

**RULES
OF
STATE BOARD OF ARCHITECTURAL AND
ENGINEERING EXAMINERS**

**CHAPTER 0120-02
RULES OF PROFESSIONAL CONDUCT**

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0120-02-.01 APPLICABILITY.

- (1) The provisions of this chapter shall apply to any person registered to practice architecture, engineering or landscape architecture in this State and to any partnership or corporation engaged in the practice of architecture, engineering or landscape architecture in this State. For the purpose of this chapter, unless the context otherwise requires, the word "registrant" includes any such person, partnership or corporation.
- (2) In addition, rule 0120-02-.09 CIVIL PENALTIES, paragraphs (2) through (4), shall apply to any person required to be registered to practice architecture, engineering or landscape architecture in this State, regardless of whether such person has actually obtained registration.

Authority: T.C.A. §§ 56-1-308 and 62-2-203(c). **Administrative History:** Original rule was certified May 3, 1974. Amendment filed April 15, 1980; effective May 30, 1980. Amendment filed December 9, 1991; effective January 23, 1992.

0120-02-.02 PROPER CONDUCT OF PRACTICE.

- (1) The registrant shall at all times recognize the primary obligation to protect the safety, health and welfare of the public in the performance of the registrant's professional duties.
- (2) If the registrant becomes aware of a decision taken by an employer, client, or contractor, against the registrant's advice, which violates applicable Federal, State or Local Laws, Regulations, or Codes which may affect adversely the safety, health and welfare of the public, the registrant shall:
 - (a) Report the decision to the authority having jurisdiction charged with the enforcement of the applicable Federal, State or Local Laws, Regulations, and Codes;
 - (b) Refuse to consent to the decision; and
 - (c) In circumstances where the registrant reasonably believes that other such decisions will be taken notwithstanding the registrant's objections, terminate services with reference to the project.
- (3) A registrant possessing knowledge of a violation of T.C.A. Title 62, chapter 2, or this chapter, shall report such knowledge to the Board in writing and shall cooperate with the Board in furnishing such further information or assistance as it may require.

(Rule 0120-02-.02, continued)

- (4) The registrant shall maintain the continuing education records required by rule 0120-05-.10 for a period of four (4) years and shall furnish such records to the Board for audit verification purposes within thirty (30) days of the Board's request.
- (5) A registrant possessing knowledge of an applicant's qualifications for registration shall cooperate with the applicant and/or the Board by responding appropriately regarding those qualifications when requested to do so. A registrant shall provide timely verification of employment and/or experience earned by an applicant under the registrant's supervision if there is reasonable assurance that the facts to be verified are accurate. A registrant shall not knowingly sign any verification document that contains false or misleading information.
- (6) A registrant may not submit any information as part of a proposal for a public project to the state or any of its political subdivisions that would enable the governmental entity to evaluate the proposal on any basis other than the competence and qualifications of the registrant to provide the services required, thereby precluding participation in any system requiring a comparison of compensation. This rule shall apply only to proposals submitted to governmental entities that are prohibited by T.C.A. § 12-4-107(a) from making a selection or awarding a contract on the basis of competitive bids. Upon selection, a registrant may state compensation to a prospective client in direct negotiation where architectural, engineering, or landscape architectural services necessary to protect the public health, safety, and welfare have been defined.

Authority: T.C.A. §§ 62-2-203(c) and (d) and 62-204. **Administrative History:** Original rule certified May 3, 1974. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed July 19, 2002; effective October 2, 2002. Amendment filed September 11, 2009; effective December 10, 2009. Amendment filed December 11, 2012; effective March 11, 2013. Amendment filed November 17, 2014; effective February 15, 2015. A stay of the effective date was filed January 27, 2015; new effective date May 1, 2015. Amendment filed September 15, 2015; effective December 14, 2015.

0120-02-.03 SERVICE IN AREAS OF COMPETENCE.

- (1) The registrant shall perform services only in areas of the registrant's competence. The registrant shall undertake to perform professional assignments only when qualified by education or experience in the specific technical field involved.
- (2) The registrant may accept an assignment requiring education or experience outside of the registrant's own field of competence, but only to the extent that such services are restricted to those phases of the project in which the registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees.
- (3) The registrant shall not affix the registrant's signature and/or seal to any plan or document dealing with subject matter in which the registrant lacks competence acquired through education or experience, nor to any plan or document not prepared by the registrant or under the registrant's responsibility.
- (4) In the event a question as to the competence of a registrant to perform a professional assignment in a specific technical field arises and cannot be otherwise resolved to the satisfaction of the Board of Examiners for Architects and Engineers, the Board, upon request of the registrant or by its own volition, may require the registrant to submit to whatever examination it deems appropriate.
- (5) In providing services, the registrant shall take into account all applicable Federal, State and Local building Laws and Regulations. The registrant shall not knowingly provide services resulting in violation of such laws and regulations.

(Rule 0120-02-.03, continued)

- (6) Incompetence. The following acts or omissions, among others, may be deemed to be "incompetence" pursuant to T.C.A. § 62-2-308(a)(1)(B), and to be cause for denial, suspension or revocation of a certificate of registration to practice architecture, engineering or landscape architecture and/or the imposition of any other lawful discipline:
 - (a) Malpractice. Incompetence includes, but is not limited to, recklessness, or excessive errors, omissions or building failures in the registrant's record of professional practice.
 - (b) Disability. Incompetence includes, but is not limited to, mental or physical disability or addiction to alcohol or drugs which leads to the impairment of the registrant's ability to exercise due skill and care in providing professional services so as to endanger the health, safety and welfare of the public.

Authority: T.C.A. §§ 62-2-203(c), 62-204, 62-2-308, and Public Acts of 1979, Chapter 263.

Administrative History: Original rule certified May 3, 1974. Amendment filed July 27, 1977; effective August 26, 1977. Amendment filed April 15, 1980; effective May 30, 1980. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed February 26, 1999; May 12, 1999. Amendment filed September 15, 2015; effective December 14, 2015.

0120-02-.04 PUBLIC STATEMENTS.

- (1) The registrant shall be completely objective and truthful in all professional reports, statements or testimony. The registrant shall include all relevant and pertinent information in such reports, statements or testimony.
- (2) The registrant, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of the registrant's testimony.
- (3) The registrant will issue no statements, criticisms or arguments on professional matters connected with public policy which are inspired or paid for by an interested party or parties, unless the registrant has prefaced the registrant's comments by explicitly identifying the registrant, by disclosing the identity of the party or parties on whose behalf the registrant is speaking, and by revealing the existence of any pecuniary interest the registrant may have in the instant matter.

Authority: T.C.A. §§ 62-204 and 62-2-203(c). **Administrative History:** Original rule certified May 3, 1974. Amendment filed July 27, 1977; effective August 26, 1977. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed September 15, 2015; effective December 14, 2015.

0120-02-.05 CONFLICTS OF INTEREST.

- (1) The registrant shall conscientiously strive to avoid conflicts of interest with his or her employer or his client; but, when such conflict is unavoidable, the registrant shall forthwith disclose the circumstances to his or her employer or client in writing.
- (2) The registrant shall avoid all known conflicts of interest with his or her employer or client, and shall promptly inform his or her employer or client in writing of any business association, interests or circumstances which could influence the registrant's judgment or the quality of the registrant's services.
- (3) The registrant shall not accept compensation (financial or otherwise) from more than one (1) party for services on or pertaining to the same project unless the circumstances are agreed to in writing by all interested parties prior to the acceptance of any such compensation.

(Rule 0120-02-.05, continued)

- (4) The registrant shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (5) When in public service as a member, advisor or employee of a governmental body or department, the registrant shall not participate in considerations or actions with respect to services provided by the registrant or the registrant's organization in private professional practices.
- (6) The registrant shall not solicit or accept any contract from a governmental body on which the registrant, or a principal or officer of the registrant's organization, serves as a member.
- (7) When acting as the interpreter of construction contract documents and the judge of construction contract performance, the registrant shall render decisions impartially, favoring neither party to the construction contract.

Authority: T.C.A. §§ 36-5-706, 62-2-203(c), 62-2-308, and 67-4-1704. **Administrative History:** Original rule certified May 3, 1974. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed March 9, 2007; effective May 23, 2007. Amendments filed September 16, 2008; effective November 30, 2008. Amendment filed November 7, 2015; effective February 15, 2015. A stay of the effective date was filed January 27, 2015; new effective date May 1, 2015.

0120-02-.06 ACCEPTANCE OF WORK.

- (1) The registrant shall not offer to pay, either directly or indirectly, any commission, political contribution, or a gift or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies.
- (2) The registrant shall not falsify or permit misrepresentation of the registrant's or the registrant's associates' academic or professional qualifications to a prospective or existing client or employer. The registrant shall not misrepresent or exaggerate the registrant's degree of responsibility in or for the subject matter of present or prior assignments.
 - (a) It shall be the responsibility of each registrant to clearly and appropriately state prior professional experience of the registrant and/or the firm the registrant is representing in presenting qualifications to prospective clients, both public and private. If a registrant uses visual representations of prior projects or experience, all registrants whose seal appears on plans, specifications and/or contract documents must be clearly identified.
 - (b) A registrant who has been an employee of another design firm may not claim unconditional credit for projects contracted for in the name of the previous employer. The registrant shall indicate, next to the listing for each project, that individual experience gained in connection with the project was acquired as an employee. Additionally, the registrant shall provide the time frame in which the project was performed, identify the previous design firm, and describe the nature and extent of the registrant's participation in the project.
 - (c) A registrant who was formerly a principal in a firm may legitimately make additional claims provided the registrant discloses the nature of ownership in the previous design firm (e.g., stockholder, director or officer) and identifies with specificity the registrant's responsibilities for that project.
 - (d) A registrant who presents a project that has received awards recognition must comply with the requirements of this rule with regard to project presentation to the public and prospective clients.

(Rule 0120-02-.06, continued)

- (e) Projects which remain unconstructed and which are listed as credit shall be listed as “unbuilt” or by a similar designation.
- (3) The registrant shall not request, propose, or accept a professional commission on a contingent basis under circumstances in which the registrant’s professional judgment may be compromised.

Authority: T.C.A. §§ 62-204 and 62-2-203(c). **Administrative History:** Original rule certified May 3, 1974. Amendment filed July 27, 1977; effective August 26, 1977. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed September 15, 2015; effective December 14, 2015.

0120-02-.07 MISCONDUCT.

- (1) The registrant shall not knowingly associate with, or permit the use of the registrant’s name or firm name in, a business venture by any person or firm which the registrant knows, or has reason to believe, is engaging in business or professional practice of a fraudulent or dishonest nature.
- (2) The registrant shall not furnish limited services in such a manner as to enable unregistered persons to evade:
 - (a) Federal, State and Local building laws and regulations, including building permit requirements; or
 - (b) Registration requirements of T.C.A. Title 62, chapter 2.
- (3) The registrant may not take over, review, revise, or sign or seal drawings or revisions thereof when such plans are begun by persons not properly registered and qualified; or do any other act to enable either such persons or the project owners, directly or indirectly, to evade the registration requirements of T.C.A. Title 62, Chapter 2.
- (4) The registrant may not make or promise to make contributions of money for the purpose of securing a commission or influencing the engagement or employment of the registrant for a project.
- (5) A registrant may be deemed by the Board to be guilty of misconduct in the registrant’s professional practice if:
 - (a) The registrant has pleaded guilty or nolo contendere to or is convicted in a court of competent jurisdiction of a felony or fails to report such action to the Board in writing within sixty (60) days of the action;
 - (b) The registrant’s license or certificate of registration to practice architecture, engineering or landscape architecture in another jurisdiction is revoked, suspended or voluntarily surrendered as a result of disciplinary proceedings or the registrant fails to report such action to the Board in writing within sixty (60) days of the action;
 - (c) The registrant fails to respond to Board requests and investigations within thirty (30) days of the mailing of communications, unless an earlier response is specified; or
 - (d) The registrant fails to comply with a lawful order of the Board.
 - (e) The registrant knowingly provides false testimony or information to the Board.
- (6) The registrant may not utilize the seal of another registrant without the other registrant’s knowledge and consent.

(Rule 0120-02-.07, continued)

Authority: T.C.A. §§ 62-2-203(c), 62-2-204, 62-2-212, and 62-2-308. **Administrative History:** Original rule certified May 3, 1974. Amendment filed April 15, 1980; effective May 30, 1980. Amendment filed November 18, 1983; effective December 18, 1983. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed February 26, 1999; effective May 12, 1999. Amendment filed March 9, 2007; effective May 23, 2007. Amendment filed December 11, 2012; effective March 11, 2013. Amendment filed November 17, 2014; effective February 15, 2015. A stay of the effective date was filed January 27, 2015; effective May 1, 2015. Amendment filed September 15, 2015; effective December 14, 2015. Amendments filed October 28, 2016; effective January 26, 2017.

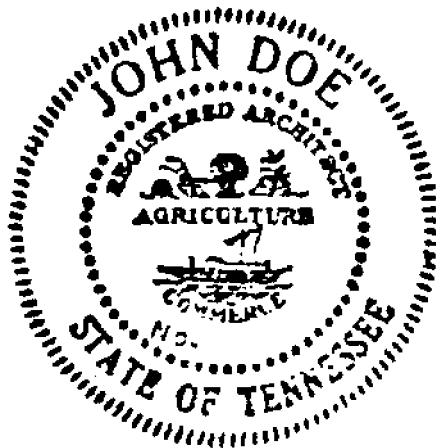
0120-02-08 SEALS.

(1) The design of the registrant’s seal required by T.C.A. § 62-2-306, shall be as follows:

(a) Engineer:

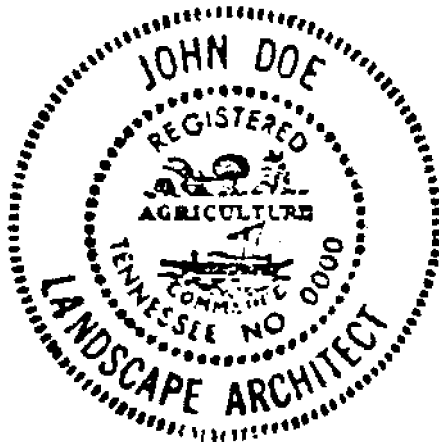


(b) Architect:



(c) Landscape Architect:

(Rule 0120-02-.08, continued)



- (2) The registrant shall stamp with the registrant's seal the following documents:
 - (a) All original sheets of any bound or unbound set of working drawings or plans; original sheets shall include tracings or other reproducible sheets;
 - (b) The original cover or index page(s) identifying all specification pages covered; and
 - (c) The original cover or index page(s) for design calculations that are submitted for review.
- (3) The registrant shall superimpose his signature (not a rubber stamp) and date of signature across the face and beyond the circumference of the seal on documents listed above.
- (4) When multiple registrants contribute to a project, each registrant shall sign and seal the portions of the project for which that registered consultant is responsible. When multiple registrants in responsible charge provide content on the same document, all such registrants should seal the document, and, if there is any question, a description of the areas of responsibility should be included. All registrants in responsible charge who work on a set of specifications are required to seal either the cover page of the specifications, or the cover page(s) for the section(s) of the specifications they produce.
- (5)
 - (a) No registrant shall affix his or her seal or signature to sketches, working drawings, specifications or other documents developed by others not under the registrant's responsible charge and not subject to the authority of that registrant in critical professional judgments.
 - (b) In circumstances where a registrant can no longer provide services on a project (such as death, retirement, disability, contract termination, etc.), a successor registrant may perform work on a set of plans originally prepared by another registrant. If the plans are incomplete (are at a stage prior to submittal to a reviewing official), the successor registrant may not seal the set of drawings prepared by the original registrant; rather, the successor registrant must take all steps necessary to ensure that the drawings were prepared under his or her responsible charge before sealing them. If the plans are complete and have been submitted to a reviewing official, the successor registrant may prepare and seal addenda sheets or document and seal changes to the original sheets if revisions are necessary.
- (6)
 - (a) Responsible Charge. Plans, specifications, drawings, reports or other documents will be deemed to have been prepared under the responsible charge of a registrant only when:

(Rule 0120-02-.08, continued)

1. The client requesting preparation of such plans, specifications, drawings, reports or other documents makes the request directly to the registrant, or to the registrant's employee at the time initial client contact is made, so long as the registrant has the right to control and direct the employee in the material details of how the work is to be performed;
 2. The registrant supervises and is involved in the preparation of the plans, specifications, drawings, reports or other documents and has input into and full knowledge of their preparation prior to their completion;
 3. The registrant reviews the final plans, specifications, drawings, reports or other documents; and
 4. The registrant has the authority to, and does, make any necessary and appropriate changes to the final plans, specifications, drawings, reports or other documents; and
 5. Contributions of information or predrawn detail items or detail units that are incidental to and intended to be integrated into a registrant's technical submissions are from trusted sources (including, but not limited to, manufacturers, installers, consultants, owners, or contractors), are subject to appropriate review, and are then coordinated and integrated into the design by the registrant.
- (b) Except as provided by Rule 0120-02-.08(5)(b), any changes made to the final plans, specifications, drawings, reports or other documents after final revision and sealing by the registrant are prohibited by any person other than the registrant, including but not limited to owners/clients, contractors, subcontractors, other design professionals, or any of their agents, employees or assigns.
- (c) Mere review of work prepared by another person, even if that person is the registrant's employee, does not constitute responsible charge unless the registrant has met the criteria set out above.
- (d) The intent of the definition of responsible charge may be met if all provisions of the definition are met using remote electronic or other communication means.
- (7) No registrant shall affix his seal or signature to documents having titles or identities excluding the registrant's name unless:
- (a) Such documents were indeed developed by the registrant or under the registrant's responsible charge; and
 - (b) The registrant has exercised full authority to determine their development.
- (8) (a) Subject to the requirements of this rule, rubber-stamp, embossed, transparent self-adhesive or electronically generated seals may be used. Such stamps or seals shall not include the registrant's signature or date of signature.
- (b) Subject to the requirements of this rule, the registrant may affix an electronically generated signature and date of signature to documents. When used, electronic signatures and dates of signature shall be placed either across the face and beyond the circumference of the seal or adjacent to the seal. Documents that are signed using a digital signature must have an electronic authentication process attached to or logically associated with the electronic document. The digital signature must be:

(Rule 0120-02-.08, continued)

1. Unique to the individual using it;
 2. Capable of verification;
 3. Under the sole control of the individual using it; and
 4. Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.
- (9) All working or partially completed plans, or any drawings that are not construction documents, shall be designated “preliminary – not for construction,” “for review only,” “draft,” or other designation clearly indicating that the drawings are not complete.

Authority: T.C.A. §§ 62-2-203(c), 62-2-306, 62-2-306(d), and 62-2-307(f). **Administrative History:** Original rule certified May 3, 1974. Repeal and new rule filed January 14, 1980; effective February 28, 1980. Amendment filed June 29, 1981; effective July 24, 1981. Amendment filed January 29, 1987; effective March 15, 1987. Amendment filed January 19, 1995; effective April 4, 1995. Amendment filed February 26, 1999; effective May 12, 1999. Amendment filed September 11, 2009; effective December 10, 2009. Amendment filed March 9, 2011; effective June 7, 2011. Amendments filed December 11, 2012; effective March 11, 2013. Amendment filed November 17, 2014; effective February 15, 2015. A stay of the effective date was filed January 27, 2015; effective May 1, 2015. Amendments filed October 28, 2016; effective January 26, 2017.

0120-02-.09 CIVIL PENALTIES.

- (1) With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such registrant for each separate violation of a statute, rule or order pertaining to the Board in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-2-306(b).....	\$500-1000
(b) T.C.A. § 62-2-308(a)(1)	\$500-1000
(c) Rule 0120-02-.02	\$500-1000
(d) Rule 0120-02-.03	\$500-1000
(e) Rule 0120-02-.04	\$500-1000
(f) Rule 0120-02-.05	\$500-1000
(g) Rule 0120-02-.06	\$500-1000
(h) Rule 0120-02-.07	\$500-1000
(i) Rule 0120-02-.08	\$500-1000
(j) Board Order	\$500-1000

- (2) With respect to any person required to be registered in this state as an architect, engineer or landscape architect, the Board may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Violation	Penalty
(a) T.C.A. § 62-2-101	\$500-1000
(b) T.C.A. § 62-2-105(a)(1)	\$500-1000
(c) T.C.A. § 62-2-105(b)(1).....	\$500-1000
(d) T.C.A. § 62-2-601	\$500-1000
(e) T.C.A. § 62-2-602	\$500-1000

- (3) Each day of continued violation may constitute a separate violation.

(Rule 0120-02-.09, continued)

- (4) In determining the amount of civil penalty to be assessed pursuant to this rule, the Board may consider such factors as the following:
 - (a) Whether the amount imposed will be a substantial economic deterrent to the violation;
 - (b) The circumstances leading to the violation;
 - (c) The severity of the violation and the risk of harm to the public;
 - (d) The economic benefits gained by the violator as a result of non-compliance;
 - (e) The interest of the public;
 - (f) Prior disciplinary action in any jurisdiction or repeated violations; and
 - (g) Self-reporting of the offense, cooperation with the Board's investigation, and any corrective action taken.

Authority: T.C.A. §§ 56-1-308, 62-2-105, 62-2-106, and 62-2-203(c). **Administrative History:** Original rule filed January 29, 1987; effective March 15, 1987. Amendment filed December 9, 1991; effective January 23, 1992. Amendment filed February 26, 1999; effective May 12, 1999. Amendment filed March 9, 2007; effective May 23, 2007. Amendment filed January March, 2011; effective June 7, 2011. Amendments filed October 28, 2016; effective January 26, 2017.

0120-02-.10 OTHER ENFORCEMENT ACTIONS.

With respect to any registrant, the Board may, in addition to or in lieu of any other lawful disciplinary action, take enforcement action against any registrant who is a respondent in a disciplinary case. Other enforcement actions may include, but are not limited to, the following:

- (1) Passage of a laws and rules examination with a minimum passing score of 80%;
- (2) Completion of additional, Board-assigned continuing education hours (with appropriate documentation required); or
- (3) Assignment of a probationary period with peer review of all technical work, accompanied by reporting requirements from the reviewer.

Authority: T.C.A. §§ 62-2-106 and 62-2-203(c). **Administrative History:** Original rule filed December 11, 2012; effective March 11, 2013. Amendments filed October 28, 2016; effective January 26, 2017.