

**TITLE 16 California Architects Board  
DEPARTMENT OF CONSUMER AFFAIRS**

**INITIAL STATEMENT OF REASONS**

**Hearing Date:** The California Architects Board has not scheduled a hearing on the proposed changes. However, a hearing will be scheduled upon request by any interested party if the request is received no later than 15 days prior to the close of the written comment period.

**Subject Matter of Proposed Regulations:** Filing of Applications

**Section(s) Affected:** Section 109 Article 2 of Division 2 of Title 16 of the California Code of Regulations (CCR)

**Background and Statement of the Problem:**

The Board was created in 1901 by the California State Legislature. The Board is responsible for discipline of architects and enforcement of the Architects Practice Act (Act) (Business and Professions Code (BPC) section 5510.1). BPC section 5510.1 mandates that the protection of the public shall be the highest priority of the Board in its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with the other interests sought to be promoted, the protection of the public shall be paramount.

BPC section 5526 authorizes the Board, in accordance with the Administrative Procedure Act (APA) (Government Code (Gov. Code) section 11400 et seq.), to adopt, amend, or repeal rules and regulations that are reasonably necessary to carry out the provisions under the Act. Gov. Code section 11425.50, subsection (e), provides that a penalty in an administrative disciplinary action may not be based on a guideline, criterion, bulletin, manual, instruction, order, standard of general application, or other rule unless it has been adopted as a regulation in accordance with the APA.

The Board's Filing of Applications regulation, 16 CCR section 109, was created to describe the requirements for licensure and explain how to apply. The existing regulation named specific versions of internship programs and incorporated Board forms by reference. 16 CCR section 109 was last updated in 2016 when specific guidelines were updated.

The current guidelines, forms, and requirements for licensure are obsolete and do not represent the current requirements for licensure. Additionally, new requirements for application expediting and discipline were passed into law and need to be reflected in regulation. Since the applications must be amended to accurately reflect Board requirements, 16 CCR section 109 must also be amended to incorporate by reference the revised application and experience credit form as adopted by the Board at its May 19

and September 8, 2023 meetings.

**Anticipated benefits from this regulatory action:**

This proposal would provide clarifying and simplified language specific to the filing of an application for an architect license in California. The Board would make requirements for licensure consistent for all applicants and remove outdated language. It would also increase the number of years that the Board retains forms and other supporting documents thus providing candidates a longer period of time to complete all licensing requirements before needing to resubmit materials. Language would be included clarifying what documentation is needed to expedite an application for military applicants.

**Specific purpose of, and rationale for, each adoption, amendment, or repeal:**

1. Amend the title to 16 CCR section 109

**Purpose:** The title of this regulation section is amended by adding “Requirements for Licensure and.”

**Anticipated Benefit/Rationale:** Adding the phrase “Requirements for Licensure and” to the title of 16 CCR 109 clarifies the breadth of information contained in this amended regulation section.

2. Amend 16 CCR section 109, subsection (a)

**Purpose:** Subsection (a), paragraph (1) updates the text to use gender neutral language by removing the reference to “his or her.” Subsection (a), paragraph (2) inserts a colon after “An ‘inactive candidate’ shall mean a candidate who” to clarify the readability for the two options applying to an inactive candidate. Subsection (a), paragraph (3) inserts a colon after “‘Active in the examination process’ shall mean that there has not been a period of five or more years since” to clarify the readability for the two options applying to that definition. Subsection (a), paragraph (4) removes outdated information by deleting subsection (a)(4).

**Anticipated Benefit/Rationale:** Gender neutral language is preferred pursuant to Assembly Concurrent Resolution 260, Chapter 190, September 5, 2018. The rationale for gender-neutral language is to avoid word choices which may be interpreted as biased, discriminatory, or demeaning. Adding colons more clearly identifies the differing options available to the term inactive candidate and what it means to be active in the examination process. The term “re-examinee” is no longer used or relevant to the licensing process. Removing the definition of a term no longer being used is necessary for clarity.

3. Amend 16 CCR section 109, subsection (b)

**Purpose:** Subsection (b) is adding “Examination” to its name to clarify the subparagraphs that follow are for the examination process.

**Anticipated Benefit/Rationale:** Adding “examination” will clarify to readers that the requirements set forth under subsection (b) apply to the examination application process, and not the license application.

4. Amend 16 CCR section 109, subsection (b), paragraph (1)

**Purpose:** Subsection (b), paragraph (1) removes outdated language related to establishing a National Council of Architectural Registration Boards (NCARB) Record and the Intern Development Program (IDP) to reflect the changes in the process of applying to the Board for eligibility for the Architect Registration Exam (ARE) and adds a comma before and after the clause “prior to eligibility.”

**Anticipated Benefit/Rationale:** All candidates are presently required to establish an NCARB Record which allows them to schedule ARE testing and record work experience hours. Because candidates are no longer required to separately enroll in an IDP, the language concerning IDP enrollment was removed for clarity. The Board anticipates that this revision will also eliminate the need for new regulatory language if/when NCARB changes its experience-based program name in the future. Candidates without an NCARB Record are unable to schedule examinations or record experience, therefore this is required for all candidates. The language regarding July 1, 2008, is struck in both places it occurs to establish consistent requirements for all applicants and to remove obsolete language.

5. Amend 16 CCR section 109, subsection (b), paragraph (2)

**Purpose:** Subsection (b) paragraph (2) removes language specifying candidates who are only applying for ARE eligibility, adds a comma before and after the clause “prior to licensure,” and updates the reference to the NCARB IDP by removing “IDP” and replacing it with “NCARB-administered experience-based program.” Also removed are the reference to the NCARB specific document title and edition in, “as defined in the most recent edition of NCARB’s *Intern Development Guidelines* (currently the July 2015 edition),” the parenthetical phrase “(currently the January 2012 edition),” and the language incorporating both of those documents by reference. Language exempting candidates from the experience-based program requirement is being removed.

**Anticipated Benefit/Rationale:** The language that was deleted clarifies that all licensure candidates must complete the experience-based program, simplifies the language in the paragraph, and eliminates the need for new regulatory language if/when NCARB modifies the referenced documents in the future. Additionally, removing the exemption for candidates who applied or completed education equivalents prior to January 1, 2005, is done to establish consistent requirements for all applicants and remove obsolete language.

6. Amend 16 CCR section 109, subsection (b), paragraph (3)

**Purpose:** A colon is added after the phrase “A new or inactive candidate shall submit,” and the remaining requirements are re-lettered as (A), (B), and (C). Subsection (b)

paragraph (3), new subparagraph (A) adds the phrase “the non-refundable fee specified in Section 144.” Subparagraph (B) is amended to remove the version date on the Application for Eligibility Evaluation 19C-1 form and adds the language “which shall be accepted on a continuous basis and contain.” Language and numbering are added to describe the required elements of the Application for Eligibility Evaluation: subparagraph (B)(i) adds “the applicant’s NCARB record number;” (B)(ii) adds “the legal name of the applicant and any other known names;” (B)(iii) adds “the applicant’s address and email address;” (B)(iv) adds “the applicant’s home and work telephone numbers, and;” and (B)(v) adds “the applicant’s date of birth and social security number or individual taxpayer identification number” and strikes “and accompanied by such.” Subsection (b) paragraph (3), subparagraph (C) deletes the words, “required herein. Such supporting documents may” and adds “which shall” and “, if applicable:” after “include.” Numbering is added to clarify the supporting documents. In new subparagraph (C)(i), “current and valid” is struck and “by” is struck and replaced with “from”. In new subparagraph (C)(ii), “or included as part of an NCARB Record” is added. In new subparagraph (C)(iii) the Employment Verification Form version is updated. After the addition of new subparagraphs (D) and (E), extraneous language relating to the fee for ARE eligibility is struck.

**Anticipated Benefit/Rationale:** The structural changes to section (3) are all done for clarity. Extraneous language is removed as it is unnecessary due to the structural changes. Information about the applications being accepted on a continuous basis is moved from a floating paragraph further down in the document and placed here as part of the new structure. “Current and valid” is removed from subparagraph (C) (i) because it is unnecessary – when an NCARB Record and an Internship in Architecture Program (IAP) Record are transmitted, the current documents are sent. IDP file is being struck from that same subparagraph because IDP no longer exists and when documentation is sent from NCARB, they transmit an NCARB Record. Certified original transcripts are sent to NCARB when candidates submit documentation as part of their NCARB Record, and the Board can access those documents. Removing the version number of the Application for Eligibility Evaluation in subparagraph (C)(iii) and adding the required items for that application will allow the Board more flexibility as it transitions to an online accessible application while still maintaining a physical application for those who require one.

#### 7. Add 16 CCR section 109, subsection (b), paragraph (4)

**Purpose:** To inform applicants that, as required by BPC section 115.4, honorably discharged active-duty members of the Armed Forces of the United States who provide the Board with a copy of their DD-214 (Certificate of Release or Discharge from Active duty) will have their application review expedited.

**Anticipated Benefit/Rationale:** The Board finds that the most efficient way to follow the requirements of BPC section 115.4 is to set out in regulation the documentation to be provided so applicants and Board staff know what documentation is required to expedite the review of that individual’s application.

8. Add 16 CCR section 109, subsection (b), paragraph (5)

**Purpose:** Adding language to this paragraph to clarify the documentation required to obtain an expedite and fee waiver pursuant to BPC section 115.5.

**Anticipated Benefit/Rationale:** Existing law does not specify the documentation required to obtain the military expedite pursuant to BPC section 115.5. This paragraph would address that issue. Subparagraph (A) is necessary to clarify the necessary documentation to be supplied by the applicant to ensure they meet the criteria for a military expedited application as allowed by BPC section 115.5(b). Subparagraph (1) requires the applicant provide proof of marriage to, or a certified declaration of domestic partnership with, an active-duty member of the Armed Forces. This official documentation is required to verify that the candidate seeking expeditious processing of their application meets the requirements of BPC section 115.5(a)(1).

Subparagraph (B) requires the applicant provide a copy of the military orders establishing that their spouse's or partner's duty station is in California. This requirement is necessary to verify that the spouse or partner has received official documentation that requires them to move to California, a further requirement of BPC section 115.5(a)(1).

Subparagraph (C) requires verification that the applicant is actively licensed in another United States jurisdiction. This is completed by requiring the jurisdiction of licensure to provide information that clearly identifies the licensee, such as their full legal name, license type and number, name and location of the licensing jurisdiction, and issuance and expiration date of the license. With this information, Board staff is able to verify the applicant possesses a current and valid license, as required in BPC section 115.5(a)(2) for expedited processing.

9. Add 16 CCR section 109, subsection (b), paragraph (6)

**Purpose:** To inform applicants that if they are a refugee, an asylee, or have a special immigrant visa with the status as specified by BPC section 135.4 and they provide the Board with evidence of that status, Board staff will expedite the review of their application and may assist such an applicant with the licensure process.

**Anticipated Benefit/Rationale:** The Board finds that the most efficient way to follow the requirements of BPC section 135.4 is to set out in regulation the types of status that, if an applicant provides evidence of that status, Board staff will expedite the review of that person's application and may assist them with the licensure process.

10. Amend 16 CCR 109, subsection (b), paragraph (7)

**Purpose:** Subsection (a), paragraph (7) updates text to gender neutral language removing the reference to "his or her." Additionally, numbering is updated and language specific to verification of experience for examinations is struck and replaced with a reference to where eligibility requirements are listed in 16 CCR section 116.

**Anticipated Benefit/Rationale:** Gender neutral language is preferred pursuant to Assembly Concurrent Resolution 260, Chapter 190, September 5, 2018. The rationale for gender-neutral language is to avoid word choices which may be interpreted as biased, discriminatory, or demeaning. Reference to 16 CCR section 116 is included to alleviate any confusion as to how much and what kind of experience is needed for examination eligibility. Extraneous language is struck to remove duplicate language and reduce confusion as to what is required for examination eligibility. Numbering is also updated for continuity.

11. Amend 16 CCR section 109, subsection (b), paragraph (8)

**Purpose:** Subsection (a), paragraph (8) removes language similarly struck in subparagraph (b)(2) related to IDP, adds language clarifying where to find ARE eligibility requirements, strikes obsolete language related to transmitting testing eligibility and a requirement in place since July 1, 1999. Numbering is updated and language is also added clarifying candidates test through their NCARB Record.

**Anticipated Benefit/Rationale:** Reference to 16 CCR section 116 is included to alleviate any confusion as to how much and what kind of experience is needed for examination eligibility. Extraneous language is struck to remove duplicate language and reduce confusion as to what is required for examination eligibility and how to remain active in the examination process. Language regarding applications submitted before July 1, 1999 is struck to establish consistent requirements for all applicants and remove obsolete language. Numbering is also updated for continuity.

12. Amend 16 CCR section 109, subsection (b), paragraph (9)

**Purpose:** Subsection (a), paragraph (9) numbering is updated for consistency.

**Anticipated Benefit/Rationale:** Numbering is updated for continuity.

13. Amend 16 CCR 109, subsection (b), paragraph (10)

**Purpose:** Subsection (a), paragraph (10) adds a colon after “shall prior to licensure” and renumbers the remaining requirements. Language is removed referring to IDP and IAP and instead directs applicants to the requirements in subsection (b), paragraph (2), and language is added to clarify there is path for foreign licensees in 16 CCR section 121. An “(s)” is added to architect to allow for candidates to obtain experience under more than one architect. Numbering under subparagraph (B) is updated, extraneous language is eliminated, and clarification is added directing candidates to 16 CCR section 117 to determine equivalents.

**Anticipated Benefit/Rationale:** The structural changes here are all done for clarity. Extraneous language is removed as it is unnecessary due to structural changes. Subparagraph (A) adds language referring to the requirements in subsection (b)(2) and related to 16 CCR section 121 where there is an available pathway in place for foreign licensees. Subparagraph (B)(iv) adds language referring to Section 117 for clarity as to

where to find equivalents and removes language no longer used. Numbering is also updated for continuity.

14. Amend 16 CCR section 109, subsection (b), paragraph (11)

**Purpose:** Subsection (a), paragraph (11) numbering is updated, extraneous language regarding an effective date is eliminated, and options available to candidates are clarified by citing to 16 CCR section 121 for an optional licensure pathway.

**Anticipated Benefit/Rationale:** Language is added citing 16 CCR section 121 as the location of information about an available pathway in place for foreign licensees. Language regarding applications submitted starting January 1, 2005, is struck to establish consistent requirements for all applicants and remove obsolete language. Numbering is also updated for continuity.

15. Repeal 16 CCR section 109, existing subsections (c), (d), & (e)

**Purpose:** Existing subsections (c), (d), and (e) are being repealed.

**Anticipated Benefit/Rationale:** Existing subsection (c), (d), and (e) are being deleted because they contain obsolete language. The Board no longer has re-examinee candidates, so the reference to that is being struck in subsection (a). Subsection (d) is being removed because a candidate's NCARB Record possesses both an examination and experience component, and all candidates are required to have an NCARB Record. Subsection (e) is being removed because all candidates are required to have an active NCARB Record to take a division of the ARE, regardless of when they applied. Removing these obsolete sections will assist in making clear the requirements for licensure.

16. Amend 16 CCR section 109, subsection (f)

**Purpose:** Existing subsection (f) is being re-lettered as subsection (c), duplicated language is deleted, and language directing candidates to subsection (b)(3) is added.

**Anticipated Benefit/Rationale:** Duplicated language was removed and a reference that candidates follow the requirements in subsection (b)(3) was added to reduce confusion and clarify how an inactive candidate shall reapply.

17. Add 16 CCR section 109, subsection (d)

**Purpose:** Re-labeling as subsection (d) the floating paragraph after former subsection (f), revising existing language regarding retention of submitted documents for clarity and updating the period of time the Board will retain documents from two to seven years.

**Anticipated Benefit/Rationale:** Re-lettering existing language adds clarity to the Board's requirements regarding retention of submitted documentation. Increasing the length of time the Board will retain submitted documentation aligns with the Board's retention schedule and allows additional time for candidates to submit an application

after they have earned and submitted experience.

18. Add 16 CCR section 109, subsection (e)

**Purpose:** Adding language in this subsection to clarify how applicants with a license or registration in another jurisdiction apply for licensure as an architect in California.

**Anticipated Benefit/Rationale:** Existing law has requirements for candidates who are licensed in another jurisdiction but does not specify the application that must be submitted. New subsection (e) is necessary to provide clarity to candidates who are licensed or registered as an architect in another United States jurisdiction who wish to apply for an architect license in California.

19. Add 16 CCR section 109, subsection (f)

**Purpose:** Adding language in this subsection to clarify that all applicants must complete the California Supplemental Examination (CSE) prior to licensure and where to find examination requirements.

**Anticipated Benefit/Rationale:** Adds clarity by stating that the CSE is required for licensure and directs candidates where to find information on examination and eligibility requirements.

20. Add 16 CCR section 109, subsection (g)

**Purpose:** Adding language in this subsection to clarify the licensure fingerprinting requirement and adding subparagraphs (1)-(5) to clarify what fee is required and what information is required in the licensure application.

**Anticipated Benefit/Rationale:** Existing law does not specify the contents of the application for licensure or what the Board deems a “completed” application. This proposal would address those issues. Subsection (g) is necessary to establish the requirements to be eligible for an architect license. The fingerprint requirement for licensure is established by BPC section 5552.1. Paragraph (1)’s specification that the application includes the “Fee specified in section 144 for an original license,” and no other fee, is necessary to clarify for licensees that there is no separate charge for a wall certificate and that payment of the fee is a required element of applying for licensure. Subsection (g), paragraphs (2)-(6), inclusive, require an applicant for a license to provide the information needed for the Board to verify the identity of the individual within the Board’s system, so that the Board may correctly issue the architect license and wall certificate. In other words, the information is necessary for the Board to accurately examine the Board’s records to determine whether the applicant has met all requirements for licensure.

Subparagraph (2) requires the applicant’s social security number (SSN) or individual taxpayer identification number (ITIN) and is necessary for staff to accurately identify the applicant.



Subparagraph (3) requires the applicant's full legal name, defined as first, middle, last name and suffix, and is necessary to confirm the licensee's identification because the licensee's full legal name can then be matched to the SSN or ITIN. Subparagraph (3) requires the applicant to provide their legal name as they would like it to appear on their license and is necessary so staff can put the preferred version of the individual's name on the license and provide accurate information to the public regarding the identity of the licensee and reduce requests for corrected certificates from applicants.

Subparagraph (4) requires the applicant's current address of record and phone numbers and gives them the option to provide their email address, however, all other items are both necessary and essential for the Board to communicate with them regarding any issues during the processing of the application, and to mail the architect license and wall certificate to the individual.

Subparagraph (5) requires the applicant to disclose whether they have been disciplined by a public agency in any state or country. This is required to ensure the Board is aware of any and all disciplinary actions that may influence its decision to renew a license or take any disciplinary action allowed by BPC section 5577. The applicant is also informed they may provide a statement of explanation for any discipline reported.

Subparagraph (6) requires the applicant to sign a statement under penalty of perjury that the information they have provided on the application is true and correct and is necessary to ensure that applicants provide accurate information. As a part of the Board's consumer protection mandate and for the benefit of all licensees, the Board does not want to issue architect licenses to those who do not qualify for the status and title. Architect license applicants need to know that if the information they provide the Board is materially false they could be charged with perjury, a felony offense (Penal Code section 115). In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Board (since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate, or complete information), and provides the Board with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is determined to not be true, complete, or accurate. ["The oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true." *In re Marriage of Reese & Guy* (1999) 73 Cal.App.4th 1214, 1223 [holding modified by *Laborde v. Aronson* (2001) 92 Cal.App.4th 459]

### **Underlying Data**

1. January 27, 2016 NCARB Press Release
2. June 29, 2016 NCARB Launches Architectural Experience Program
3. June 9, 2016 Board Meeting Agenda, relevant Materials, and Meeting Minutes
4. October 18, 2017 Professional Qualification Committee Meeting Agenda, relevant

Materials, and Meeting Minutes

5. June 12, 2019 Board Meeting Agenda, relevant Materials, and Meeting Minutes
6. May 19, 2023 Board Meeting Agenda, relevant Materials, and Meeting Minutes
7. September 8, 2023 Board Meeting Agenda, relevant Materials, and Meeting Minutes
8. Business and Professions Code section 115.5
9. Business and Professions Code section 135.4

**Business Impact:**

The Board has made the initial determination that the proposed regulations will not have statewide adverse economic impact directly affecting businesses including the inability of California businesses to compete with businesses in other states. The proposed regulations clarify existing requirements.

**Economic Impact Assessment:**

This regulatory proposal will have the following effects:

It will not create or eliminate jobs within the State of California because it only clarifies licensing requirements.

It will not create new business or eliminate existing businesses within the State of California because it only applies to individuals who are seeking licensure in the state.

It will not affect the expansion of businesses currently doing business within the State of California because it only applies to individuals who are not yet licensed to practice.

This regulatory proposal will bring the licensure requirements in California consistent with the national standards, which will benefit the health, safety, and welfare of Californians.

This regulatory proposal does not affect worker safety because it does not involve worker safety.

This regulatory proposal does not affect the state's environment because it does not involve the environment.

**Specific Technologies or Equipment:**

This regulation does not mandate the use of specific technologies or equipment.

## **Fiscal Impact Assessment**

The Board does not anticipate an increase in workload because this regulatory proposal does not impose any new requirements. This regulatory proposal clarifies the existing application process and the required documentation for architectural licensure. The Board does not anticipate additional workload or costs resulting from the proposed regulations.

## **Consideration of Alternatives:**

The Board has made an initial determination that no reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome 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.

## **Description of reasonable alternatives to the regulation that would lessen any adverse impact on small business:**

No such alternatives have been proposed, however, the Board welcomes comments from the public.