

CALIFORNIA ARCHITECTS BOARD

FINAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Zero Net Carbon Design (ZNCD) Continuing Education (CE) for Architects

Section(s) Affected: Add Article 10, Section 166 to California Code of Regulations (CCR)¹, Title 16, Division 2.

Request for Early Effective Date:

The California Architects Board (Board) requests that this regulatory proposal become effective upon filing. Business and Professions Code (BPC) Section 5600.05 became effective on January 1, 2022, and since that date the Board has required licensees seeking license renewal to show proof of compliance with the CE requirements imposed by BPC Section 5600.05. BPC Section 5600.05(a)(2)(A) instructs the Board to promulgate regulations establishing the qualifications for courses and course providers by July 1, 2024. Both architects renewing their licenses and ZNCD CE providers require these regulations to be in place as soon as possible to better create and provide meaningful courses that will meet these regulatory requirements. Staff has received many inquiries seeking clarification of the requirements for CE courses and providers, which are implemented and made specific in this rulemaking. Having to wait until the next quarterly effective date would waste staff time and be a disservice to licensed architects and CE providers. For these reasons the Board respectfully requests an early effective date and that this rulemaking be implemented upon filing with the Secretary of State.

Updated Information:

In the Initial Statement of reasons under the discussion of the Anticipated benefits from this regulatory action, reference is made the United States Environmental Protection Agency (EPA) definition of environmental justice. The EPA definition was only provided as an example and was not intended to be the sole definition of environmental justice used in ZNCD courses.

The Board ZNCD CE regulatory proposal was originally approved by the Board at its June 8, 2022 meeting. The Notice documents was submitted to the Office of Administrative Law (OAL) on June 13, 2023, and [published](#) on June 23, 2023.

The 45-day public comment period closed on August 8, 2023, and the Board received seven comments. Of the seven, two were non-substantive – one asked for clarification if the regulation was in addition to, or a replacement for, the current disability access CE requirements; the other expressed support for the regulation and voiced a personal worry there would not be enough courses or programs available to meet the ZNCD CE requirement before their own license renewal. Staff responded to both comments clarifying for the first individual that the requirement is in addition to existing disability

¹ All CCR references are to title 16 unless otherwise noted.

access CE requirements and suggesting to the second individual that they conduct an internet search for zero net carbon CE courses and/or reach out to the American Institute of Architects (AIA) for information on courses. In addition to the five substantive comments received, Board staff and Department of Consumer Affairs Legal Affairs Division reviewed the language and identified a potential clarity issue. At the September 8, 2023, Board meeting, in response to the substantive concerns and potential clarity issue, the Board voted to modify the text and adopt the Modified text with the indicated modifications. The modifications to the text were as follows:

- In 16 CCR section 166(a)(1), added “, or an architect or engineer of a regulatory authority responsible for promulgation of building standards in the Title 24, Part 6, California Energy Code, or Title 24, Part 11, California Green Building Standards Code (CALGreen).” as the entities mentioned promulgate regulations and standards within CalGreen, which is mentioned as a zero net carbon CE coursework topic in the proposed text at 16 CCR section 166 subdivision (c), as was pointed out in a public comment.
- In CCR section 166(c) added the phrases “adaptive reuse” and “energy modeling” to the list of examples of acceptable CE course topics as it was pointed out in public comment these topics are specifically related to the design of zero net carbon buildings.
- In CCR section 166(f) added “(4) For purposes of this section, “demonstrable direct experience” is experience, established by documentary evidence such as signed plans, work contracts, or other documents that establish the individual’s direct involvement in the design process.” The addition defines demonstrable direct experience for clarity.

The Modified Text was sent out for public comment from September 12, 2023, to September 27, 2023. During this 15-day public comment period, the Board received no comments.

Local Mandate:

A local mandate is not imposed on local agencies or school districts.

Fiscal Impact:

The proposed regulations do not result in a fiscal impact to the state.

The Board has required licensees to complete CE courses and audited renewing licensees for compliance since 2009, under statutory authority. This proposal updates the Board’s regulations to be consistent with the existing practice and procedures and current law. Since the Board already ensures compliance with the existing CE requirements for licensed architects, the proposed regulations regarding ZNCD CE will not impact the Board’s current workload for CE compliance. Moreover, since the regulatory proposal makes clear that licensees subject to a CE audit have the responsibility to maintain their ZNCD CE records just as they do for their disability access CE records of course completion, there is no added workload for the Board. As a result, no additional workload or costs are anticipated.

Consideration of Alternatives:

The Board has determined that no reasonable alternative to the regulatory proposal considered by the Board or otherwise identified and brought to its attention would be either more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons, and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Objections or Concerns Received During 45-Day Public Comment Period and Board Responses:

The following objections or concerns were received regarding the proposed action during the 45-day public comment period. All comments were considered by the Board; and changes to the text were deemed necessary in response. The summarized comments and Board responses are as follows:

Summary of Comment One (1):

Mr. Leddy, on behalf of the AIA California, made three different recommendations to the proposed language within his written comment.

The first recommendation is to modify proposed 16 CCR section 166(c) to add the phrases “adaptive reuse” and “energy modeling” to the list of examples of acceptable CE course topics.

Proposed Response: The Board accepts this modification and will modify the language accordingly.

The second recommendation was to modify proposed 16 CCR section 166(f)(1) to include the job titles of “energy remodeler” and “high-performance building design professional” to the list of approved trainers or educators.

Proposed Response: The Board finds that there is no regulating body that issues a license to or registers energy modelers or high-performance building design professionals. The proposed language in 16 CCR section 166(f)(1) specifies that the trainer must hold a license or registration issued by a United States jurisdiction. The Board requires qualified, credentialed trainers with the specialized knowledge required to teach these required CE courses. Consequently, the Board chooses not to make any changes to the proposed language at 16 CCR section 166(f)(1).

The third recommendation was to strike proposed 16 CCR section 166(f)(3), removing the International Code Council (“ICC”) California Certification Program certificate holders with demonstrable direct experience in carbon neutral and/or high-performance buildings who are also either a CALGreen Inspector/Plans Examiner, California Commercial Building Inspector, or California Building Plans Inspector.

Proposed Response: The Board believes the specific ICC credential listed in this subsection, coupled with the requirement to have experience in carbon neutral and/or high-performance buildings, means that such an instructor will have sufficient expertise to effectively teach appropriate CE courses. Additionally, the Board is concerned that removal of this subparagraph will create a lack of qualified credentialed trainers. The requirement of this subsection is that the trainers hold an unexpired ICC certification, which the Board will be able to verify once appropriate documentation is submitted to the Board if needed for an audit as defined in Business and Professions Code section 5600.05. Consequently, the Board chooses not to remove proposed 16 CCR section 166(f)(3).

Summary of Comment Two (2):

Ms. Clair and Mr. Day both recommended including additional state regulatory entities within California as acceptable educators or trainers for the CE requirement by adding “or the qualified personnel of a regulatory authority responsible for promulgation of building standards in Title 24, Part 6, California Energy Code, or Title 24, Part 11, California Green Building Standards Code (CALGreen)” to 16 CCR section 166 subdivision (a) subparagraph (1). Ms. Clair and Mr. Day both noted their respective entities promulgate regulations and standards within CalGreen, which is mentioned as a zero net carbon CE coursework topic in the proposed text at 16 CCR section 166 subdivision (c).

Proposed Response: The Board accepts this modification but chooses to clarify the phrase “the qualified personnel” by replacing it with the phrase “an architect or engineer” and will modify the language accordingly.

Summary of Comment Three (3):

Mr. Siwy and Ms. Conway both expressed concerns about the high standards required for trainers and the potential for a lack of a sufficient number of individuals who qualify as trainers or educators. Ms. Conway specifically requested that the category “Worked in the Sustainability department for a building material/product manufacturer for (3) years” be added to the regulatory text as another source of acceptable trainers and educators.

Proposed Response: The Board set the requirements of qualified trainers and educators to ensure material presented is pertinent to the practice of architecture and the provision of an architect’s professional services related to zero net carbon design. The coursework is best provided by individuals who possess the required expertise and background in the area with demonstrable direct experiences in the field or direct responsibility for teaching these requirements in an educational setting. Consequently, the Board chooses to not modify the standards to include individuals who have worked for a manufacturer as trainers or educators.

During the 15-day public comment period, the Board received no additional comments.