
Engineering Ethics for North Carolina Professional Engineers

Course No: NC3-002

Credit: 3 PDH

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Chapter 1

Overview of the North Carolina Engineering Ethics, Laws and Rules

Engineering Ethics

Engineering ethics is (1) the study of moral issues and decisions confronting individuals and organizations involved in engineering and (2) the study of related questions about moral conduct, character, ideals and relationships of peoples and organizations involved in technological development (Martin and Schinzinger, *Ethics in Engineering*).

North Carolina Board of Examiners for Engineers and Land Surveyors

The North Carolina Board of Examiners for Engineers and Land Surveyors (Board) is organized under the provisions of The North Carolina Engineering and Land Surveying Act, Chapter 89C of the North Carolina General Statutes (G.S 89C). The Board consists of four Professional Engineers, three Professional Land Surveyors, and two Public Members, appointed by the Governor of the State of North Carolina. Members of the Board serve for staggered five-year terms, and no member may be appointed more than two full terms.

The Board reviews applications, administers examinations, licenses qualified applicants, and regulates the professional practice of the licensees throughout the State. The Board investigates alleged violations of provisions of the licensure law.

The Board is responsible for the administration and regulation of the professions of engineering and land surveying in North Carolina. The Board has the authority to implement provisions of the North Carolina Engineering and Land Surveying Act: Chapter 89C, NCGS and the NC Board Rules: Title 21, Chapter 56, NCAC.

North Carolina General Statutes

The North Carolina General Statutes are a collection of state laws organized by subject area into a code made up of chapters. Chapter 89C, "Engineering and Land Surveying Act" was created by the North Carolina General Assembly in the interest of public health and safety to regulate the practice of engineering in the State of North Carolina. It is continuously updated by laws that create, amend, or repeal statutory material. The North Carolina General Statutes state the law followed by the history of the law which indicates when the law was originally filed and subsequent effective dates of enactment.

Pertinent sections of Chapter 89C, which relate to the code of professional conduct and responsibility, are presented in Chapter 2 below.

North Carolina Administrative Code

The North Carolina Administrative Code is a compilation of the rules and regulations of the North Carolina regulatory agencies. It is organized by titles and chapters with each chapter number representing a department, commission, board or other agency. Title 21, Chapter 56 of the rules was created and is continuously updated by the North Carolina State Board of Examiners for Engineers and Land Surveyors. The Board rules state the rule followed by the history of the rule which indicates when the rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date.

Pertinent sections of Title 21, Chapter 56, which relate to the code of professional conduct and responsibility, are presented in Chapter 3 below.

North Carolina Board Disciplinary Authority

The North Carolina Board of Examiners for Engineers and Surveyors is charged with the responsibility of administering the provisions of the North Carolina Engineering and Land Surveying Act (G.S. 89C), which includes promoting the general welfare and protecting the public by safeguarding life, health and property.

In addition to evaluating candidates for licensure and administering examinations, the Board investigates alleged violations of provisions of the licensure law. Any person may submit evidence of unlawful practice of engineering or land surveying, or fraud, deceit, gross negligence, incompetence, misconduct or violations of the Board Rules against any individual licensee or any business holding a certificate of authorization.

The Board has the authority to levy a civil penalty not in excess of five thousand dollars (\$5,000) for any engineer or not in excess of two thousand dollars (\$2,000) for any land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), are remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

The disciplinary process of the North Carolina Board of Examiners for Engineers and Land Surveyors is illustrated in Chapter 4 below. Several disciplinary cases, presented in Chapter 5 below, were selected at random to further illustrate the disciplinary actions taken by the Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.

Chapter 2

NC General Statutes - Chapter 89C

Chapter 89C: Engineering and Land Surveying Act

The following are excerpts from Chapter 89C of the North Carolina General Statutes. If you wish to review the entire chapter, please visit the website of the North Carolina Board at:

<http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl?Chapter=0089C>

§ 89C-20. Rules of professional conduct.

In the interest of protecting the safety, health, and welfare of the public, the Board shall adopt rules of professional conduct applicable to the practice of engineering and land surveying. These rules, when adopted, shall be construed to be a reasonable exercise of the police power vested in the Board of Examiners for Engineers and Land Surveyors. Every person licensed by the Board shall subscribe to and observe the adopted rules as the standard of professional conduct for the practice of engineering and land surveying and shall cooperate fully with the Board in the course of any investigation. In the case of violation of the rules of professional conduct, the Board shall proceed in accordance with G.S. 89C-22.

(1975, c. 681, s. 1; 1987, c. 827, s. 73; 1998-118, s. 18.)

§ 89C-21. Disciplinary action – Reexamination, revocation, suspension, reprimand, or civil penalty.

(a) The Board may reprimand the licensee, suspend, refuse to renew, refuse to reinstate, or revoke the certificate of licensure, require additional education or, as appropriate, require reexamination, for any engineer or land surveyor, who is found guilty of any of the following:

(1) Fraud or deceit in obtaining or renewing a certificate of licensure or certificate of authorization.

(2) Gross negligence, incompetence, or misconduct in the practice of the profession.

(3) Conviction of, or entry of a plea of guilty or nolo contendere to, any crime that is a felony, whether or not related to the practice of engineering or surveying; conviction of, or entry of a plea of guilty or nolo contendere to, any crime, whether a felony, misdemeanor, or otherwise, where an essential element of the crime is dishonesty or when the crime is directly related to the practice of engineering or surveying; or conviction of, or entry of a plea of guilty or nolo contendere, of any crime involving moral turpitude.

(4) Violation of any provisions of this Chapter, the Rules of Professional Conduct, or any rules as adopted by the Board.

(5) Being declared insane or incompetent by a court of competent jurisdiction and having not later been lawfully declared sane or competent.

(6) Professional incompetence. In the event the Board finds that a certificate holder is incompetent the Board may, in its discretion, require oral or written examinations, or other indication of the certificate holder's fitness to practice engineering or land surveying and suspend the license during any such period.

(b) The Board may (i) revoke a certificate of authorization, or (ii) to suspend a certificate of authorization for a period of time not exceeding two years, of any corporation or business firm where one or more of its officers or directors have committed any act or have been guilty of any conduct which would authorize a revocation or suspension of their certificates of licensure under the provision of this section.

(c) The Board may levy a civil penalty not in excess of five thousand dollars (\$5,000) for any engineer or not in excess of two thousand dollars (\$2,000) for any land surveyor who violates any of the provisions of subdivisions (1) through (4) of subsection (a) of this section. The clear proceeds of all civil penalties collected by the Board, including civil penalties collected pursuant to G.S. 89C-22(c), shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

(d) Before imposing and assessing a civil penalty and fixing the amount, the Board shall, as a part of its deliberation, take into consideration the following factors:

(1) The nature, gravity, and persistence of the particular violations;

(2) The appropriateness of the imposition of a civil penalty when considered alone or in combination with other punishment;

(3) Whether the violation(s) were done willfully and maliciously; and

(4) Any other factors which would tend to either mitigate or aggravate the violation(s) found to exist.

(1921, c. 1, s. 10; C.S., s. 6055(l); 1939, c. 218, s. 2; 1951, c. 1084, s. 1; 1953, c. 1041, s. 10; 1957, c. 1060, s. 5; 1973, c. 1331, s. 3; 1975, c. 681, s. 1; 1989, c. 669, s. 1; 1993 (Reg. Sess., 1994), c. 671, s. 6; 1998-118, s. 19; 1998-215, s. 134; 2003-347, s. 2; 2011-304, s. 5.)

§ 89C-22. Disciplinary action – Charges; procedure.

(a) Any person may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct, or violations of this Chapter, the rules of professional conduct, or any rules adopted by the Board against any Board licensee. The charges shall be in writing and shall be sworn to by the person or persons making them and shall be filed with the Board.

(b) All charges, unless dismissed by the Board as unfounded or trivial or unless settled informally, shall be heard by the Board as provided under the requirements of Chapter 150B of the General Statutes.

(c) If, after a hearing, a majority of the Board votes in favor of sustaining the charges, the Board shall reprimand, levy a civil penalty, suspend, refuse to renew, refuse to reinstate, or

revoke the licensee's certificate, require additional education or, as appropriate, require reexamination.

(d) A licensee who is aggrieved by a final decision of the Board may appeal for judicial review as provided by Article 4 of Chapter 150B.

(e) The Board may, upon petition of an individual or an entity whose certificate has been revoked, for sufficient reasons as it may determine, reissue a certificate of licensure or authorization, provided that a majority of the members of the Board vote in favor of such issuance.

(1921, c. 1, s. 10; C.S., s. 6055(l); 1939, c. 218, s. 2; 1951, c. 1084, s. 1; 1953, c. 1041, s. 10; 1957, c. 1060, s. 5; 1973, c. 1331, s. 3; 1975, c. 681, s. 1; 1981, c. 789; 1989, c. 669, s. 2; 1993 (Reg. Sess., 1994), c. 671, s. 7; 1998-118, s. 20; 2011-304, s. 6.)

§ 89C-23. Unlawful to practice engineering or land surveying without licensure; unlawful use of title or terms; penalties; Attorney General to be legal adviser.

Any person who shall practice, or offer to practice, engineering or land surveying in this State without first being licensed in accordance with the provisions of this Chapter, or any person, firm, partnership, organization, association, corporation, or other entity using or employing the words "engineer" or "engineering" or "professional engineer" or "professional engineering" or "land surveyor" or "land surveying," or any modification or derivative of those words in its name or form of business or activity except as licensed under this Chapter or in pursuit of activities exempted by this Chapter, or any person presenting or attempting to use the certificate of licensure or the seal of another, or any person who shall give any false or forged evidence of any kind to the Board or to any member of the Board in obtaining or attempting to obtain a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall attempt to use an expired or revoked or nonexistent certificate of licensure, or who shall practice or offer to practice when not qualified, or any person who falsely claims that the person is registered under this Chapter, or any person who shall violate any of the provisions of this Chapter, in addition to injunctive procedures set out hereinbefore, shall be guilty of a Class 2 misdemeanor. In no event shall there be representation of or holding out to the public of any engineering expertise by unlicensed persons. It shall be the duty of all duly constituted officers of the State and all political subdivisions of the State to enforce the provisions of this Chapter and to prosecute any persons violating them.

The Attorney General of the State or an assistant shall act as legal adviser to the Board and render any legal assistance necessary to carry out the provisions of this Chapter. The Board may employ counsel and necessary assistance to aid in the enforcement of this Chapter, and the compensation and expenses for the assistance shall be paid from funds of the Board.

(1921, c. 1, s. 12; C.S., s. 6055(n); 1951, c. 1084, s. 1; 1975, c. 681, s. 1; 1993, c. 539, s. 612; 1994, Ex. Sess., c. 24, s. 14(c); 1998-118, s. 21.)

§ 89C-25.1. Supervision of unlicensed individuals by licensed person.

In all circumstances in which unlicensed individuals are permitted under this Chapter to perform engineering or land surveying work, or both, under the supervision of a licensed engineer, land surveyor, or both, the Board may by regulation establish a reasonable limit

on the number of unlicensed individuals which a licensee of the Board may directly or personally supervise at one time.

(1979, c. 819, s. 5; 1998-118, s. 24.)

Chapter 3

NC Administrative Code - Title 21, Chapter 56

Title 21, Chapter 56: Board Rules

The following are excerpts from Title 21, Chapter 56 of the North Carolina Administrative Code. If you wish to review the entire chapter, please visit the website of the North Carolina Board at:

<http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 21 - Occupational Licensing Boards and Commissions\Chapter 56 - Engineers and Surveyors>

SECTION .0700 – RULES OF PROFESSIONAL CONDUCT

21 NCAC 56 .0701 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the Rules of Professional Conduct in this Rule are adopted in accordance with G.S. 89C-20 and are binding upon every person holding a certificate of licensure as a Professional Engineer or Professional Land Surveyor (licensee), and on all business entities authorized to offer or perform engineering or land surveying services in this state. All persons licensed under the provisions of Chapter 89C of the General Statutes are charged with having knowledge of the Board Rules, including the Rules of Professional Conduct, and are deemed to be familiar with their provisions and to understand them.

(b) A licensee shall conduct the practice in order to protect the public health, safety and welfare. The licensee shall at all times recognize the primary obligation to protect the public in the performance of the professional duties. If the licensee's engineering or land surveying judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the licensee shall inform the employer, the client, the contractor, other affected parties and any appropriate regulatory agency of the possible consequences of the situation.

(c) A licensee shall perform services only in areas of the licensee's competence and:

(1) Shall undertake to perform engineering and land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved;

(2) May accept an assignment or project requiring education or experience outside of the licensee's own field of competence, but only to the extent that the services are restricted to those portions or disciplines of the project in which the licensee is qualified. All other portions or disciplines of such project shall be performed by associates, consultants, or employees who are licensed and competent in those portions or disciplines;

(3) Shall not affix the signature or seal to any engineering or land surveying plan or document dealing with subject matter for which the licensee lacks competence by virtue of education or experience, nor to any such plan or document not prepared under the licensee's direct supervisory control. Direct supervisory control (responsible charge) requires a licensee or employee to carry out all client contacts, provide internal and external financial control, oversee employee training, and exercise control and supervision over all job requirements to include research, planning, design, field supervision and work product review. Direct supervisory control may be accomplished face to face or by other means of communication. A licensee shall not contract with a non-licensed individual to provide these professional services. Research, such as title searches and soil testing, may be contracted to a non-licensed individual, provided that individual is qualified or licensed to provide such service and provided the licensee reviews the work. The licensee may affix the seal and signature to drawings and documents depicting the work of two or more professionals provided it is designated by a note under the seal the specific subject matter for which each is responsible; and

(4) In circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a design plan signed and sealed by an out-of-jurisdiction licensee (not a site adaptation of a standard design plan under Rule 21 NCAC 56 .1106) a successor licensee may take responsible charge by performing and documenting all professional services to include developing a design file including work or design criteria, calculations, code research, and any necessary and appropriate changes to the work. The non-professional services, such as drafting, need not be redone by the successor licensee but must distinguish in a clean and obvious manner and accurately reflect the successor licensee's work. The burden is on the successor licensee to show such compliance. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

(d) A licensee shall issue public statements only in an objective and truthful manner and:

(1) Shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony;

(2) 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 licensee's testimony;

(3) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the licensee has prefaced the comment by explicitly identifying the licensee's name, by disclosing the identities of the party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the matters; and

(4) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. Indiscriminate criticism includes statements without valid basis or cause or that are not objective and truthful or that fail to include all relevant and pertinent information. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such

information shall be presented to the North Carolina Board of Examiners in the form of a complaint.

(e) A licensee shall avoid conflicts of interest and:

(1) Shall inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances which could influence judgment or the quality of services;

(2) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;

(3) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;

(4) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the licensee is responsible;

(5) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or the licensee's firm in private engineering and land surveying practices;

(6) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the licensee's firm serves as a member; and

(7) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.

(f) A licensee shall solicit or accept work only on the basis of qualifications and:

(1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;

(2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;

(3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.); and

(4) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded, unless it is stated that no degree or certificate was awarded. The licensee shall not misrepresent degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not

misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.

(g) A licensee shall perform services in an ethical manner, as required by the Rules of Professional Conduct (21 NCAC 56 .0701), and in a lawful manner and:

(1) Shall not knowingly associate with or permit the use of the licensee's name or firm name in a business venture by any person or firm which the licensee knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed; and

(2) If the licensee has knowledge or reason to believe that another person or firm may be in violation of the Board Rules (21 NCAC 56) or of the North Carolina Engineering and Land Surveying Act (G.S. 89C), shall present such information to the Board in writing in the form of a complaint and shall cooperate with the Board in furnishing such further information or assistance as may be required by the Board. The licensee shall timely respond to all inquiries and correspondence from the Board and shall timely claim correspondence from the U. S. Postal Service, or other delivery service, sent to the licensee from the Board. Timely is defined as within the time specified in the correspondence, or if no time is specified, within 30 days of receipt. Certified mail is timely claimed if prior to being returned by the Post Office to the Board office.

(h) A Professional Engineer or Professional Land Surveyor who has received a reprimand or civil penalty or whose professional license is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's action constitutes a violation of G.S. 89C or the rules adopted by the Board.

History Note: Authority G.S. 89C-17; 89C-20; Eff. February 1, 1976; Readopted Eff. September 29, 1977; Amended Eff. September 1, 2011; May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; November 2, 1992; April 1, 1989; January 1, 1982; March 1, 1979; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .0702 RULES OF CONDUCT OF ADVERTISING

(a) The Professional Engineer or Professional Land Surveyor shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, or other public communications.

(b) The prohibitions listed in Paragraph (a) of this Rule include, but are not limited to, the use of statements containing a material misrepresentation of fact or omitting a material fact necessary to keep the statement from being misleading; statements intended or likely to create an unjustified expectation; and statements containing a prediction of future success.

(c) Consistent with the foregoing, the Professional Engineer or Professional Land Surveyor may advertise for recruitment of personnel.

(d) Consistent with the foregoing, the Professional Engineer or Professional Land Surveyor may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

*History Note: Authority G.S. 89C-20;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. August 1, 2000; August 1, 1998; April 1, 1989; March 1, 1979;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

SECTION .1100 - SEAL

21 NCAC 56 .1101 GENERAL

It is misconduct for a Professional Engineer or Professional Land Surveyor to seal work done by another individual unless the work is performed under the "responsible charge" of the Professional Engineer or Professional Land Surveyor.

*History Note: Authority G.S. 89C-3(10); 89C-10; 89C-16;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. August 1, 2000; April 1, 1989; December 1, 1984; January 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 56 .1102 DESIGN

The standard design of the seal shall be two concentric circles in which North Carolina and the name of the licensee are placed within the outermost circle and in which the license number of the licensee and either "Professional Engineer" or "Professional Land Surveyor," is placed within the innermost circle. The size shall be 1 ½ to 1 ¾ inches in diameter.

*History Note: Authority G.S. 89C-10; 89C-16;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998; April 1, 1989; January 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 56 .1103 STANDARD CERTIFICATION REQUIREMENTS

(a) Certification of Final Drawings. Drawings or maps not subject to the exceptions in Paragraph (c) of this Rule shall conform to the following:

- (1) Certification is required on reproducibles or original drawings;
- (2) The seal may be a rubber stamp, embossed seal, computer-generated seal, or other facsimile that becomes a permanent addition to a plan sheet or map;
- (3) The licensee's written signature must be placed over, or adjacent to, the seal on the original document. A facsimile signature is not acceptable;
- (4) The date of signing must be annotated on the original document;
- (5) All sheets of engineering and surveying drawings must be certified;

(6) The name, address and license number of the licensee's firm shall be included on each sheet of engineering drawings. For surveys, the name, address and license number of the licensee's firm shall be included on the first sheet of the survey or title sheet. The individual license number of the sole proprietor shall be used as the license number for an exempt sole proprietorship that meets the requirements of 21 NCAC 56 .0802(b)(1); and

(7) Any revision on a drawing after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(b) Certification of Specifications and Reports. All specifications, reports, or other documents, including letter reports and calculations, not subject to the exceptions in Paragraph (c) of this Rule shall conform to the following:

(1) Certification is required on original specifications, reports, or other documents, including letter reports and calculations;

(2) The seal may be a rubber stamp, or other facsimile;

(3) The licensee's written signature must be placed over, or adjacent to, the seal on the original document. A facsimile signature is not acceptable;

(4) The date of signing must be annotated on the original document;

(5) The title sheet of engineering specifications or other reports must be certified and bear the name, address and license number of the licensee's firm. The title sheet of any survey report or written description of property shall include the name, address and license number of the licensee's firm. The individual license number of a sole proprietor shall be used as the license number for an exempt sole proprietorship that meets the requirements of 21 NCAC 56 .0802(b)(1); and

(6) Any revision in the document after a licensee's certification is affixed shall be described and dated and if not done under the responsible charge of the same licensee shall be separately certified.

(c) Exceptions to Required Certification. The certification of a licensee on a map, drawing, plan, specification, plat, document, or report shall signify that it is the final work of the licensee unless the work is stamped or marked substantially as follows so as to put the public on notice not to use as a final product, in which case certification is optional:

(1) "Preliminary - Do not use for construction";

(2) "Progress Drawings - Do not use for construction";

(3) "Preliminary Plat - Not for recordation, conveyances, or sales";

(4) "Final Drawing - Not released for construction";

(5) "Final Drawing - For Review Purposes Only";

(6) "Not a Certified Document – This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document shall not be considered a certified document";

(7) "Not a Certified Document as to the Original Document but Only as to the Revisions - This document originally issued and sealed by (name of licensee), (license number), on (date of sealing). This document is only certified as to the revisions".

(d) Electronically Transmitted Documents. Documents, including drawings, specifications and reports, that are transmitted electronically beyond the direct control of the licensee shall have the computer-generated seal removed from the original file, unless signed with a digital signature as defined in Paragraph (e) of this Rule. After removal of the seal the electronic media shall have the following inserted in lieu of the signature and date: "This document originally issued and sealed by (name of sealer), (license number), on (Date of sealing). This medium shall not be considered a certified document." Hardcopy documents containing the original seal, signature and date of the licensee may be duplicated by photocopy or electronic scanning processes and distributed either in hardcopy or electronic medium. The scanned digital files of certified documents are not subject to the requirements of this Paragraph. The electronic transmission beyond the direct control of the licensee of CAD, vector or other files subject to easy editing are subject to the requirements of this paragraph. Easy editing is based on the file consisting of separate elements that can be individually modified or deleted. Documents that are excepted from certification by a statement meeting the requirements of Subparagraphs (c)(1) through (c)(5) of this Rule are not subject to the requirements of this Paragraph.

(e) Documents to be electronically transmitted beyond the direct control of the licensee that are signed using a digital signature, shall contain the authentication procedure in a secure mode and a list of the hardware, software and parameters used to prepare the document(s). Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached to or logically associated with an electronic document. The digital signature shall be:

(1) Unique to the licensee using it;

(2) Capable of verification;

(3) Under the sole control of the licensee; and

(4) Linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.

(f) A digital signature process may be submitted to the Board for approval that it meets the criteria set forth in Subparagraphs (e)(1) through (4) of this Rule. The licensee shall confirm that if another process is used, that it meets the criteria.

History Note: Authority G.S. 89C-10; 89C-16;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 2011; July 1, 2009; May 1, 2009; August 1, 2002; August 1, 2000; August 1, 1998; February 1, 1996; May 1, 1994; April 1, 1989; December 1, 1984; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1105 FIRM SEAL

The use of a seal by a firm is not required for certification. A firm seal is not authorized for use in lieu of the required seal of a Professional Engineer or Professional Land Surveyor. When a firm seal is used, it does not relieve the individual licensee of the requirements and responsibilities pertaining to the individual's seal.

History Note: Authority G.S. 89C-10; 89C-16; 89C-25;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 2000; August 1, 1998; May 1, 1994; January 1, 1982;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1106 CERTIFICATION OF STANDARD DESIGN PLANS

Standard design plans that were initially prepared and certified by an individual who is a licensed engineer in the state of origin of such plans (including North Carolina) may then be reviewed by a North Carolina Professional Engineer for code conformance, design adequacy, and site adaptation for the specific application within North Carolina. The reviewing Professional Engineer who is licensed in North Carolina assumes responsibility for such standard designs. Standard plans, which bear the seal of the original design engineer who is a licensed engineer in another state, or North Carolina, shall be sealed by the reviewing North Carolina Professional Engineer who is assuming responsibility. In addition to the seal, a statement shall be included as follows: "These plans have been properly examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and have been properly site adapted for use in this area."

History Note: Authority G.S. 89C-10; 89C-16;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; August 1, 2000; August 1, 1998; April 1, 1989; December 1, 1984; January 1, 1982;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

SECTION .1300 – BOARD DISCIPLINARY PROCEDURES

21 NCAC 56 .1301 IMPROPER PRACTICE BY A LICENSEE

(a) General. Licensee practice that may violate the rules of this Chapter or G.S. 89C is subject to Board investigation and disciplinary action by the Board.

(b) Preferring Charges. Any person who believes that any licensed Professional Engineer, Professional Land Surveyor, or business holding a certificate of licensure is in violation of the provisions of G.S. 89C or the rules in this Chapter may prefer charges against that person or business, in the form of a complaint, completed to the best of that individual's knowledge and belief, along with providing corroborative evidence that helps support the charges. An optional complaint form is provided by the Board to aid in filing the complaint.

(c) Preliminary Review:

(1) Upon receipt of a filed charge that meets requirements of G.S. 89C and the rules of the Board a case shall be opened. Other information indicating that a licensee is in violation of

the provisions of G.S. 89C or the rules of the Board may be a basis for opening a case by the Board.

(2) A field investigation may be performed if determined necessary by the Executive Director in order to obtain additional information and evidence.

(3) If the Executive Director determines that the charges are corroborated by evidence, a written notice and explanation of the charge shall be forwarded to the person or business against whom the charge is made and a response requested, within 15 days, to show compliance with G.S. 89C and the rules of the Board for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt request.

(4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee, made up of the following individuals:

(A) one member of the Board who is licensed in the respective profession;

(B) the legal counsel of the Board; and

(C) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.

(5) Upon review of the evidence, the review committee shall:

(A) recommend that the Board dismiss the charge as unfounded or trivial;

(B) when the charge is admitted as true, recommend that the Board accept the admission of guilt by the person charged and order that person not to commit in the future the specific act or acts admitted and also not to violate any of the provisions of the Board rules or the statutes at any time in the future;

(C) present the charge, whether admitted or denied, to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or

(D) whether the charge is admitted or denied, give written notice to the licensee that:

(i) sufficient evidence exists which, if not rebutted or explained, would justify the Board in taking an action set out in Rule .1402(4) through (12) of this Chapter;

(ii) stating the nature of the evidence; and

(iii) that unless the licensee, within 20 days after service of said notice, deposits in the mail a certified letter addressed to the Board and containing a request for a hearing or settlement conference, that it will recommend that the Board take the action(s) specified in the notice, set out in Rule .1402(4) through (12) of this Chapter.

(d) Consultant. A consultant to the review committee shall be designated by the Board Chair if a board member is a complainant, witness, or respondent in a case. The consultant shall be a licensed professional engineer or professional land surveyor, depending on the nature of the case. The consultant shall review all case materials and make a recommendation for

consideration by the review committee as to the merits of the case. The consultant shall review any new information presented in the event of a settlement conference and make a recommendation to the settlement conference committee.

(e) Board Decision. When the review committee proceeds pursuant to Parts (c)(5)(A) or (B) of this Rule, upon approval of the Board, notice shall be given to the party against whom the charges have been brought and the party submitting the charge. The Board is not required to notify the parties of the reasons of the Board in making its decision.

(f) Settlement Conference. When the review committee proceeds pursuant to Parts (c)(5)(C) or (D) of this Rule, the licensee may request in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the completion of a settlement conference, the licensee and Board's settlement committee do not agree to a resolution of the dispute for the full Board's consideration, the original administrative proceeding shall commence. During the course of the settlement conference, no sworn testimony shall be taken, nor shall any witnesses be cross-examined.

(1) The Board's settlement committee shall be made up of the following individuals:

(A) the member of the Board who served on the review committee or a replacement member if the member is not available;

(B) one public member from the Board;

(C) the legal counsel of the Board; and

(D) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.

(2) Upon review of the evidence, the settlement committee shall:

(A) recommend that the Board dismiss the charge as unfounded or trivial;

(B) when the charge is admitted as true, recommend the Board accept the admission of guilt by the person charged and order the person not to commit in the future the specific act or acts admitted and, also, not to violate any provisions of the Board Rules or the statutes at any time in the future;

(C) direct that the charge, whether admitted or denied, be presented to the full Board for a hearing and determination by the Board on the merits of the charge in accordance with the substantive and procedural requirements of the provisions of Section .1400 of this Chapter and the provisions of G.S. 150B; or

(D) recommend that the Board approve a settlement agreed to by the licensee and proposed by the settlement conference committee.

*History Note: Authority G.S. 89C-10; 89C-21; 89C-22;
Eff. February 1, 1976; Readopted Eff. September 29, 1977;
Amended Eff. August 1, 2011; July 1, 2009; May 1, 2009; August 1, 2000; August 1, 1998;
March 1, 1996; April 1, 1989; December 1, 1984; January 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. July 1, 2020.*

21 NCAC 56 .1302 UNLAWFUL PRACTICE BY AN UNLICENSED PERSON

(a) General. Alleged unlawful practice by an unlicensed person shall be subject to Board investigation and enforcement, to include applying for relief by injunction or referral to an agency of the State for appropriate legal action.

(b) Preferring Charges. Any person who believes that any person or business (party) is in violation of the acts specified in G.S. 89C may prefer charges against that person or business, in the form of a complaint, completed to the best of that individual's knowledge and belief, in the form of a complaint, along with providing corroborative evidence that helps support the charges. An optional complaint form is provided by the Board to aid in filing the complaint.

(c) Preliminary Determination:

(1) Upon receipt of a filed charge that meets requirements of G.S. 89C and the rules of the Board a case shall be opened. Other information indicating that a party is in violation of the provisions of G.S. 89C or the rules of the Board may be a basis for opening a case by the Board.

(2) A field investigation may be performed if determined necessary by the Executive Director in order to obtain additional information and evidence.

(3) If the Executive Director determines that charges are corroborated by evidence, a written notice and explanation of the charge shall be forwarded to the person or business against whom the charge is made and a response is requested, within 15 days, to show compliance with G.S. 89C. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.

(4) After preliminary evidence has been obtained, the matter shall be referred to the Board's review committee, which is made up of the following individuals:

(A) one member of the Board;

(B) the legal counsel of the Board; and

(C) the Executive Director of the Board or Assistant Executive Director if designated by the Executive Director.

(5) Upon review of the available evidence, the review committee shall recommend to the Board that:

(A) the investigation be continued and the party be notified with an explanation of the charge(s) and given an opportunity to provide a response to show compliance with G.S. 89C;

(B) the charge be dismissed as unfounded or trivial;

(C) a letter be issued informing of the possible violation of G.S. 89C and that further action may be pursued under G.S. 89C-23; or

(D) the matter be referred to an appropriate agency for necessary legal action.

(d) Board Decision. Notice of decision by the Board on recommendations of the review committee shall be given to the party submitting the charge.

*History Note: Authority G.S. 89C-10; 89C-23;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Amended Eff. August 1, 2011; August 1, 2000; August 1, 1998; May 1, 1994; April 1, 1989; January 1, 1982;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;
Amended Eff. July 1, 2020.*

SECTION .1400 - CONTESTED CASES

21 NCAC 56 .1401 GENERAL RULES

Whenever the Board, by its official action, acts in such a way as to affect the rights, duties, or privileges of a specific identified party, that party, upon request, will be given an administrative hearing.

*History Note: Authority G.S. 89C-10; 89C-21; 89C-22; 150B-38;
Eff. February 1, 1976;
Readopted Eff. September 29, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 56 .1402 OPPORTUNITY FOR LICENSEE OR APPLICANT TO HAVE HEARING

Every licensee or applicant for a license shall be afforded notice and an opportunity to be heard on any action, where the effect would be:

- (1) to deny permission to take an examination for licensing for which application has been duly made;
- (2) to deny a license based on comity;
- (3) to deny a license after an applicant has taken and passed an examination;
- (4) to require re-examination for licensing;
- (5) to withhold the renewal of a license for any cause other than failure to pay a statutory renewal fee;
- (6) to suspend a license;
- (7) to revoke a license;
- (8) to impose a civil penalty;
- (9) to issue a reprimand;
- (10) to refuse to renew;

(11) to refuse to reinstate; or

(12) to require additional education.

*History Note: Authority G.S. 89C-10; 89C-21; 89C-22; 150B-38;
Eff. February 1, 1976;*

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 2014; April 1, 1989; January 1, 1982;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1403 NOTICE OF CONTEMPLATED BOARD ACTION: REQUEST FOR HEARING

When the Board takes an action specified in Subparagraphs (1), (2) or (3) of Rule .1402 of this Section, it shall give the applicant a written statement:

(1) that the applicant failed to meet the qualifications to be examined or to be issued a license;

(2) stating the specific deficiencies as to why the applicant failed; and

(3) that unless the applicant, within 20 days after service of the notice, deposits in the mail a certified letter addressed to the Board and containing a request for a hearing, the Board's action will become final.

In any Board proceeding involving the denial of an application to take an examination, or refusal to issue a license after an applicant has taken and passed an examination, the burden of satisfying the Board of the applicant's qualifications shall be upon the applicant.

*History Note: Authority G.S. 89C-10; 89C-21; 89C-22; 150B-38;
Eff. February 1, 1976;*

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 1998; December 1, 1984; January 1, 1982;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019;

Amended Eff. July 1, 2020.

21 NCAC 56 .1409 CONDUCT OF CONTESTED CASE

(a) Failure to Appear:

(1) If a party served with notice requests a hearing within the time required and fails to appear without having notified the Board, and no continuance or adjournment is ordered, the party is considered to have waived the right to appear at the hearing and the Board may proceed with the hearing in the party's absence.

(2) If the absent party is the only party other than the Board, the Board may proceed with the hearing and make its decision in the party's absence.

(3) Continuances and adjournments shall be granted to a party only in compelling circumstances and for hardship noted.

(4) If a hearing is conducted or a decision reached in the absence of a party, that party may petition the Board for a reopening of the case. Petitions will not be granted, except when petitioner can show that the reasons for the failure to appear were justifiable and that fairness requires reopening of the case. The decision made by the Board will be in writing. A copy will be sent to the petitioner and made a part of the record of the contested case.

(b) Simplification of Issues. The parties to a contested case may agree in advance to simplify the hearing by eliminating issues to be contested at the hearing, accepting the validity of certain proposed evidence, accepting the findings in some other case with relevance to the case at hand, or agreeing to such other matters as may expedite the hearing.

(c) Subpoenas:

(1) The executive director shall issue subpoenas in the Board's name.

(2) Subpoenas requiring the attendance of witnesses, or those to produce documents, evidence, or things, will be issued by the executive director within five business days of the receipt of a request from a party to the case for such subpoena.

(3) Any person receiving a subpoena from the Board may object thereto by filing a written objection to the subpoena with the Board. Such objection must include a concise, but complete statement of reasons why the subpoena should be revoked or modified. These reasons may include lack of relevancy of the evidence requested, lack of particularity in the description of the evidence sought, or any other reasons sufficient in law for holding the subpoena invalid, such as that the evidence is privileged, that appearance or production would be so disruptive as to be unreasonable in light of the significance of the evidence sought, or other undue hardships.

(4) The objecting witness shall serve the objection on the party who requested the subpoena as soon as the objection is filed with the Board.

(5) The party requesting the subpoena, within five days, may file a written response to the objection. The response shall be served in like manner as the objection.

(6) After receipt of the objection and response thereto, if any, the Board shall issue a notice to the party who requested and the party challenging the subpoena, and may notify all other parties of an open hearing, to be scheduled as soon as practicable, at which time evidence and testimony may be presented limited to the questions raised by the objection and response, if any.

(7) Promptly after the close of such hearing, the Board will rule on the challenge and issue a written decision. A copy of this decision will be issued to all parties and made a part of the record.

History Note: Authority G.S. 89C-10; 89C-21; 89C-22; 150B-38; 150B-39; 150B-40; Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. August 1, 2000; August 1, 1998; April 1, 1989; December 1, 1984; January 1, 1982;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1413 DECISION OF BOARD

(a) Manner and Time of Rendering Decision. After a hearing has been completed the Board shall proceed to consider the case and as soon as practicable shall render their decision. The decision must be rendered within 90 days after the hearing.

(b) Service of Written Decision. The Board shall serve upon each party a written copy of the decision, either personally or by certified mail. If the decision is sent by certified mail it shall be deemed to have been served on the date borne on the return receipt.

(c) Final Decision. The final decision of the Board shall be in the manner and form prescribed by G.S. 150B-42(a).

(d) Official Record. The official record shall be prepared in all contested cases in accordance with the requirements of G.S. 150B-42(b).

History Note: Authority G.S. 89C-10; 89C-21; 89C-22; 150B-42;

Eff. February 1, 1976;

Readopted Eff. September 29, 1977;

Amended Eff. May 1, 2009; April 1, 1989; January 1, 1982;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

SECTION .1700 – CONTINUING PROFESSIONAL COMPETENCY

21 NCAC 56 .1701 INTRODUCTION

Every licensee shall meet the continuing professional competency requirements of this Section for professional development as a condition for licensure renewal.

History Note: Authority G.S. 89C-10(a); 89C-17;

Eff. December 1, 1994;

Amended Eff. August 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1702 DEFINITIONS

Terms used in this Section are defined as follows:

(1) Professional Development Hour (PDH) - A contact hour (nominal) of instruction or presentation. The common denominator for other units of credit.

(2) Continuing Education Unit (CEU) - Unit of credit customarily used for continuing education courses. One continuing education unit equals 10 contact hours of instruction or presentation.

(3) College/Unit Semester/Quarter Hour - Credit for Accreditation Board for Engineering and Technology approved course or other related college course.

(4) Course/Activity - Any course or activity with a purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice.

(5) Dual Licensee - A person who is licensed as both an engineer and a land surveyor.

(6) Sponsor - Organization or individual that has supplied information on a form prescribed and furnished by the Board with respect to the organization or individual's ability to provide instruction in "for credit" courses. Courses offered by those designated as "Sponsor" must contain a purpose and objective, and result in the maintenance, improvement, or expansion of skills and knowledge relevant to a licensee's field of practice.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;*

Amended Eff. May 1, 2009; August 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1703 REQUIREMENTS

Every licensee shall obtain 15 PDH units during the renewal period. If a licensee exceeds the annual requirement in any renewal period, a maximum of 15 PDH units may be carried forward into the subsequent renewal period. Selection of courses and activities that meet the requirements of Rule .1702(4) of this Section is the responsibility of the licensee. Licensees may select courses other than those offered by sponsors. Post evaluation of the courses may result in non-acceptance by the Board. PDH units may be earned as follows:

(1) Completion of college courses;

(2) Completion of continuing education courses, seminars, or workshops;

(3) Completion of correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion. No exam is required for attendance at a webinar presentation if attendance is documented;

(4) Presenting or attending seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions or conferences;

(5) Teaching or instructing in Items (1) through (4) of this Rule;

(6) Authoring published papers, articles, or books;

(7) Active participation in professional or technical societies as defined in Rule .1705(f) of this Section;

(8) Patents;

(9) Authoring exam questions accepted for use in the engineering or land surveying exams;
or

(10) Active participation on boards, commissions, committees or councils of private, local, state or federal government entities as defined in Rule .1705(g) of this Section.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;*

Amended Eff. August 1, 2014; August 1, 2011; May 1, 2009; August 1, 2000; August 1, 1998;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1704 UNITS

The conversion of units of credit set forth in Rule .1703 of this Section to PDH units is as follows:

- | | |
|--|--------|
| (1) 1 College or unit semester hour. | 45 PDH |
| (2) 1 College or unit quarter hour. | 30 PDH |
| (3) 1 Continuing Education Unit. | 10 PDH |
| (4) 1 Contact hour of professional development in course work, seminars, or professional or technical presentations made at meetings, conventions or conferences, and for correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials. Contact hours equal the actual time of instruction and shall be credited to the nearest one-third of an hour. | 1 PDH |
| (5) For teaching in Items (1) – (4) of this Rule, PDH credits are doubled. Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time faculty, as defined by the institution where a licensee is teaching. | |
| (6) Each published paper, article or book. | 10 PDH |
| (7) Active participation in professional and technical society. (Each society) | 2 PDH |
| (8) Each patent. | 10 PDH |
| (9) Each question used. | 2 PDH |
| (10) Active participation on boards, commissions, committees or councils of private, local, state or federal government entities. (Each entity) | 2 PDH |

History Note: Authority G.S. 89C-10(a); 89C-17;

Eff. December 1, 1994;

Amended Eff. August 1, 2014; May 1, 2009; August 1, 2000; August 1, 1998;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1705 DETERMINATION OF CREDIT

(a) The Board of Examiners has final authority with respect to approval of courses, sponsors, credit, PDH value for courses, and other methods of earning credit. Such determination shall meet Rule .1702(4) of this Section.

(b) Credit for college or community college courses shall be based upon course credit established by the college.

(c) Credit for continuing education courses, seminars and workshops shall be based on one PDH unit for each hour of attendance. Attendance at programs presented at professional and technical society meetings shall earn PDH units for the actual time of each program.

(d) Credit for correspondence, televised, Internet, videotaped, audiotaped, and other courses or tutorials, provided an exam is required for completion, shall be based upon one PDH unit for each hour assigned to the course, provided such hours are a reasonably estimated time for an average professional to complete the course.

(e) Credit determination for published papers, articles and books and obtaining patents is the responsibility of the licensee.

(f) Credit for active participation in professional and technical societies (limited to 2 PDH per society), requires that a licensee serve as an officer or participate in a committee of the society. PDH credits are not earned until the end of each year of service is completed.

(g) Credit for active participation on boards, commissions, committees or councils of private, local, state or federal government entities (limited to 2 PDH per entity) requires utilizing engineering or land surveying knowledge (as applicable) in the active participation. PDH credits are not earned until the end of each year of service is completed.

History Note: Authority G.S. 89C-10(a); 89C-17;

Eff. December 1, 1994;

Amended Eff. August 1, 2014; August 1, 2011; May 1, 2009; August 1, 2000; August 1, 1998;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1706 RECORDKEEPING

The licensee shall maintain the following records to be used to support credits claimed:

(1) a log showing the type of activity claimed, title or specific subject, sponsoring organization, location, duration, date, instructor's or speaker's name, and PDH credits earned, and other information on a form as prescribed by the Board; and

(2) attendance verification records in the form of completion certificates, or other documents supporting evidence of attendance.

These records must be maintained for a period of three years and copies may be requested by the board for audit verification purposes. The Board shall approve other records that contain the information required by this Rule.

History Note: Authority G.S. 89C-10(a); 89C-17;

Eff. December 1, 1994;

Amended Eff. May 1, 2009; August 1, 2000;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1707 EXEMPTIONS

A licensee is exempt from the professional development educational requirements for the following reasons:

(1) New licensees by way of examination or comity are exempt for their first renewal period.

(2) If currently licensed by and in good standing (license is not suspended or revoked) with the Board a licensee who is serving in the armed forces of the United States and who is eligible for an extension of time to file a tax return pursuant to G.S. 105-249.2 is granted a waiver of the mandatory continuing education requirements for the time period disregarded pursuant to the Internal Revenue Code 26 U.S.C. 7508.

The licensee shall request the waiver as follows:

(a) The licensee shall notify the Board of eligibility before the current license expires. Upon such notification, the Board shall maintain the license in active status through the extension period.

(b) If the licensee fails to notify the Board of eligibility for the extension period before the current license expires, upon receipt and acceptance of a renewal application within the extension period and presentation of proof that the licensee was eligible on the date that is the deadline for renewal, the expired license or registration shall be deemed retroactively to have not expired.

(c) The licensee who submits a renewal application within the extension period shall not be deemed to hold a lapsed license subject to reinstatement fees.

(d) The licensee may renew the license within the extension period despite failing to complete the specified continuing education requirements.

(e) A licensee shall provide proof of eligibility for the extension period when the licensee or registrant submits the renewal application.

(3) The Board shall exempt a licensee if the Board determines that the licensee is experiencing physical disability, illness, or other extenuating circumstances that prevent the licensee from obtaining professional development hours. Supporting documentation must be furnished to the Board.

(4) Licensees who list their occupation as "Inactive" on the Board approved renewal form and who are no longer providing professional engineering or land surveying services are exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or land surveying, professional development hours must be earned in accordance with the requirements of Rule .1708 in this Section before returning to active practice for each year exempted not to exceed the annual requirement for two years.

History Note: Authority G.S. 89C-10(a); 89C-17; 93B-15;

Eff. December 1, 1994;

Amended Eff. August 1, 2011; May 1, 2009; August 1, 2000; February 1, 1996;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

21 NCAC 56 .1708 REINSTATEMENT

A licensee may bring an inactive license to active status by obtaining all delinquent PDH units. However, if the total number required to become current exceeds 30, then 30 shall be the maximum number required. Reinstatement of a license that was not renewed within 12 months after expiration (archived license), in addition to a new application, requires obtaining all delinquent PDH units as required to reinstate an inactive license.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. August 1, 2002; August 1, 2000; February 1, 1996;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 56 .1709 COMITY/OUT-OF-JURISDICTION RESIDENT

Licensees who are residents of jurisdictions other than North Carolina shall meet the CPC requirements of their resident jurisdiction. If the licensee resides in a jurisdiction that has no continuing professional competency (CPC) requirement, or the licensee is exempt from the CPC requirement in the licensee's resident jurisdiction, the licensee must meet the requirements of North Carolina.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. May 1, 2009; August 1, 2000;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 56 .1710 DUAL LICENSEES

The number of PDH units required shall remain the same for persons who hold a second license as engineer or land surveyor. Holders of a second license must obtain a minimum of one-third of the total PDH requirements in each field. The remaining one-third requirement may be obtained in either field at the sole discretion of the licensee.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. July 1, 2009;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 56 .1711 FORMS

Renewal applications may require the completion of a continuing education form specified by the board outlining PDH credit claimed. The licensee must supply sufficient detail on the form to permit audit verification, must certify and sign the continuing education form, and submit the form with the renewal application and fee.

*History Note: Authority G.S. 89C-10(a); 89C-17;
Eff. December 1, 1994;
Amended Eff. July 1, 2009; August 1, 1998;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.*

21 NCAC 56 .1712 COMPLIANCE

(a) Compliance with annual Continuing Professional Competency (CPC) requirements shall be determined through an audit process conducted by the Board. Determination of individuals to be audited shall be accomplished through a random selection process or as the result of information available to the Board. Individuals selected for auditing shall provide the Board with the following documentation of the CPC activities claimed for the

renewal period:

(1) Attendance verification records in the form of transcripts, completion certificates, other documents supporting evidence of attendance, and a log as defined in Rule .1706 of the Section; and

(2) Information regarding course content, instructors and sponsoring organization, for activities presented by other than approved sponsors as defined in Rule .1713 of this Section.

(b) Attendance records shall be maintained by individual licensees for a period of three years for audit verification purposes.

History Note: Authority G.S. 89C-10(a); 89C-17;

Eff. December 1, 1994;

Amended Eff. May 1, 2009; February 1, 1996;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 27, 2019.

Chapter 4

Disciplinary Process

Complaint Procedures

The board must depend in large measure on reports from the public and engineering and land surveying professionals to provide factual evidence to help regulate the practice of engineering and land surveying in the state.

Violations and complaints must be reported to the board in writing, and the complaint with other supporting evidence must be notarized in accordance with O.C.G.A. 43-15-25. Documents received will not be returned. The complaint must contain sufficient factual evidence to indicate a clear violation of the registration law. Accusing another person of a violation of the law is a serious matter; therefore, you should be certain that there is wrongdoing and not file a complaint just because you feel there may be a violation. The board is anxious to act on any complaint that is in fact one of its responsibilities; however, experience has shown that the public is not always aware of what is and what is not a legitimate responsibility of the board. Consequently, a majority of the complaints received simply do not lie within the jurisdiction of the board to settle because the board's powers are necessarily limited by law.

Investigation

Your complaint will be given serious consideration by the board and further investigative action may be taken, if appropriate. You may be contacted by a board investigator. A referral of a complaint for further investigation does not necessarily mean that a licensing violation has occurred. Investigations are completed as soon as possible, depending upon the nature and circumstances of the complaint.

Investigative files are considered confidential for any purpose other than a hearing before the board; however, the board is authorized to release such records to another enforcement agency or lawful licensing authority.

Hearing Process

After reviewing the results of the investigation, the board may determine that an apparent violation of the licensing law exists. If so, the board will refer the case to the State Attorney General's office to initiate formal proceedings. However, not all cases referred to the Attorney General result in formal hearings before the board. In some instances, both the board and the registrant agree to certain disciplinary sanctions by signing a consent agreement.

Those cases which proceed to formal hearings are conducted by an Administrative Law Judge in accordance with the Georgia Administrative Procedures Act. If a hearing is

conducted, you as the complainant may be called upon to testify, and your identity as a complainant may become known.

After the formal hearing is conducted, the Administrative Law Judge issues an initial decision which contains the findings of fact, conclusions of law, and recommended disciplinary actions. The registrant may request or the board may on its own seek a review of the Administrative Law Judge's decision. After the final decision is issued, the registrant may appeal that decision to the Superior Court of Fulton County.

The procedure is sometimes lengthy and may take many months to complete. However, it is designed to ensure due process and to protect the rights of all individuals involved.

Chapter 5

Review of Disciplinary Cases

The following disciplinary cases were extracted from the disciplinary database search of the North Carolina Board of Examiners for Engineers and Land Surveyors website, from January 2008 to January 2010. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the North Carolina Board.

CASE No: V09-023

Decision and Order Date: November 13, 2009

The Respondent was notified that the Board had sufficient evidence which supports a charge of gross negligence, incompetence, or misconduct. The Respondent was further advised that unless a request for hearing or settlement conference to rebut the charges was made by Certified Mail within twenty (20) days of receipt of notice, the Board would be justified in taking disciplinary action.

The general nature of the evidence on which the Board based its action was as follows: That on February 24, 2009 sworn to charges were filed by David J. Evans, Assistant Executive Director, as Board staff, and the resulting investigation determined that the Respondent: had his Professional Engineer's License suspended by another jurisdiction in violation of G.S. 89C and the Board Rules [.0701 (h)] and submitting false information to the Board in obtaining a Certificate of Licensure [G.S. 89C-23].

Since more than twenty (20) days have elapsed since receipt of the Board Notice by the Respondent on September 17, 2009, and the Respondent gave no notice that Respondent did not desire a Settlement Conference or Hearing, the Board by its Decision and Order, issued the Respondent a reprimand and levied a Civil Penalty of One Thousand Dollars (\$1,000) (to be paid within 30 days of the date of the Decision and Order).

Failure to comply with this Decision and Order would result in suspension of the Certificate of Licensure until compliance was shown. The Board's decision was final and not subject to appeal.

CASE No: V08-133

Decision and Order Date: January 20, 2010

The Respondent was notified that the Board had sufficient evidence which supports a charge of gross negligence, incompetence, or misconduct. The Respondent was further advised that unless a request for hearing or settlement conference to rebut the charges was made by Certified Mail within twenty (20) days of receipt of notice, the Board would be justified in taking disciplinary action.

The general nature of the evidence on which the Board based its action was as follows: That on October 27, 2008 sworn to charges were filed by David J. Evans, Assistant Executive Director, as Board staff, and the resulting investigation determined that the Respondent failed to comply with annual CPC requirements [.1712]: and submitted false information on renewal form [G.S.89C-23]

Since more than twenty (20) days have elapsed since receipt of the Board Notice by the Respondent on November 17, 2009, the Board by its Decision and Order, issued the Respondent a Reprimand and would audit the Respondent's CPC for the next three years until the Respondent renews as current.

Failure to comply with this Decision and Order would result in suspension of the Certificate of Licensure until compliance was shown. The Board's decision was final and not subject to appeal.

CASE No: V05-022

Decision and Order Date: February 16, 2006

The Respondent was notified that the Board has sufficient evidence which supports a charge of gross negligence, incompetence, or misconduct. The Respondent was further advised that unless a request for hearing to rebut the charge was made by Certified Mail within twenty (20) days of receipt of notice, the Board would be justified in taking disciplinary action.

The general nature of the evidence on which the Board based its action was as follows: That on February 11, 2005 notarized charges were received from the Complainant, and the resulting investigation determined that for a set of designs titled "McCORMICK & SCHMICK'S SEAFOOD RESTAURANT," bearing the certification of the Respondent dated October 6, 2004 on sheets M1.2, P1.0, P1.1, P1.2 and P6.3, the Respondent: failed to delineate work for which he was responsible by not designating in a note under the seal the specific matter for which he is responsible [.0701 (c)(3)] and failed to include address on plans as required [.11 03(a){6)].

Since twenty (20) days have elapsed since receipt of the Board Notice by the Respondent on January 9, 2006, the Board by its Decision and Order, issued the Respondent a reprimand. The Board's decision was final and not subject to appeal.

CASE No: V05-028

Decision and Order Date: May 11, 2006

The Respondent was notified that the Board has sufficient evidence which supports a charge of gross negligence, incompetence, or misconduct. The Respondent was further advised that unless a request for hearing to rebut the charge was made by Certified Mail within twenty (20) days of receipt of notice, the Board would be justified in taking disciplinary action.

The general nature of the evidence on which the Board based its action was as follows: That on February 24, 2005 the Board authorized an investigation and the resulting investigation determined that the Respondent: affixed his seal to work not done under his direct supervisory control or responsible charge [.0701 (c){3)] and failed to include address on documents [.11 03{a){6)].

Since twenty (20) days have elapsed since receipt of the Board Notice by the Respondent on December 27, 2005, and the Respondent have indicated that the Respondent accepts the recommendation of the Settlement Conference Committee, the Board by its Decision and Order, accepts the voluntary permanent surrender of the Respondent's Engineering Certificate of Licensure in the state of North Carolina.

The Board's decision was final and not subject to appeal.

CASE No: V2008-090

Decision and Order Date: May 13, 2010

The Respondent was notified that the Board had sufficient evidence which supports a charge of gross negligence, incompetence, or misconduct. The Respondent requested a Settlement Conference in this matter.

The general nature of the evidence on which the Board based its action was as follows: That on August 11, 2008, sworn to charges were filed by David J. Evans, Assistant Executive Director, as Board staff, and the resulting investigation determined that for a document entitled "PINCREST ESTATES SECTION ONE AND TWO," dated April 4, 2007, and marked "Preliminary Plat Not for Recordation, Conveyances or Sales," the Respondent: performed services outside his area of competence by practicing surveying [.0701 (c){3)].

Since the Respondent has indicated that the Respondent accepts the recommendation of the Settlement Conference Committee, the Board by its Decision and Order, issued the Respondent a Reprimand and levied a Civil Penalty of \$5,000 to be paid within 30 days of the date of this Decision and Order.

Failure to comply with this Decision and Order would result in suspension of the Certificate of Licensure until compliance was shown. The Board's decision was final and not subject to appeal.

Appendix A

References

North Carolina Board of Examiners for Engineers and Land Surveyors
<http://www.ncbels.org/>

North Carolina Engineering and Land Surveying Act: Chapter 89C
<http://www.ncga.state.nc.us/gascripts/Statutes/StatutesTOC.pl?Chapter=0089C>

North Carolina Board Rules: Title 21, Chapter 56
<http://reports.oah.state.nc.us/ncac.asp?folderName=\Title 21 - Occupational Licensing Boards and Commissions\Chapter 56 - Engineers and Surveyors>

Complaint Procedure
<http://www.ncbels.org/complaint.html>

Disciplinary Database Search
<https://www.membersbase.com/ncbelsDiscDoc/DiscSearch.aspx>