.
- (3) All survey documents produced by an individual practicing under his or her own name shall bear the name, address, and telephone number, along with the license number, seal, signature, and date of signature of the professional land surveyor. All survey documents produced by a firm shall bear the name, address, telephone number, and Certificate of Authorization number, along with the name, license number, seal, signature, and date of signature of the surveyor.
- (4) All survey documents must bear the date of the last site visit and bear the date of any revisions thereon. If the site visit was performed on multiple dates, the drawing may specify the range of those dates.
- (5) A designated north arrow and scale of the map shall be shown prominently upon the drawing.
- (6) Any symbols and/or abbreviations representing physical objects used on the drawing will be clearly noted upon the drawing.
- (7) The basis of control used in the survey must be shown on the survey and shall be based upon one or both of the following:
  - (A) Projections (state plain coordinates or other) with specifics to elevation, vertical datum, horizontal datum, zone, ground to grid factor used, state plane or UTM zone including all pertinent metadata, if applicable, measured and published geodetic control values based upon an online position user service (OPUS) solution or geodetic control stations or other control;
  - (B) A reference to all bearings shown must be clearly stated, i.e., whether to 'True North'; 'Grid North as established by state plane datum'; 'Assumed North based on the bearing of a well-established line'; a 'Deed call for a particular line'; or 'the bearing of a particular line shown upon a plat'; etc. A specific line between two points either found or re-established set points as shown on a filed plat or in an existing deed description. If a solar observation, GNSS observation, or other means for determining True or Geodetic North is used, it shall also include the accompanying latitudinal and longitudinal value of the observation point. 'GPS North' or similar ambiguous notations without explanation are unacceptable.
- (8) Referencing surveys.
  - (A) Surveys based on the United States Public Land Survey System shall be referenced to original or properly restored corners. The appropriate Bureau of Land Management Manual of Surveying Instructions shall be used as a guide for the restoration of lost or obliterated corners and subdivision of sections into aliquot parts.
  - (B) Lot surveys within platted subdivisions shall be referenced to existing corner monuments within the subdivision as necessary to verify the survey.

(9) Where evidence of inconsistencies is found, such as overlapping descriptions, hiatuses, excess or deficiency, or conflicting boundary line or monuments; the nature and extent of the inconsistencies shall be shown on the drawing.

(10) All survey drawings shall show the change in direction between lines, lines and curves, and between adjacent curves, by angles, bearings or azimuths. Circular curves shall show: 1. The length of radius; 2. The arc distance; and 3. The chord distance and chord bearing. Sufficient information must be shown to mathematically close all lots and/or parcels.

(11) All easements, rights-of-way and building lines drawn or referenced on recorded subdivision plats on or across the land being surveyed and the width of the rights-of-way of all section lines adjoining or within the surveyed property shall be shown upon the survey drawing. Physical evidence of roadways providing access to or through the property being surveyed shall be shown and/or noted. If location of easements or rights-of-way, other than those drawn or referenced on recorded subdivision plats is required, this information must be furnished to the professional land surveyor.

(12) The professional land surveyor shall establish or confirm a monument or confirm the prior placement of monuments at each and every property corner on the boundary line or boundary lines of the parcel or tract of land being surveyed. In such cases where the placement of a required monument at its proper location is impractical, a witness or reference monument shall be placed with the data given to show its location upon the ground in relation to the boundary lines or corner. In any case the type and size of all monuments, either found or set, and the relationship of the monuments to the surveyed lines and corners will be shown on the drawing. Where practical, monuments shall be constructed of material capable of being detected with the conventional instruments for finding ferrous or magnetic objects. All set monuments shall have affixed thereto a durable marker or cap bearing, at a minimum, the license number of the land surveyor in responsible charge, or the Certificate of Authorization number of the firm performing the survey. Monuments for the exterior corners of a subdivision shall be set by the surveyor who certified the plat of the subdivision prior to the recordation of the subdivision plat. It is the responsibility of the surveyor to set the interior corners on all lot and block corners prior to the conveyance of the lot, block or any part thereof within thirty days of completion of the infrastructure improvements, but no later than one year after recordation of the subdivision plat.

(13) Accuracy of measurements. The accuracy of the measurements for the survey shall be based upon the type of survey, and the current or expected use of the land. The accuracy of the measurements thus performed shall be substantiated by the computations of the traverse or the results of a Global Navigation Satellite System (GNSS) survey; the relative error of closure permissible shall be no greater than the following standards given below:

(A) Where there is or will be zero lot line construction on small tracts in a high density urban area, the allowable closure error is 1:10,000 or the allowable positional error is plus or minus 0.10 feet.

(B) In residential or commercial subdivisions where the length of lines does not exceed 300 feet, the area of tracts does not exceed 2 acres, and there is no plan for zero lot line construction, the allowable closure error is 1:10,000 or the allowable positional error is plus or minus 0.25 feet.

(C) In suburban or rural residential or industrial tracts where the length of lines does not exceed 1000 feet and the area of tracts is between 2 and 40 acres, the allowable closure error is 1:10,000 or the allowable positional error is plus or minus 0.50 feet.

(D) Rural tracts of 40 acres or more where the corners of the tract may be connected with traverse legs in excess of 1000 feet, the allowable closure error is 1:10,000 or the allowable positional error is plus or minus 1.0 foot.

(E) Rural tracts of 40 acres or more in rough or tree covered terrain where the corners of the tract must be connected with short traverse lines because of poor visibility between the corners

of the tract, the allowable closure error is 1:7,500 or the allowable positional error is plus or minus 1.5 feet.

(F) Field work performed which has a closure error greater than the maximum allowed, or linear error of closure greater than the maximum positional error shown, shall be considered unacceptable and shall be corrected. Adjustment of a traverse must not shift the position of any point more than the maximum positional error listed above.

(14) When special conditions exist that effectively prevent the survey from meeting these minimum standards, the special conditions and any necessary deviation from the standards shall be noted upon the drawing. It shall be a violation of this rule to use special conditions to circumvent the intent and purpose of these minimum standards.

(15) A survey plat, sketch or map must be created whenever a land or boundary survey is performed. Every survey plat, sketch or map must contain the legal description of the land being surveyed, either on the face of the survey plat or attached to and referenced to the survey plat. If the professional land surveyor prepares a new description, then both the surveyor's description and the original description must be on the drawing.

(16) Additions or deletions to survey drawings by other than the signing party or parties are prohibited without written consent of the signing party or parties.

(d) Specifications for Topographic and Planimetric Mapping, Including Ground, Airborne, and Space borne Surveys: Production procedures for topographic and planimetric mapping surveys shall be prepared in accordance with the Instruction Manual for Topographic and Planimetric Mapping, as adopted by the Board, and with the standards established by Part 3 of the Federal Geographic Data Committee (FGDC) Geospatial Positioning Accuracy Standard and applicable extensions and revisions. These standards are incorporated by reference including subsequent amendments and editions.

(e) Control Surveying Reporting: Whenever a professional land surveyor undertakes control surveying, where the coordinates and elevations of the control points established by the survey will be relied upon by professionals other than the original surveyor for future phases of the work, the licensee shall prepare a control survey report and shall provide the report to the prime client and to any other person who makes a written submittal. Alternatively, if the entire report is contained on the face of the work product, no other reporting is required. The report will contain the following information as appropriate to work being performed:

(1) A listing of the final adjusted coordinates and elevations for all points within the control network along with a complete description of all monuments established or recovered,

(2) A complete description of the horizontal and vertical datum used including the basis of bearings,

(3) A complete description of the state plane or UTM zone used including all pertinent metadata, if appropriate,

(4) Units used for coordinates and elevations,

(5) Description of monument(s) used to constrain the control network including the reference coordinates and elevations used for aid monument(s),

(6) If the final adjusted coordinates are based on a modified (ground datum) state plane coordinate system or a low-distortion local coordinate system (ground referenced) derived from geospatial positions, a complete description of the method(s) used to generate the modified coordinates shall be included in the report,

(7) A brief description detailing the field methods and equipment used to conduct the control survey,

(8) The date when the control monuments were set, the date when the control monuments were positionally observed, and the date of the final network adjustment,

(9) Nothing in this section dictates the spatial accuracy that will be required by any specific project. It will be the responsibility of the individual licensee to determine the appropriate level of accuracy for each project. However, the licensee shall report the spatial accuracy in both the horizontal and vertical components,

(10) A certificate followed by the dated signature and seal of the professional land surveyor responsible for the control survey stating that the surveyor conducted an actual survey on the ground and is responsible for the survey. The following model certification is considered to be an example of the minimum that the surveyor should certify to:

"I, \_\_\_\_\_, certify that this horizontal/vertical control survey was completed under my direct and responsible charge from an actual survey made under my supervision and meets the Oklahoma Minimum Standards for the Practice of Land Surveying as adopted by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors."

(f) Minimum Standards for Legal Descriptions: Preparation of a new description that is different from the description furnished to the professional land surveyor should be avoided unless deemed necessary by the professional land surveyor because of errors or ambiguities in the original description. Except in the case of an original survey, if a new description is prepared, a note shall be provided stating (a) that the new description describes the same real estate as the record description or, if it does not, (b) how the new description differs from the record description.

(1) Metes and bounds descriptions prepared shall at a minimum contain the following items:

(A) A preamble containing the Quarter Section, Section, Township, Range, Principal Meridian (Indian or Cimarron) and the County and/ or City of the tract of land being described or a preamble containing the Lot and/or Block number, subdivision name and if available, the recording information of the plat and the City, if applicable, and County in which it is filed of record, and

(B) A beginning point and point of commencement (if applicable) referenced to a known point such as a section corner, quarter-section corner, sixteenth section corner, or a Lot/Block corner of a recorded subdivision a tie to each additional section line or recorded subdivision line it passes through, and all distances and directions identified in the record description of the surveyed property (and in the new description, if one was prepared), and

(C) Distances listed to the nearest hundredth of a foot (if surveyed), and

(D) Bearings or angles listed in degrees, minutes and seconds (if surveyed), and

(E) The basis of control used in the description shall be as stated in (c)(7) of this subsection, and

(F) Curved lines with circular curves shall show: 1. Direction of the curve (right or left); 2. The radius; 3. Arc distance; and 4. Chord distance and chord bearing, and

(G) The name and license number of the professional land surveyor who prepared the description, and

(H) The date of preparation of the legal description, and

(I) Each metes and bounds description must return to the Point of Beginning and close mathematically.

(2) Aliquot descriptions may be used in lieu of a metes and bounds description and shall at a minimum contain the following items: Quarter Section, Section, Township, Range, Principal Meridian (Indian or Cimarron), city (if applicable) and the County of the tract of land being described.

(3) Lot and block description may be used in lieu of a metes and bounds description and shall at a minimum contain the following items: Lot and/or Block number, subdivision name, City (if applicable), the County in which it is filed of record and, if available, the recording information of the plat.

(4) A written legal description of the surveyed tract of land must provide sufficient information to locate the property on the ground and distinctly set it apart from all adjoining properties.

#### **245:15-13-4. Mortgage Inspection Report**

(a) A Professional Land Surveyor may prepare a Mortgage Inspection Report for the use of a specific client based upon their general knowledge of land boundaries and monuments in a given area. Such report shall be prominently labeled 'Mortgage Inspection Report - Not a Land or Boundary Survey' and shall not



be designated as, or construed as being, a Land or Boundary Survey. Professional Land Surveyors showing measurements on a mortgage inspection report that are not true representations of the conditions that were found at the time of the inspection will be in violation of the Minimum Standards for the Practice of Land Surveying. The statement furnished on the certificate shall be similar to the following form:

- (b) 'This Mortgage Inspection Report was prepared for ...(individual or firm).... It is not a land or boundary survey plat, and it is not to be relied upon for the establishment of fence, building or other future improvement lines. The accompanying sketch is a true representation of the conditions that were found at the time of the inspection, and the linear and angular values shown on the sketch, if any, are based on record or deed information and have not been verified unless noted.'
- (c) Any further statements shall be made only after proper research, investigation and boundary analysis is conducted per 245:15-13-2(a) through (f).

## **SUBCHAPTER 15. ETHICAL MARKETING OF SERVICES**

### **245:15-15-1. Purpose; scope**

Engineering and land surveying are important and learned professions. Engineers and Land Surveyors must recognize that their work has a direct and vital impact on the quality of life for all. Therefore, the services provided by engineers and land surveyors require honesty, impartiality, fairness and equity, and must be dedicated to the protection of the public health, safety and welfare. In the practice of the profession, engineers and land surveyors must perform under a standard of professional behavior which requires adherence to the principles of ethical conduct on behalf of the public, clients and the professions.

### **245:15-15-2. Definitions**

The following words or terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

**“Ethical marketing of professional services”** means the solicitation or offer by a licensee, either as an individual or on behalf of a firm, to provide professional services for a potential governmental client, based on the licensee’s professional qualifications, technical ability, specialized training, and the ability to provide the services to the client in a timely manner; with the fee for said services entering into the discussions only after said client has selected licensee as qualified to provide the services required. For the purpose of this Subchapter, if an individual who is not a licensee (i.e. Marketing Director, etc.) is acting on behalf of a firm, as defined in the act, the firm shall be held responsible for the actions of the non-licensee.

**“Government client”** means any federal, state, county and city governmental bodies including, but not limited to, all departments, agencies, quasi- public governmental agencies, authorities, sub-state planning districts, boards, commissions, offices, institutions, colleges, universities and all individuals acting under authority to represent such governmental bodies.

### **245:15-15-3. Professional obligation in solicitation of professional employment**

(a) The Professional Engineer or Land Surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another Professional Engineer and/or Land Surveyor in a particular engineering or land surveying project. The furnishing of informative brochures on one’s self or one’s firm is not considered an attempt to supplant.

(b) A Professional Engineer or Land Surveyor, acting individually or through a firm, shall neither request, propose, nor accept an agreement, contract or commission for professional services on a “contingency basis” unless there is a conflicting funding requirement. For the purpose of adjudging the provisions of this section, “Contingency basis” shall be interpreted only to include:

- (1) The preparation of preliminary reports and/or applications for funds, where the fee involved is

to be paid only after such submission or approval, or the fee is substantially below the actual cost of performing the service, or

(2) Reviewing for approval preliminary reports and/or applications for funds, where the fee involved is to be paid only after such submission or approval or the fee is substantially below the actual cost of performing the service.

(c) The Professional Engineer or Land Surveyor, acting individually or through a firm, shall seek professional employment from governmental clients or any entity contracted by governmental clients to furnish engineering or land surveying services, in compliance with O.S. Title 61, Sections 60-64. The Board shall have the power to reprimand, place on probation, fine, revoke or suspend the Certificate of Licensure or Certificate of Authorization of any licensee or firm who fails to comply with any provision of O.S. Title 61, Sections 60-64 in effect at the time the services were offered.

(d) Licensees participating in a design/build procurement as a prime contractor or as a consultant to a builder or another professional of any tier for delivery of a project to or for the use of a governmental entity shall not have violated the provisions of OAC 245:15-15-3 by the submission of a fee or price for services prior to the licensee's selection to participate in the project.

## **SUBCHAPTER 17. LICENSEE'S SEAL**

### **245:15-17-1. Licensee's seal**

(a) Every person authorized to practice engineering or land surveying by a certificate of licensure may obtain a seal with which to identify all final engineering and land surveying papers or documents, including drawings, specifications, plans, reports, land surveys, plats, land descriptions, design information, construction documents, calculations, addenda, change orders, field orders and other documents of service involving the practice of engineering or land surveying issued by the licensee for use in the State of Oklahoma whenever presented to a client or any public agency to certify that the work thereon was done by the licensee or under the direct control and personal supervision of the licensee.

(b) The seal required shall be of a type which will make an image on the surface of original documents and duplications of original documents. The use of a rubber stamp or electronic digitization which produces an accurate and legible image of the seal is permissible.

(c) The seal of the licensee shall consist of two (2) concentric circles. The inner circle shall have inscribed the licensee's name and number, which shall correspond to the name and certificate number shown on the Certificate of Licensure. The area between the two (2) circles shall be inscribed with the word "Oklahoma" at the bottom reading counter-clockwise and the words "Licensed Professional Engineer" or "Licensed Professional Land Surveyor" at the top reading clockwise. The seals commercially designated as 1 7/8" seal, with an inner circle of 1 1/8" diameter and an outer circle of 1 3/4" diameter, or the 1 5/8" seal, with an inner circle of 1 1/16" diameter and an outer circle of 1 9/16" diameter, are acceptable, as shown in Appendix A of this Chapter. Reproduction of the original documents with the required seal may produce a different seal size provided the seal remains completely legible.

(d) A licensee who practices in other than their full legal name shall register the name customarily used in professional practice with the Board together with a copy of their signature for such customarily used name. The seal may be inscribed with the registered, customarily used name, and the signature affixed across or adjacent to the seal shall be the name inscribed on the seal. A seal and signature affixed in a registered, customarily used name shall have the same force and effect as the seal and signature affixed in a licensee's full legal name.

(e) Existing seals containing the words "Registered Professional Engineer", "Registered Professional Land Surveyor", and "Registered Land Surveyor" may continue to be used.

(f) Licensed "Professional Structural Engineers" may obtain an additional seal and use the word "Professional Structural Engineer" in lieu of "Licensed Professional Engineer" to use when sealing structural engineering projects, whether or not the work requires the seal of a Professional Structural Engineer. All other work lawfully performed by the Professional Structural Engineer in other disciplines

of engineering shall be signed and sealed using the seal which states "Licensed Professional Engineer". Work defined as a "significant structure" shall be sealed with a "Professional Structural Engineer" seal, and/or signed with the designation "P.E., S.E." following the signature.

**245:15-17-2. Use of seal**

- (a) The application of the licensee's signature and date of signature to a sealed document shall constitute certification that the work thereon was done by the licensee or under the licensee's direct control and personal supervision and that the licensee accepts full responsibility and liability for the professional work represented thereon. Authorized use of the prescribed seal is an individual act. The licensee is responsible for its security at all times. The licensee shall permit no other person, firm, or entity to use the prescribed seal. The seal shall be affixed to documents and instruments only during the time the licensee's license is current and in good standing. Whenever the seal is applied, the document must be signed by the licensee thereby certifying that he or she is competent in the subject matter and was in direct control and personal supervision of the work product.
- (b) Licensees must affix their seal, signature and date of signature to documents or drawings which reflect work for which the licensee has responsible charge, including revisions and addenda thereto. In the case when multiple licensees are involved, each sheet in a set of drawings shall contain the seal, signature and date of the licensee responsible. A licensee not practicing as, or through a firm shall also include contact information to include address and phone number.
- (c) Regarding professional engineering, the licensee is responsible for meeting all of the following requirements to be in direct control and personal supervision of the work:
- (1) The licensee supervises the preparation of the plans, specifications, drawings, reports, or other documents and has input into their preparation prior to their completion and reviews the final plans, specifications, drawings, reports, or other documents prior to signing and sealing the work; and
  - (2) The licensee has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports, or other documents prior to signing and sealing the work; and
  - (3) The intent of the definition of direct control and personal supervision may be met if all provisions of the definition are met using remote electronic or communication means.
  - (4) An engineer who signs and seals work must be capable of answering questions as to the engineering decisions made during the work on the project in sufficient detail as to leave little doubt as to the engineer's competence for the work performed.
- (d) Unlicensed persons, including professional engineers and professional land surveyors not licensed in Oklahoma, shall not independently perform engineering or surveying work in the state of Oklahoma, to subsequently have it reviewed, signed, and sealed by a licensed professional engineer or professional land surveyor in the state of Oklahoma, unless excluded in (e) below. An Oklahoma licensed professional engineer must be engaged at the commencement of the project and meet all the provisions of (c) (1)-(4) of this subsection to qualify as being in responsible charge of the work. If the Oklahoma licensed professional engineer is a contractor or consultant to the firm or individual who contracted for the project, the licensee must include his or her firm name, if applicable, and contact information on the work.
- (e) Regarding land surveying, the licensee is responsible for meeting all of the following requirements to be in direct control and personal supervision of the work:
- (1) The licensee directly controls and personally supervises the surveying work, including making decisions related to the amount and type of research performed, the field procedures used, and the surveying decisions related to the preparation of plats, land surveying reports, legal descriptions and other land surveying documents furnished in connection with the land surveying services provided; and
  - (2) The licensee has the authority to, and does, make any necessary and appropriate changes to the work prior to signing and sealing the work; and

- (3) All surveying offices must have an Oklahoma licensed professional land surveyor physically present at the location to be in responsible charge of, and in direct control and supervision of the work; and
- (4) A surveyor who signs and seals work must be capable of answering questions as to the surveying decisions made during the project in sufficient detail as to leave little doubt as to the surveyor's involvement with the work performed.
- (5) The intent of the law shall not be met if an unlicensed surveying crew independently performs surveying work, to then be reviewed, signed, and sealed by a professional land surveyor. An unlicensed surveying crew may only be used if the professional land surveyor in direct control and supervision of the work is personally directing the land surveying crew and the work is performed concurrent with the supervision.
- (f) In the case of bound documents, licensees must affix their seal, signature, and date of signature to the cover sheet or index page, which identifies all documents bound together for which the licensee has responsible charge. In the absence of covers and index pages each document must have the seal, and dated signature of the licensee who has responsible charge. For bound documents involving multiple licensees, either each document in the bound set must be sealed, signed, and dated by the licensee in responsible charge for that portion of the work, or the cover sheet or index page must be sealed, signed, and dated by each licensee with a breakdown of the licensee in responsible charge of each document clearly identified.
- (g) In the case when the work consists of a letter or report prepared by a single licensee, the licensee need only seal, sign, and date the first page, title page or signature page of the document.
- (h) The Statute, 59 O.S., Sections 475.1 et seq. and Rules of the Board in this Chapter describe the use of the seal of the licensee. The seal, signature, and date of signature shall be placed on all final engineering and land surveying documents whenever presented to a client or any public agency to certify that the work thereon was done by the licensee or under the responsible charge of the licensee. In lieu of sealing, signing, and dating each copy of the work, the seal, signature, and date shall be placed on originals, tracings, or other reproducible documents by the licensee in such a manner that when the originals, tracings, or other reproducible documents are reproduced the seal, signature, and date will be legible.
- (i) Working drawings or preliminary documents are not required to have a seal and signature if they contain a statement in large bold letters to the effect **PRELIMINARY, NOT FOR CONSTRUCTION OR IMPLEMENTATION**.
- (j) Permit sets or construction drawings, which are not final, may be signed and sealed for the purpose of submitting the work to the Authority Having Jurisdiction (AHJ) for their review, comment and /or approval, but must be clearly marked in large bold letters **NOT FOR CONSTRUCTION**.
- (k) An Engineer Intern or Land Surveyor Intern shall not have a seal.
- (l) Drawings, reports, or documents that require a signature may be signed using a digital signature. The digital signature must be:
- (1) Unique to the person using it;
  - (2) Capable of verification; and
  - (3) Under the sole responsibility and control of the licensee affixing it.
    - (A) A scanned image or other reproduction of an original signature may be used in lieu of an original signature or digital signature if accompanied by an original handwritten date.
    - (B) A digital signature having an electronic authentication process attached to or logically associated with the electronic document may also be used and does not need to include the handwritten date, but must be dated. In this instance, the digital signature shall be linked to a document in such a manner that the data in the document can be verified as being unaltered since the time that the digital signature was affixed.
- (m) Successor licensee - In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a site adaptation of a standard design plan, a successor licensee may take responsible charge over, and complete the work, in accordance with the provisions of this Chapter.

- (1) A licensee shall perform or have responsible charge over all professional engineering or land surveying services to include development of a complete design file including work or design criteria, calculations, code research, field notes, and any necessary and appropriate changes to the work. The burden is on the successor licensee to demonstrate such compliance.
  - (2) The non-professional services, such as drafting, need not be redone by the successor licensee but must clearly and accurately reflect the successor licensee's professional work.
  - (3) The licensee shall have direct control and personal supervision over the engineering or surveying work and the signed, dated, and sealed originals of all documents over which the licensee has taken responsible charge under this provision. A professional engineer or land surveyor who adopts, signs, and seals work previously engineered or surveyed under this provision shall perform sufficient review and calculation to ensure that all standards of practice required of licensees are met, including satisfying the relevant criteria stated in paragraph (c)(iv) and (e)(iv) above and shall take professional and legal responsibility for documents signed and sealed.
- (n) Prototypical design plans- A licensee may take responsible charge over a standard, prototypical design plan, including drawings and specifications in printed or electronic form, for the purpose of adapting the plan to a specific site in this state, provided the licensee's work is completed in accordance with the provisions of this Chapter. This provision shall apply to both site adaptation of new structures and site adaptation for construction in an existing structure.
- (1) In the case of an existing structure, the engineering for modifications to the existing structure and any of its systems shall be under the responsible charge of persons licensed in this state.
  - (2) Standard, prototypical designs that may be site adapted under this provision are drawings and specification documents prepared for the purpose of defining the Owner's requirements but not yet completed for construction on a specific site.
  - (3) Site adaptation shall not include, and this provision does not authorize, a licensee to take responsible charge over work designed for construction on a specific site in this state that was prepared by a person not licensed in this state.
  - (4) Standard prototypical design plans shall not be released publicly or submitted to a client or user unless the plans are marked with a statement substantially equivalent to 'This document is preliminary in nature and is not a final, signed and sealed document'. The statement shall not be removed until an Oklahoma licensee has taken responsible charge of the work and the work is dated and issued under the seal and signature of an Oklahoma licensee.
  - (5) A licensee shall perform or have responsible charge over all professional engineering services to include development of a complete design file including work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The burden is on the successor licensee to demonstrate such compliance.
  - (6) The non-professional services, such as drafting, need not be redone by the successor licensee but must clearly and accurately reflect the successor licensee's professional work.
  - (7) The licensee shall have direct control and personal supervision over the engineering work and the signed, dated, and sealed originals of all documents over which the licensee has taken responsible charge under this provision.
- (o) Any revision to a document containing the seal and signature of a licensee shall be identified and dated. Revisions not done by the original licensee must be signed and sealed by the licensee in responsible charge of the revision. At no time shall a successor licensee remove the seal and signature of the original licensee in responsible charge of the work.
- (p) Record drawings prepared to reflect changes made during construction based on the record of changes made to construction drawings and changes to the construction observed by the licensee or on the licensee's behalf or reported by contractors is deemed a drafting service and shall not require a licensee's seal, signature, and date of signature.
- (q) In the case of a firm, each separate document, the first page of a bound document, and, in the case of multiple licensees, the portion of the work for which each firm is responsible, shall also show the name of the firm, the firm's Certificate of Authorization number and contact information for the firm.

- (r) Engineering or surveying technical submissions given to an architect for a project must be signed and sealed by the professional engineer or land surveyor in responsible charge of the work prior to the architect taking responsible charge of the work as the prime professional for the project.
- (s) Consultants hired to do work on behalf of the firm must sign, seal, and date their work and include their contact information, and Certificate of Authorization information, if applicable, on the work. Consultants may not be the designated managing agent for the firm to which they are consulting.

## **SUBCHAPTER 19. ORGANIZATIONAL PRACTICE**

### **245:15-19-1. Certificate of Authorization required**

Firms practicing, offering to practice or contracting to perform engineering or land surveying services in the State of Oklahoma shall obtain a Certificate of Authorization issued by the Board. Certificates of Authorization may be granted by the Board to any firm approved by the Board which meets the criteria in the Statutes and this Chapter.

### **245:15-19-2. Criteria for issuance of Certificate of Authorization**

The Board may grant a Certificate of Authorization to practice through individual licensees to those firms meeting the following criteria:

- (1) An application is filed and approved by the Board or its designee.
- (2) A firm offering engineering and/or surveying services shall designate an engineer or land surveyor, respectively, to be the managing agent for the firm. A firm offering both engineering and land surveying services must have a licensed professional engineer and licensed professional land surveyor listed as managing agent. The designated managing agent(s) must hold a position of recognized authority within the firm. A licensee who does not hold an otherwise qualifying title within a firm, as described in Title 59, 475.21(F), shall qualify as a managing agent under the following conditions:
  - (A) the licensee shall be a full-time employee of the firm and not a consultant or an independent contractor;
  - (B) the licensee shall hold the proper professional license in good-standing with the Board; and
  - (C) the licensee and firm both shall certify that the licensee can fulfill the responsibilities of the managing agent, including:
    - (i) renewal and maintenance of the firm's certificate of authorization and notification to the Board of any change in managing agent or firm's contact information within 30 days of the change;
    - (ii) overall administrative supervision of the firm's licensed and subordinate personnel performing engineering or surveying work, respectively, in Oklahoma; and
    - (iii) the institution and adherence of policies of the firm that are in accordance with Section 475.1 et seq. of this title, Section 3.116 et seq. of Title 65, and of the Oklahoma Statutes and Rules of this Board.
- (3) The firm's practice of engineering or land surveying in any main office or branch office is under the direct control and personal supervision of a duly licensed professional engineer or professional land surveyor in responsible charge. In the case of an out-of-state firm authorized to perform engineering services in Oklahoma, the firm may have one or more branch offices located in Oklahoma only if the firm has a professional engineer designated responsible and in charge of the firm's professional practice in this state. The professional engineer designated for this purpose shall be duly licensed as a professional engineer in Oklahoma and be a full-time resident of Oklahoma or shall be required to spend a majority of normal business hours at one or more branch offices located in Oklahoma.
- (4) A Certificate of Authorization shall be issued to a firm which is in compliance with the statutory requirements and the current Rules of Procedure of the Board. The certificate will identify the firm by name and authorization number, show the effective date, and confirm the firm's right to

practice engineering and/or land surveying in the State of Oklahoma.

(5) One Certificate of Authorization will be issued by the Board for each firm, which shall be subject to powers of renewal, reinstatement, suspension, revocation, penalties, orders or refusal to renew for cause, vested in the Board by the statutes.

(6) Firms holding a Certificate of Authorization shall display or maintain it at the firm's place of practice.

(7) A duplicate original Certificate of Authorization will be issued to a firm provided:

(A) The current Certificate of Authorization's renewal is effective;

(B) The firm makes written request for a replacement of certificate;

(C) The firm certifies that the original certificate has been lost, damaged or destroyed; and

(D) The firm pays the prescribed fee.

(8) Duplicate Certificates of Authorization will be issued for multiple places of practice upon a written request and payment of the prescribed fee. However, each duplicate certificate will be marked as such.

#### **245:15-19-3. Biennial license for Certificate of Authorization**

(a) A firm desiring to practice under the Certificate of Authorization must submit the proper fees and forms for renewal biennially. No Certificate of Authorization shall be valid for longer than a two (2) year period.

(b) Failure to biennially renew and remit renewal fees by the renewal date will result in automatic revocation of the Certificate of Authorization.

(c) One notice of revocation will be sent to the last known address of the firm failing to biennially renew and remit renewal fees.

#### **245:15-19-4. Reinstatement of revoked Certificate of Authorization**

(a) Certificates of Authorization revoked for nonpayment of fees, may be reinstated within one hundred eighty (180) days of revocation after payment of the reinstatement fee and renewal fee.

(b) Certificates of Authorization revoked for longer than one hundred eighty (180) days without reinstatement must submit a new application and fee to be considered by the Board. If reinstatement is within one hundred eighty (180) days following the date of the revocation, then the Certificate of Authorization will be deemed to have been continuous. The practice of engineering or land surveying by and through a firm whose Certificate of Authorization has been revoked, including practice during any eligible reinstatement period, is a violation of Title 59, Section 475.1 et seq. and the Rules of this Board.

(c) Certificates of Authorization suspended, denied, refused renewal, or revoked for cause may be reinstated only by Board action and only then in the manner determined by such Board action. Requests for reinstatement of the Certificate of Authorization revoked for cause shall be addressed to the Board at the Board office and shall show cause why such reinstatement is justified.

#### **245:15-19-5. Compliance with laws, rules, regulations and orders**

(a) All firms and entities shall comply with all laws, rules, regulations and orders issued, to the same extent as they apply to an individual engineer or land surveyor.

(b) The Board shall investigate complaints, hold hearings, issue orders and determine penalties against firms and entities in the same manner, procedure, and with the same rights and offenses as are authorized against an individual engineer or land surveyor, as designated in this Chapter.

(c) Upon notice of the Board, Certificates of Authorization suspended, refused renewal, or revoked for cause by Board action shall be surrendered immediately in the manner prescribed by that notice.

#### **245:15-19-6. Notification of changes in firm practice required**

Firms shall notify the Board office within thirty (30) days of any or all changes which affect the Certificate of Authorization. Notification shall be on the Board's form, signed by a Professional Engineer or Land Surveyor designated in responsible charge on the Certificate of Authorization or partner or

director of the firm, and accompanied by the fees prescribed in Chapter 2 of this title. Failure to properly and promptly notify the Board of changes shall be cause for penalties, revocation, refusal to renew or suspension of the Certificate of Authorization, as designated in the Rules of Procedure of the Board.

**245:15-19-7. Authority to use professional titles**

(a) Only persons holding current Certificates of Licensure in Oklahoma and firms or entities holding current Certificates of Authorization issued by the Board, are authorized to employ the title "Engineer" or "Land Surveyor" and use any various construction thereof, in describing or identifying services solicited, offered, contracted or performed.

(b) No other person, entity, or firm may employ the title "Engineer" or "Land Surveyor" or any various construction thereof, to describe persons, entities or services, nor do such unlicensed individuals, firms or entities have authority to solicit, offer, contract or execute engineering or land surveying services in the State of Oklahoma.

**245:15-19-8. Firms required to file with Secretary of State; restriction on similar names**

(a) Failure to properly file a Certificate of Incorporation or authentication and maintain same with the Secretary of State may result in revocation of the Certificate of Authorization and disciplinary action pursuant to the Rules of this Chapter.

(b) The name of a firm or entity shall not be the same as or deceptively similar to the name of any other firm or entity then existing. The name shall not be the same or deceptively similar to any name that has existed within the preceding three (3) years, without the written consent of the previously existing firm or entity.

**245:15-19-9. Exceptions**

(a) A firm whose business does not consist, either wholly or in part, of the rendering of engineering or land surveying services to the public is allowed without obtaining a Certificate of Authorization, providing they are also in compliance with OAC 245:15-19-7.

(b) The work of a person rendering engineering or land surveying services to a firm as an employee of the firm, when the services are rendered in carrying on the general business of the firm and the general business does not consist, either wholly or in part, of the rendering of engineering or land surveying services to the public, is allowed under the provision of O.S. Title 59, Section 475.1 et seq.

(c) The use of the terms 'network engineering' or 'software engineering' by firms and 'network engineer' or 'software engineer' by individuals is allowed under provision of O.S. Title 59, Section 475.1 et seq. Firms may not use the word engineer or any derivative thereof in the name of the firm and individuals and firms are prohibited from offering or performing professional engineering services without being duly licensed or authorized to do so.

**SUBCHAPTER 21. CORNER PERPETUATION AND FILING ACT REQUIREMENTS**

**245:15-21-1. Purpose**

The purpose of the Corner Perpetuation and Filing Act, 65 O.S. Sections 3.116- 3.123 is to protect and perpetuate public land survey corners and information concerning the location of such corners, by requiring the systematic establishment of monuments and filing of information concerning the marking of the location of such public land survey corners. The Archives and Records Division of the Oklahoma Department of Libraries serves as the registry for Certified Corner Records. Certified Corner Records may be filed directly with the Archives and Records Division of the Oklahoma Department of Libraries or with a Board-approved vendor, which may accept digital Certified Corner Records from licensees and shall submit them on behalf of the licensee to the Archives and Records Division of the Oklahoma Department of Libraries. The Board is charged, by law, with the responsibility to prescribe the information to be included, to prescribe the form in which such Certified Corner Records shall be presented and filed, and to enforce the provisions of the Act.



#### **245:15-21-2. Recordation of corners**

(a) Each Certified Corner Record shall be prepared on the Certified Corner Record Form adopted by the Board in accordance with the Instruction Manual for Oklahoma Certified Corner Records adopted by the Board.

(b) The Professional Land Surveyor shall complete and file a Certified Corner Record for every public land survey corner which is established, reestablished, monumented, remonumented, restored, rehabilitated, perpetuated, or used as control in any survey. In addition, the center one quarter corner shall be filed if it is monumented or an existing monument is accepted. The completed Certified Corner Record shall be filed within ninety (90) days after the survey is completed, unless the public land survey corner and accessories are substantially as described in an existing, filed Certified Corner Record. The Board shall consider a survey complete when any one of the following occurs:

- (1) Monuments have been established; or
- (2) A plat or drawing has been submitted; or
- (3) Field notes for plans or planned purposed have been submitted.

#### **245:15-21-3. Specifications for Certified Corner Records**

The Board has established the following specifications for Certified Corner Records, which are also included in the Instruction Manual for Certified Corner Records adopted by the Board: Each Certified Corner Record shall be signed, sealed and dated in the manner prescribed by Title 59, O.S. Section 475.15 and OAC 245:15-17-2.

- (1) Each Certified Corner Record shall be complete, accurate and contain the following information:
  - (A) Classification as either an existent, obliterated or lost corner, as defined by the current Manual of Surveying Instructions published by the United States Bureau of Land Management; and
  - (B) Corner identity; and
  - (C) Description of the original monument, accessories, and any subsequent restoration by the United States government; and
  - (D) Monument description when the corner monument is found and a listing of sufficient supporting evidence; or monument description when the monument is set, the method used if the corner is classified as lost, and a listing of sufficient evidence to support the position if the corner is obliterated; and
  - (E) Description of, and angular and linear measurements to, at least three (3) readily identifiable and permanent accessories; and
  - (F) A legible sketch showing the relative positions of the monument, the accessories, streets, any conflicting monuments and other identifying features, including a north arrow; and
  - (G) Oklahoma state plane coordinates (if determined); and
  - (H) Professional Land Surveyor's certificate.

#### **245:15-21-4. Remonumentation of corners**

In every case where a Certified Corner Record of a public land survey corner is required to be filed or recorded, the Professional Land Surveyor shall reconstruct or rehabilitate the monument of such corner, and accessories to such corner, so that it will be as permanent a monument as is reasonably possible to provide and so that it may be located with facility in the future.

#### **245:15-21-5. Availability of records**

The Department of Libraries shall make the copies of the Certified Corner Records available for public inspection during usual office hours and true scale copies thereof shall be made available for a reasonable fee.

#### **245:15-21-6. Penalties**

The Board shall have the power to reprimand, place on probation, fine, revoke or suspend the Certificate of Licensure or Certificate of Authorization of any licensee or firm who fails to comply with any provision of 65 O.S. or the Rules of the Board.

### **SUBCHAPTER 23. VIOLATIONS**

#### **245:15-23-1. Prima facie evidence**

- (a) A person, firm, or entity shall be construed to practice or offer to practice engineering or land surveying, who does any of the following:
- (1) practices any branch of the professions the Board regulates, or
  - (2) by display or verbal claim, sign, advertisement, contract, card or other printed, engraved, or written instrument or device, bearing a person's, firm's, or entity's name or in any other way represents to be an Engineer, Professional Engineer, Land Surveyor, or Professional Land Surveyor or a firm providing or having the qualifications to provide engineering or land surveying services, or
  - (3) through the use of some other title implies that the person, firm, or entity is an Engineer, Professional Engineer, Land Surveyor, or Professional Land Surveyor or a firm providing engineering or land surveying services, or
  - (4) holds himself/herself or itself out as having the qualifications to, is able to, or who does contract, offer or perform any engineering or land surveying service.
- (b) The following actions shall not be violations under 59 O.S. 475.1 et seq. and the Rules of the Board:
- (1) Advertising in national publications or electronic media, provided there is no offering of professional services in jurisdictions where not licensed
  - (2) Responding to letters of inquiry regarding requests for proposals, provided there is written disclosure that the engineer/surveyor and firm are not licensed in this jurisdiction and the response is limited to inquiries regarding the scope of project and to demonstrate interest
  - (3) Responding to letters of inquiry from prospective clients, provided there is written disclosure that the engineer/surveyor and firm are not licensed in this jurisdiction and the response is limited to inquiries regarding scope of project and to demonstrate interest
  - (4) Using the title/designation "Professional Engineer", "Engineer", "P.E.", "Professional Structural Engineer", "P.E., S.E.", "S.E.", "Professional Land Surveyor", "Land Surveyor", "P.S.", "L.S." or "P.L.S." or the like on letterheads, or business cards from an office in the jurisdiction where licensure is held.
- (c) Regardless of the above, proposals may not be submitted, contracts signed, or work commenced until the engineer, surveyor and firm become licensed in Oklahoma.
- (d) Any violation of such action noted by this Section shall be sufficient to justify an injunction or any other order or a conviction without evidence of a general course of conduct. The Board shall determine if other legal procedures and penalties are necessary and shall have the power to proceed with any and all legal procedures in addition to the injunction or other such orders issued.

#### **245:15-23-2. Grounds for violations and penalties – Conduct**

- (a) **Knowledge of Rules.** All persons licensed under the provisions of the act are charged with having knowledge of these Rules which are made known in writing to every licensee and applicant for licensure.
- (b) **Convictions.** A licensee of this Board who has been fined, received a reprimand, voluntarily surrendered a license in order to avoid disciplinary action, had a license revoked, suspended or denied in another jurisdiction for reasons or causes which the Board finds would constitute a violation of the law governing the practice of engineering or surveying in this jurisdiction or any rule or regulation promulgated by the Board may be cause for levying a fine, reprimanding the licensee, denying, revoking, or suspending a license to practice engineering or surveying by the licensee in this jurisdiction.
- (c) Non-payment of fines or penalties or violation of any order approved by the Board may result in disciplinary action against the holder of the Certificate of Licensure or Certificate of Authorization.

### **245:15-23-3. Additional administrative penalties for violations**

Administrative penalties may be levied by the Board separately or in addition to any other penalties or remedies determined by the Board. The Board may seek criminal and civil relief, including injunctive relief, through the courts for violation of the Statutes regulating professional engineering and land surveying, Rules in this Chapter, regulations, or to enforce any order issued by the Board. The Board may seek relief or remedies through the boards and administrative entities of Oklahoma or other states.

### **245:15-23-4. Fraud or misrepresentation**

A. Any licensee, firm, entity, or person associated with or under the responsible charge of any licensee, firm, or entity, holding a Certificate of Licensure and/or a Certificate of Authorization who shall make an oral or written statement or communication to any person that is:

- (1) false and a material misrepresentation, and/or
- (2) made with the knowledge that the statement is false or made while ignorant of the truth, and/or
- (3) made with the intent that the statement shall be relied on by the person and in a manner reasonably foreseeable; provided, and/or
- (4) the person to whom the statement is made is ignorant of the falsity of the statement, or
- (5) the statement is justifiably relied upon by such person, and/or
- (6) such person is caused damage or injury, shall have committed a fraud.

B. Any licensee, firm, entity, or person associated with or under the responsible charge of any licensee, firm, or entity, holding a Certificate of Licensure and/or a Certificate of Authorization who shall make an oral or written statement in any document, report, examination, investigation, advice, representation, plans or specifications that is materially false or misleading either in its content or omission of content there from, or who in any other manner, method or conduct acts in a way so as to mislead or deceive any person, shall be guilty of misrepresentation.

### **245:15-23-5. Gross negligence**

- (a) The Professional Engineer or Land Surveyor is responsible for many professional, technical, ethical and tactical judgments relating to planning, surveys, reports, studies, inspections, designs, plans and specifications, construction materials, methods, techniques and systems processes. The licensee's education, training and experience, or the education, training and experience of the licensee in responsible charge of the services of any Firm, should enable such licensee to make such determinations with confidence in a successful result.
- (b) Each licensee, firm, entity, or person representing same, shall exercise prudent and deliberate consideration in decisions, made only after responsible and thorough investigation, research and, when necessary, expert advice and assistance.
- (c) When the results from such decisions are not reasonably predictable, each licensee, firm, entity, or person representing same, shall so advise the client, and fully disclose the implications involved.
- (d) When such decisions require procedures, techniques, materials, or systems unfamiliar to the planning, design and/or construction team involved, the licensee, firm, entity, or person representing same shall exercise additional care and attention to the process, advancing the result sought.
- (e) The Board may deem acts, errors and/or omissions to be gross negligence if, in the judgement of the Board, a licensee, firm, entity, or person representing same, fails to discharge its duties, obligations and responsibilities, under 59 O.S., Sections 475.1 et seq. and the Rules of the Board, so as to evidence carelessness in reckless disregard for the safety, property or lives of others, or is so great it appears to be a conscious violation of other people's property or rights to health, safety or welfare, as described in (b)-(d) in this subchapter.

### **245:15-23-6. Gross incompetence**

- (a) Licensees have been licensed under the authority of the Statutes regulating professional engineering and land surveying which establishes minimum competence to provide engineering and land surveying

services in the State of Oklahoma. Licensees shall continue their professional development after licensure, improving and increasing their proficiency and skills, knowledge and abilities. The licensee, firm, or entity shall undertake only those professional assignments the licensee, firm, or entity is qualified to perform and lawfully authorized to undertake.

(b) The following practices, among others may be deemed gross incompetence by a licensee, firm, or entity or person representing same:

- (1) A deficiency on the part of a licensee in the basic knowledge and skill necessary to the practice of engineering or land surveying such that the licensee does not demonstrate an ability to practice engineering or land surveying at the threshold level of professional competence for issuing engineering reports or undertaking projects of the kind and complexity performed, thus endangering the property, safety, health of others or welfare of the public.
- (2) Failure to engage other competent licensed architects, engineers or land surveyors when the licensee has contracted to furnish services outside of the licensee's area of competence.
- (3) Practicing engineering or land surveying while under the influence of alcohol, drugs or mentally impaired.

#### **245:15-23-7. Misconduct or dishonest practice**

(a) The following practices, among others, by a licensee, firm, or entity or person representing same, may be deemed misconduct and a violation:

- (1) Acts which evidence attempts to violate any laws or rules of this or any other state relating to licensure to practice engineering or land surveying.
- (2) Acts which evidence a disregard or indifference toward the rules or statutes governing the practice of engineering or land surveying, and codes, ordinances and other recognized standards. These regulations include, but are not limited to, those involving facilities to be constructed, structural inspections and reports, or special inspections for buildings or roadways.
- (3) Acts which evidence attempts to violate or do so violate the Statutes Regulating Professional Engineers and Land Surveyors or Rules in this Chapter or assist any other person or firm to attempt or to do so.
- (4) Acts which evidence attempts to conceal personal interests in conflict with responsibilities of service to the public or a client.
- (5) Acts which evidence, through commission or omission, a failure or refusal to reasonably communicate with the client, so that the client shall be reasonably informed of the status of any services provided or agreed to be provided by the licensee or a firm holding a Certificate of Licensure and/or Certificate of Authorization under the responsible charge of the licensee.
- (6) Acts which evidence a detriment to a client caused by a personal interest or the firm's interest, which conflicts with the responsibility, owed to the client by a licensee, or a firm, holding a Certificate of Licensure and/or Certificate of Authorization, under the responsible charge of the licensee.
- (7) Acts which evidence a failure to engage competent licensed architects, professional engineers and/or professional land surveyors when the licensee has contracted to furnish services outside of the licensee's area(s) of competence.

(b) The following practices, among others, by a licensee, firm, or entity or person representing same, may be deemed a dishonest practice and a violation:

- (1) Acts which evidence attempts through commission or omission, to mislead or defraud any person, firm, or entity.
- (2) Acts which evidence attempts to bribe any person, firm, or entity, who may influence the selection of any licensee, firm, or entity. Kickbacks, donations or forgiveness offered or paid to gain improper advantage in selection will be considered bribes.
- (3) Acts evidenced by exaggerated, misleading, deceptive or false statements in claims about professional qualifications.

**245:15-23-9. Filing a complaint; forms and evidence; Formal Notice of Charges**

- (a) Any person or entity, including the Board or Board staff, may file a complaint alleging violations of these Rules, Title 59 O.S. Section 475.1 et seq., and the Corner Perpetuation and Filing Act, Title 65 O.S. Sections 3.116-3.123.
- (b) All complaints may be made on forms prescribed by the Board, which are available from the Board, or by other means. The complainant may submit anonymous complaints, which may be investigated by Board staff as described in policies and procedures of the Board.
- (c) When a complaint is received it shall be referred to an investigation committee designated by the Executive Director or Director of Enforcement. The investigation committee shall make a determination if probable cause exists for taking further action or for issuing a Formal Notice of Charges. Action against the individual, licensee, entity or firm holding a Certificate of Authorization may be brought in the name of the Board.
- (d) In the event the investigation committee determines that a probable cause exists, the legal counsel of the Board shall be requested to prepare a Formal Notice of Charges.
- (e) The Formal Notice of Charges shall be personally served or mailed to the last known address of the respondent(s) at least 30 days before the date fixed for hearing.
- (f) The Formal Notice of Charges shall show the time, place, and nature of the hearing, a statement of legal authority and jurisdiction under which the hearing is to be held, a reference to the particular section of the statutes and rules involved, and a short and plain statement of the matters asserted. The Formal Notice of Charges shall indicate that at any hearing the accused individual, licensee, entity or firm holding a Certificate of Authorization shall have the right to appear in person, by counsel, or both to cross-examine witnesses in his/her or its defense and to produce evidence and witnesses of his/her or its own defense. If the accused person or firm fails or refuses to appear, the Board may proceed to hear and determine the validity of the charges.
- (g) Hearings conducted in accordance with OAC 245:15-23-15 are subject to the rules of evidence specified by the Oklahoma Administrative Procedures Act.

**245:15-23-10. Resolution by settlement**

Those matters in which a mutually agreed settlement is sought may be referred to the investigation committee or terminated. Any proposed final disposition of a violation shall be recommended to the Board for approval.

**245:15-23-15. Hearings**

**(a) General provisions.**

- (1) At any hearing, the licensee, firm, entity, or person, charged with a violation shall enjoy the rights:
  - (A) against self-incrimination; and
  - (B) of confidential communication with his/her spouse, attorney, clergyman, priest and/or physician; and
  - (C) of withholding confidential or privileged records and files of any official or agency of any state or of the United States which, by any statute of such state or of the United States; and
  - (D) of cross examination; and
  - (E) of counsel.
- (2) All motions, except for a motion to continue, must be filed seven (7) days prior to the scheduled date of the hearing. Responses to motions, if any, must be filed two (2) days prior to the hearing.
- (3) The parties shall exchange names of all witnesses they anticipate testifying and the exhibits they plan to introduce ten (10) days prior to the hearing. Additional witnesses may be called and exhibits entered subject to the approval of the Board.
- (4) The first motion for a continuance filed on behalf of a party may be granted by the Executive Director. Any additional requests for a continuance must be presented to, and approved by the

Board.

(b) **Hearing record.**

(1) The hearing records shall include:

- (A) all pleadings, motions and intermediate rulings;
- (B) evidence received or considered;
- (C) questions and offers of proof, objections, and ruling thereon;
- (D) proposed findings and exceptions;
- (E) any decision, opinion, or report by the officer presiding at the hearing, if any;
- (F) any records, including records of the Board, of which the Board chooses to take judicial notice;
- (G) all staff memoranda or data submitted to the hearing officer, if any, or member of the agency in connection with their consideration of the case;
- (H) an opinion, rendered by a state officer or authority, required by statute or Executive Order, sought by the Board or designated staff prior to the order being filed with the Board.

(2) Oral proceedings or any part of the oral proceedings shall be transcribed on request of any party. The requesting party shall pay all costs incurred for the original transcript and other parties requesting copies shall bear the cost of additional copies.

(3) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(c) **Methods of hearings.** Hearings shall be conducted by one of the following methods as determined by the Board:

- (1) by the Board;
- (2) by a member or emeritus member of the Board or its designee acting as hearing examiner;
- (3) by an attorney licensed to practice before the Supreme Court of the State of Oklahoma acting as hearing examiner.

(d) Unless precluded by law, any party may waive rights and proceed by stipulation, agreed settlement, consent order or default. No provision in the rules shall be construed as prohibiting the Board from continuing to a later date, suspending or holding in abeyance any formal or civil proceeding pending the outcome of informal negotiation or informally agreed upon terms.

**245:15-23-16. Hearing disqualification procedures**

Any Board Member or Hearing Examiner shall withdraw from any proceeding in which the individual cannot render a fair and impartial hearing or consideration. Any party may request such disqualification by filing a motion pursuant to OAC 245:15-23-15(a)(2) detailing the alleged grounds for disqualification. The issue shall be referred to the Board to be determined promptly by the Board, or the remaining members thereof, and upon disqualification the Board shall assign another Hearing Examiner and if necessary, as provided by Statutes of Oklahoma, seek appointment of an additional member or members pro-tem.

**245:15-23-17. Powers of hearing authority**

A hearing authority shall require the furnishings of information; the attendance of witnesses; and the production of books, records, papers or other objects as may be necessary and proper for the purposes of the hearing. Any party to a proceeding may take depositions of witnesses in the same manner as provided by law in any civil actions before courts of record and such depositions may be submitted into evidence subject to the right of objection at the time of hearing as provided by law in any civil actions before courts of record. The hearing authority may admit into evidence and take judicial notice of any records, including records of the Board, that it may deem relevant to the proceeding.

**245:15-23-18. Findings of the Board and penalties**

(a) The Board may find on any one or more of the charges:

- (1) The charges are dismissed for insufficient evidence;
- (2) The charges are dismissed without prejudice;

- (3) The charges are dismissed with prejudice;
  - (4) The respondent is found not guilty;
  - (5) The respondent is found guilty.
- (b) If the finding is guilty, the Board shall then determine the penalty to be imposed. The penalty resulting from a finding of guilty may be one or more of the following:
- (1) Reprimand
  - (2) Censure
  - (3) Suspension
  - (4) Revocation
  - (5) Probation
  - (6) Administrative Fine
- (c) The order of the Board in each case is a public record.

**245:15-23-19. Orders developed without a quorum**

At any hearing not heard by a majority of the members of the Board, or when the case hearing record has not been read by a majority of the members of the Board, the decision, if adverse to a party to the proceeding, shall not be made until a proposed order is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the Board. The proposed order shall be accompanied by statements of the reasons therefore and of each issue of fact or law necessary to the proposed order, prepared by the person who conducted the hearing or by a person who has read the record. The parties, by written stipulation, may waive compliance of any part of with this Section.

**245:15-23-20. Issuing of orders**

All orders, whether proposed or final, shall be issued within one hundred twenty (120) days of the conclusion of a hearing, or 30 days of receipt of order from a reviewing state officer or authority, whichever is the longer of the two.

**245:15-23-21. Final orders**

A final order adverse to a party in a proceeding shall be in writing. The final order shall be consistent with the order of the Board entered at the hearing. A final order shall include findings of fact and conclusions of law, separately stated. Parties shall be notified either personally or by mail of any order. Upon request, a copy of the order shall be delivered or mailed to each party and to the attorney of record.

**245:15-23-22. Procedures to file exceptions to proposed orders**

Exceptions to a proposed final order, together with a brief in support, shall be filed with the Executive Director within ten (10) days of the submission of the proposed final order. If exceptions are filed, the Executive Director shall set the time and place for the Board to consider the exceptions and shall cause notice of the time and place to hear the exceptions to be mailed to the licensee, person, firm, or entity or to the attorney of record. Such time shall not be less than twenty (20) days after said notice is mailed. Briefs in response to the exceptions must be filed with the Board at least seven (7) days before such meeting. The licensee, person, firm, or entity may personally or through counsel be present and present oral argument to the Board in support of the exceptions. No exceptions to the final order shall be considered without full compliance of this section by the respondent, individual, firm, or entity.

**245:15-23-23. Rehearing, reopening or reconsideration**

- (a) A decision by the Board shall be subject to rehearing, reopening or reconsideration by the Board if requested in writing and filed with the Executive Director within ten (10) days from the date of filing of the Final Order with the Executive Director. The grounds for requesting such action shall be either:
- (1) newly discovered or newly available evidence relevant to the issues; or

- (2) probable error committed by the Board or hearing examiner in the proceeding or in its decision such as would be grounds for reversal on judicial review of the order; or
  - (3) need for further consideration of the issues and the evidence in the public interest; or
  - (4) a showing that issues not previously considered should be examined in order to properly dispose of the matter; or
  - (5) fraud practiced by the prevailing party or of procurement of the order by perjured testimony or fictitious evidence.
- (b) The order of the Board granting rehearing, reconsideration, or review of the petition of a party, shall set forth the grounds which justify such action.

**245:15-23-24. Other hearings**

When it comes to the Board's attention that persons, firms, or entities residing in or out of the State of Oklahoma may be engaged in the practice of engineering or land surveying in Oklahoma, as defined by the Statutes regulating professional engineering and land surveying and Board's current rules, and further that such person, firm, or entity may be engaged in the unauthorized practice of these professions or may not meet the requirement thereof, the Board may institute proceedings as provided in the rules against licensee, persons, firms, or entities for the purpose of determining if any violation of the law, rules or orders has occurred and may take such action as is permitted pursuant to the provisions of 59 O.S., Sections 475.1 et seq. and may, in addition, bar said licensee, person, firm, or entity concerned and their employers from licensure with the Board or the practice of engineering or land surveying within the State of Oklahoma.

**245:15-23-25. Emergency hearings and orders**

- (a) If the Board shall find an emergency to exist which, in the opinion of the Board, poses an imminent danger to the public health, welfare, or safety or which threatens irreparable harm to any person, firm, or entity, the Board may order hearings as provided herein upon giving twenty-four (24) hour notice to the parties concerned, and may enter such orders as will, in the judgment of the Board, maintain or restore the public health, welfare and safety pending hearing by the Board or judicial review of the Board's actions.
- (b) Whenever in the judgment of the Board any licensee, person, firm, or entity has engaged, or is about to engage, in any acts or practice which constitute, or will constitute, a violation of 59 O.S., Section 475.1 et seq., the Board may make application to the court with appropriate jurisdiction for an order enjoining such acts or practices, and upon a showing by the Board that such licensee, person, firm, or entity has engaged, or is about to engage, in any such acts or practices, an injunction, restraining order, or such other order as may be proper shall be granted by such court, without bond.
- (c) Nothing in the rules dealing with violations, penalties or findings of facts shall preclude the Board from proceeding through any legal proceedings necessary to enforce its findings, orders or administrative penalties.



**Appendix A: Licensee's Seal**

