

**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: Reciprocity Requirements

Section(s) Affected: Sections 121 and 124 Article 3 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 the discipline of architects and enforcement of the Architects Practice Act (Act) (Business and Professions Code (BPC) section 5510.1). BPC section 5510.15 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, subdivision (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 reciprocity regulation, 16 CCR section 121, was created to describe the licensure requirements for those candidates who already possess a license in another jurisdiction. The existing regulation names specific pathways for National Council of Architectural Registration Boards (NCARB) certification and incorporates Board forms by reference. 16 CCR section 121 was last updated in 2014 when a now non-existent NCARB program was available.

The current guidelines and requirements for licensure are unclear, obsolete, and do not represent the current requirements for licensure. Elimination of a foreign licensure pathway to licensure offered by NCARB and consolidation of that pathway into an existing program will allow the Board to simplify and clarify requirements for foreign licensed or registered candidates who seek reciprocal licensing with the Board.

The Board's California Supplemental Examination (CSE), at 16 CCR section 124, was created to describe the process to apply for and retake the CSE. The existing regulation does not specify the information asked for in the application to take the CSE, nor does it specify a fee is required or where the fee can be located in regulation, and those oversights are being corrected in this regulatory proposal.

Anticipated benefits from this regulatory action:

This proposal would provide clarifying and simplified language regarding filing of an application for an architect license in California for foreign licensed or registered applicants. The Board would make requirements for licensure for foreign licensed or registered applicants consistent with the licensure requirements for all applicants and remove outdated language.

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

1. Amend the title to 16 CCR section 121

Purpose: The title of this regulation section is amended by removing "Form of Examinations;" and adding "California" and "Licensure Requirements."

Anticipated Benefit/Rationale: Removing "Form of Examinations;" and adding "California" and "Licensure Requirements." to the title of 16 CCR section 121 clarifies the breadth of information contained in this amended regulation section.

2. Amend 16 CCR section 121

Purpose: The floating paragraph stating that all candidates are required to take and pass the Architect Registration Examination (ARE) and California Supplemental Examination (CSE) is being struck.

Anticipated Benefit/Rationale: The language is being struck for clarity as it does not pertain to the contents of this regulatory section.

3. Amend 16 CCR section 121, subsection (a) paragraph (1)

Purpose: Subsection (a), paragraph (1) adds "or registered," the numeral five in parenthesis (5), adds "to apply" and "as specified in Section 109(g), the abbreviation "(CSE), and strikes "of these regulations." A sentence is added that directs applicants entitled to a fee waiver under BPC Section 115.5 to the documentary requirements set out elsewhere in regulation.

Anticipated Benefit/Rationale: Not all jurisdictions license architects, so adding language about registered architects clarifies that unintended oversight and includes those with a registration allowing them to practice architecture in a foreign jurisdiction. The numeral five in parenthesis (5) is added for clarity. The phrases "to apply" and "as specified in Section 109(g)" are added for clarity and are necessary to inform reciprocity applicants that they must still take and pass the California Supplemental Examination

(CSE) by citing to that requirement in the regulation section regarding the CSE. CSE is added in parenthesis for clarity so that the abbreviation can be used subsequently in this regulation section. The phrase “of these regulations” is removed as it is unnecessary language. The sentence directing applicants that qualify under BPC section 115.5 to 16 CCR section 109(b)(5) is necessary to alert such applicants to the documents that must accompany their application if they wish to have review of their application expedited and the fee waived.

4. Amend 16 CCR section 121, subsection (a) paragraph (2)

Purpose: Subsection (a) paragraph (2) adds language clarifying that this subsection applies to a candidate “who is licensed or registered as an architect in another United States jurisdiction and does not meet the qualifications set forth in subsection (a)(1).” Also added for clarification is the phrase: “as specified in Section 109(g), pass the CSE as specified in Section 124 and submit.” The documents that must be submitted are listed as subparagraphs (A) and (B) with sub-subparagraphs labeled with Roman numerals under subparagraph (B) for clarity.

Obsolete language referencing the Intern Development Program (IDP) and Internship in Architecture Program (IAP) is being struck. candidates from the experience-based program requirement is being removed. Language, “License verification(s) from each jurisdiction where the candidate has possessed a license” is being added.

Anticipated Benefit/Rationale: The language being added clarifies that this subparagraph is intended for U.S. licensed or registered architects who do not have the five or more years of experience required or have passed an NCARB exam comparable to the ARE under subsection (a), and clarifies that before applying for licensure, these candidates must also complete the CSE in accordance with the regulation section regarding the CSE. Placing the required documentation in subparagraphs and sub-subparagraphs makes clear what is required to be submitted. As stated in subparagraph (A), “A current and valid NCARB Certification transmitted directly by NCARB” is required by the Board from all applicants applying for licensure, and the direct transmission from NCARB eliminates the risk of forged documents being submitted. As stated in sub-subparagraph (B)(i), the requirement of proof of licensure or registration in another U.S. jurisdiction is necessary to establish the applicant qualifies for a license based on reciprocity. As stated in sub-subparagraph (B)(ii), the requirement of “License verification(s) from each jurisdiction where the candidate has possessed a license” is necessary so that the Board receives notice of any action that may have been taken against the license(s). It allows the Board to be certain that the applicant’s license(s) are currently valid with no conditions or restrictions placed on their license(s) in other jurisdictions as a result of enforcement actions. As stated in sub-subparagraph (B)(iii), the requirement of documentation of five years of architectural experience or the equivalent, as specified in Section 117 is necessary, in part, to meet the Board’s 8-year experience requirement for CSE eligibility and was previously listed as a requirement under subsection (a) former paragraph (2) part (2)(C).

As stated in sub-subparagraph (B)(iv), the requirement of completion of an experience-based program or documented three years of post-licensure practice in another U.S. jurisdiction is necessary to, in part, meet the Board's 8-year experience requirement for CSE eligibility and licensure, and was previously listed as a requirement under subsection (a) former paragraph (2) part (1).

5. Delete 16 CCR section 121, subsection (a) former paragraph (2)

Purpose: All of subsection (a), former paragraph (1) is being removed as it is no longer needed.

Anticipated Benefit/Rationale: Obsolete language referencing the Intern Development Program (IDP) and Internship in Architecture Program (IAP) is being struck, along with accompanying document requirements that are completely outdated. The forms that were incorporated by reference are no longer needed for this obsolete method of reciprocity licensure. The Employment Verification Form has been updated in another rulemaking at Section 103(b)(3)(C)(iii), and the remaining requirements have been clearly identified in paragraph (2), sub-paragraphs (A) and (B).

6. Amend 16 CCR section 121, subsection (b), paragraph (1)

Purpose: Adding "licensed or" as not all foreign countries register architects. Striking "Canadian province" and adding "foreign country" as this subsection will cover all foreign reciprocity candidates. Replacing "National Council of Architectural Registration Boards," with the acronym NCARB, replacing "California Supplemental Examination," with the acronym CSE. The phrases "eligible to apply" and "as specified in Section 109(g)" are added and the phrase "of these regulations" is struck.

Anticipated Benefit/Rationale: The changes being made in this subsection will apply equally to all candidates from any foreign country. Language adding "licensed or" is added because not all countries only register architects. The long spellings of NCARB and CSE are being removed and replaced by the acronyms because the acronyms were already defined earlier in this section.

The phrases "eligible to apply" and "as specified in Section 109(g)" are added for clarity and are necessary to inform reciprocity applicants that they are not eligible for licensure until they take and pass the California Supplemental Examination (CSE). Adding a citation to Section 124 clarifies where candidates must look to find the regulation section regarding the CSE, which is also being amended in this rulemaking.

The phrase "of these regulations" is removed as it is unnecessary language.

7. Remove 16 CCR section 121, subsection (b), paragraphs (2) and (3)

Purpose: Remove text relating specifically to United Kingdom registered architects in paragraph (2) and remove text related to completing the Broadly Experienced Foreign Architect (BEFA) Program for foreign architects in paragraph (3).

Anticipated Benefit/Rationale: The BEFA program referenced in paragraph (3) was discontinued by NCARB several years ago and the foreign licensee reciprocity program now has a path to obtain an NCARB Certificate. This is also the requirement that was listed in paragraph (2) for United Kingdom registered architects. Therefore, neither paragraph is necessary anymore, since only the NCARB Certification requirement applies to all foreign architects.

8. Amend 16 CCR section 124, subsection (b)

Purpose: Remove unnecessary text “of these regulations” and add text “as prescribed in Section 144” and “which shall contain:” to clarify Board requirements

Anticipated Benefit/Rationale: Clarifying language and specifying the location of the CSE fee will assist candidates determine requirements to apply for the CSE.

9. Add 16 CCR section 124, subsection (b), subparagraphs 1-4

Purpose: Add the required items that are required to be on the CSE application.

Anticipated Benefit/Rationale: Clarifying language and specifying the location of the CSE fee will assist candidates determine requirements to apply for the CSE. Subparagraph (1) specifies “the applicant’s legal name” which will assist the Board in ensuring the correct individual will receive the application. Subparagraph (2) specifies “the applicant’s address and email address” to ensure the candidate receives the application at their identified address. Subparagraph (3) adds “the applicant’s home and work telephone numbers, and” to ensure the Board has the correct contact telephone numbers. Subparagraph (4) adds “the applicant’s Board identification number” to further clarify the intended candidate with their Board specific record number. All of these additions are added to the candidate’s application to ensure only the intended candidate receives the information and for their review to ensure the information is correct and current.

Underlying Data

1. NCARB Summary of Vote on Resolutions 2015
2. NCARB Press Release Dated May 5, 2016
3. December 1, 2023 Board Meeting Agenda, relevant Materials, and Minutes

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 reciprocity 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 via reciprocity 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 reciprocity 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 reciprocity architecture license candidates. 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.