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# **Engineering Ethics for Virginia Professional Engineers**

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Gilbert Gedeon, P.E.

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Continuing Education and Development, Inc.

P: (877) 322-5800  
[info@cedengineering.com](mailto:info@cedengineering.com)

[www.cedengineering.com](http://www.cedengineering.com)

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# Chapter 1

## Overview of the Virginia Engineering Ethics, Laws and Rules

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### 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*).

### Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects

The Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) or (Board) was established in 1920 with the charge of protecting life, health, and property and to promote the public welfare. The Board is composed of fifteen members as follows: three architects, three professional engineers, three land surveyors, two landscape architects, two certified interior designers and two citizen members. They are appointed by the Governor and may serve up to two consecutive four-year terms.

The Board reviews applications, administers examinations, licenses qualified applicants, and regulates the professional practice of licensees throughout the state. The Board has the power to investigate and discipline unauthorized, negligent, unethical or incompetent practice.

The Board has the authority to implement provisions of the Code of Virginia (Laws): Title 54.1, Chapter 4 (54.1-400 to 54.1-414) and Title 13.1 (13.1-549 and 13.1-1111) as well as the Virginia Administrative Code (Regulations): Title 18, Chapter 20.

### Code of Virginia (Laws)

The Code of Virginia is a collection of state laws organized by subject area into a code made up of titles and chapters. Titles 54.1 and 13.1 were created by the Virginia General Assembly in the interest of public health and safety to regulate the practice of engineering in the State of Virginia. The Code of Virginia states the law followed by the history of the law which indicates when it was originally filed and subsequent effective dates of enactment.

Pertinent sections of Titles 54.1 and 13.1, which relate to the code of professional conduct and responsibility, are presented in Chapter 2 below.

### **Virginia Administrative Code (Regulations)**

The Virginia Administrative Code is a compilation of the rules and regulations of the Virginia regulatory agencies. It is organized by titles, agency numbers, chapters and sections with each agency number representing a department, commission, board or other agency. The rules stipulated in Title 18, Chapter 20 of the regulations were issued by the Department of Professional and Occupational Regulations. The regulations state the rule followed by the history of the rule which indicates when it 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 Chapter 20, which relate to the code of professional conduct and responsibility, are presented in Chapter 3 below.

### **Virginia Board Disciplinary Authority**

The Board is charged with the duty of issuing certificates of registration to those individuals licensed by the Board it has determined to be qualified. If an investigation shows probable cause that a violation occurred by the licensee, (1) the Board has the authority to take action to require remedial education, impose a fine, suspend or revoke the license, or fail to renew a license, or (2) The licensee may be asked to appear in court or at a disciplinary proceeding to provide testimony for the case.

In some instances, the Board may offer mediation as a means of alternative dispute resolution regarding complaints against licensees. The Board cannot require any individual or business to refund money, correct deficiencies, or provide other personal remedies. In some cases, a legal action may be the only recourse to resolve a matter. The Board cannot provide legal advice.

The disciplinary process of the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects 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

# Code of Virginia - Titles 54.1 and 13.1

*The following are excerpts from Title 54.1, Chapter 4 and sections of Title 13.1 (13.1-549 and 13.1-1111) of the Code of Virginia. If you wish to review the entire chapter and sections, please visit the website of the Virginia Department of Professional and Occupational Regulations and access the APELSCIDLA Board webpage at:*

<http://www.dpor.virginia.gov/Boards/APELS/>

### **Title 54.1, Chapter 4: Architects, Engineers, Surveyors, Landscape Architects and Interior Designer.**

#### **§ 54.1-402.2. Cease and desist orders for unlicensed activity; civil penalty.**

A. Notwithstanding § 54.1-111, the Board may issue an order requiring any person to cease and desist from (i) practicing or offering to practice as an architect, professional engineer, land surveyor, or landscape architect when such person is not licensed or registered by the Board in accordance with this chapter or (ii) holding himself out as a certified interior designer when such person is not certified or registered by the Board in accordance with this chapter. The order shall be effective upon its entry and shall become final unless such person files an appeal with the Board in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) within 21 days of the date of entry of the order.

B. If the person fails to cease and desist the unlicensed, uncertified, or unregistered activity after entry of an order in accordance with subsection A, the Board may refer the matter for enforcement pursuant to § 54.1-306.

C. Any person engaging in unlicensed, uncertified, or unregistered activity shall be subject to further proceedings before the Board and the Board may impose a civil penalty not to exceed \$2,500. Any penalties collected under this section shall be paid to the Literary Fund after deduction of the administrative costs of the Board in furtherance of this section.

D. Nothing contained in this section shall apply to any person engaged in activity exempted from the provisions of this chapter.

(2007, c. 618; 2009, c. 309.)

#### **§ 54.1-404. Regulations; code of professional practice and conduct.**

A. The Board shall promulgate regulations not inconsistent with this chapter governing its own organization, the professional qualifications of applicants, the requirements necessary for passing examinations in whole or in part, the proper conduct of its examinations, the implementation of exemptions from license requirements, and the proper discharge of its duties.

B. The Board may impose different licensure requirements for a limited area of the practice of land surveying for persons who determine topography, contours, or depiction of physical improvements utilizing photogrammetric methods or similar remote sensing technology who are not otherwise exempt pursuant to subsection C of § 54.1-402. Any such requirements shall include reasonable provisions for licensure without examination of persons deemed by the Board to be qualified to provide photogrammetric and remote sensing surveying services.

Any license issued pursuant to this subsection shall be distinctive, reflecting the limited area of the practice of land surveying so authorized, and considered as a land surveyor and the practice of land surveying for the purposes of §§ 13.1-549, 13.1-1111, 54.1-402, 54.1-405, 54.1-406 and 54.1-411. Nothing herein shall be construed to authorize a person issued a limited license pursuant to this subsection to practice beyond such limited area of practice. The establishment of any such limited license shall not prohibit any duly qualified land surveyor licensed pursuant to § 54.1-400 from engaging in any such limited area of practice.

C. The regulations may include a code of professional practice and conduct, the provisions of which shall serve any or all of the following purposes:

1. The protection of the public health, safety and welfare;
2. The maintenance of standards of objectivity, truthfulness and reliability in public statements by professionals;
3. The avoidance by professionals of conflicts of interests;
4. The prohibition of solicitation or acceptance of work by professionals on any basis other than their qualifications for the work offered;
5. The restriction by the professional in the conduct of his professional activity from association with any person engaging in illegal or dishonest activities; or
6. The limitation of professional service to the area of competence of each professional.

(Code 1950, § 54-25; 1974, c. 459; 1982, c. 590; 1988, c. 765; 2005, cc. 359, 440.)

#### **§ 54.1-404.2. Continuing education.**

A. The Board shall promulgate regulations governing continuing education requirements for architects, professional engineers, land surveyors, and landscape architects licensed by the Board. Such regulations shall require the completion of the equivalent of 16 hours per biennium of Board-approved continuing education activities as a prerequisite to the renewal or reinstatement of a license issued to an architect, professional engineer, land surveyor, or landscape architect. The Board shall establish criteria for continuing education activities including, but not limited to (i) content and subject matter; (ii) curriculum; (iii) standards and procedures for the approval of activities, courses, sponsors, and instructors; (iv) methods of instruction for continuing education courses; and (v) the computation of course credit.

B. The Board may grant exemptions or waive or reduce the number of continuing education hours required in cases of certified illness or undue hardship.

(2006, c. [683](#); 2009, c. [309](#).)

**Title 13.1, Chapter 7: Professional Corporations.**

**§ 13.1-549. Qualifications of shareholders; special provisions for corporations rendering services of architects, professional engineers, landscape architects and land surveyors, and using the title of certified interior designers.**

A. A corporation rendering the services of architects, professional engineers, land surveyors, or landscape architects, or using the title of certified interior designers, or any combination thereof, shall issue not less than two-thirds of its shares to individuals or professional business entities duly licensed to render the services of architect, professional engineer, land surveyor, or landscape architect, or to individuals legally authorized to use the title of certified interior designer, and the remainder of said shares may be issued only to and held by individuals who are employees of the corporation whether or not such employees are licensed to render professional services or authorized to use a title. For a corporation using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, not less than two-thirds of its shares shall be held by individuals or professional business entities who are duly licensed. No other professional corporation, except for a corporation engaged in the practice of accounting as described in § 13.1-549.1, may issue any of its shares to anyone other than an individual or professional business entity who is duly licensed or otherwise legally authorized to render the same specific professional services as those for which the corporation was incorporated, including trustees of an eligible employee stock ownership plan. Notwithstanding the above limitations, a professional corporation may (i) issue its shares to a partnership each of the partners of which is duly licensed or otherwise legally authorized to render the same professional services as those for which the corporation was incorporated or (ii) issue any of its shares to, and have as shareholders, directly or indirectly, whether through shares, fractional shares, or rights or options to purchase shares, the trustees of an eligible employee stock ownership plan.

B. As an additional prerequisite for a corporation engaging in the practice of the professions of architecture, professional engineering, land surveying, or landscape architecture, or using the title of certified interior designer, or any combination thereof, such corporation shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. Such certificate of authority shall be issued or renewed by the Board when in its discretion such corporation is in compliance with rules and regulations which shall be promulgated by the said Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare and safety. The fees for a certificate of authority as described above shall be the same fees as provided for in Chapter 4 (§ [54.1-400](#) et seq.) of Title 54.1.

(1970, c. 77; 1972, c. 655; 1980, c. 757; 1998, c. 27; 2000, cc. 191, 763; 2006, cc. 672, 715; 2008, c. 265; 2009, c. 309.)



**Title 13.1, Chapter 13: Virginia Professional Limited Liability Company Act.**

**§ 13.1-1111. Qualifications of members and managers; special provisions for limited liability companies rendering service of architects, professional engineers, land surveyors and landscape architects, and using the title of certified interior designers.**

Not less than two-thirds of the membership interests of a professional limited liability company rendering the services of architects, professional engineers, land surveyors, or landscape architects, or using the title of certified interior designers, or any combination thereof, shall be held by individuals duly licensed or professional business entities legally authorized to render the services of architects, professional engineers, land surveyors, or landscape architects, or by individuals or professional business entities legally authorized to use the title of certified interior designers, and the remainder of the membership interests may be held only by individuals who are employees of the professional limited liability company whether or not those employees are licensed to render professional services or authorized to use a title. For those professional limited liability companies using the title of certified interior designers and providing the services of architects, professional engineers or land surveyors, or any combination thereof, not less than two-thirds of the hip interests of the professional limited liability company shall be held by individuals who are duly licensed. No other professional limited liability company, except for a professional limited liability company engaged in the practice of accounting as described in § 13.1-1112, may have as a member anyone other than an individual or a professional business entity that is duly licensed or otherwise legally authorized to render the same professional services as those for which the professional limited liability company was organized.

As an additional prerequisite for a professional limited liability company's engaging in the practice of the professions of architecture, professional engineering, land surveying, or landscape architect, or using the title of certified interior designer, or any combination thereof, that professional limited liability company shall secure a certificate of authority, which may be renewable and may be either general or limited, from the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects. The certificate of authority shall be issued or renewed by the Board when in its discretion the professional limited liability company is in compliance with rules and regulations which shall be promulgated by the Board consistent with its jurisdiction to provide adequate safeguards for the public's health, welfare and safety. The fees for a certificate of authority as described above shall be the same fees as provided for in Chapter 4 (§ [54.1-400](#) et seq.) of Title 54.1.

(1992, c. 574; 1998, c. 27; 2000, cc. 191, 763; 2009, c. 309.)

## Chapter 3

# Virginia Administrative Code, Chapter 20

*The following are excerpts from Title 18, Chapter 20 of the Virginia Administrative Code. If you wish to review the entire chapter, please visit the website of the Virginia Department of Professional and Occupational Regulations and view the APELSCIDLA Board page at:*

<http://www.dpor.virginia.gov/Boards/APELS/>

### **Title 18, Chapter 20: Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations**

#### **PART X: STANDARDS OF PRACTICE AND CONDUCT**

##### **18VAC10-20-690. Responsibility to the public.**

The primary obligation of the regulant is to the public. The regulant shall recognize that the health, safety, and welfare of the general public are dependent upon professional judgments, decisions, and practices. If the judgment of the regulant is overruled resulting in circumstances when the health, safety, or welfare of the public is endangered, the regulant shall inform the employer, client, and appropriate authorities in writing of the possible consequences.

##### *Historical Notes:*

*Derived from VR130-01-2 § 12.1, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 23, Issue 1, eff. February 1, 2007; Volume 32, Issue 6, eff. January 1, 2016.*

##### **18VAC10-20-700. Public statements.**

A. The regulant shall be truthful in all professional matters and shall include all relevant information in professional reports, statements, or testimony, which shall include the date indicating when such information was current.

B. When serving as an expert or technical witness, the regulant shall express an opinion only when it is based on an adequate knowledge of the facts in the issue and a background of competence in the subject matter.

C. Except when appearing as an expert witness in court or in an administrative proceeding when the parties are represented by counsel, the regulant shall issue no statements, reports, criticisms, or arguments on matters relating to professional practice that are

inspired by or paid for by interested persons, unless the regulant has prefaced the comment by disclosing any self-interest and the identities of all persons on whose behalf the regulant is speaking.

D. A regulant shall not knowingly make a materially false statement or deliberately withhold a material fact requested in connection with his application for licensure, certification, registration, renewal, or reinstatement.

*Historical Notes:*

*Derived from VR130-01-2 § 12.2, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 13, Issue 23, eff. October 1, 1997; Volume 23, Issue 1, eff. February 1, 2007; Volume 32, Issue 6, eff. January 1, 2016.*

**18VAC10-20-710. Conflicts of interest.**

A. The regulant shall promptly and fully inform an employer or client of any business association, interest, or circumstance which may influence the regulant's judgment or the quality of service.

B. The regulant shall not accept compensation, financial or otherwise, from more than one party for services on or pertaining to the same project unless the circumstances are fully disclosed and agreed to in writing by all interested parties.

C. The regulant shall not solicit or accept financial or other valuable consideration from material or equipment suppliers for specifying their products or services.

D. The regulant shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with a client or employer in connection with work for which the regulant is responsible.

*Historical Notes:*

*Derived from VR130-01-2 § 12.3, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 13, Issue 23, eff. October 1, 1997; Volume 23, Issue 1, eff. February 1, 2007; Volume 32, Issue 6, eff. January 1, 2016.*

**18VAC10-20-720. Solicitation of work or employment.**

A. In the course of soliciting work from, or employment by, a public authority the regulant shall not directly or indirectly:

1. Give, solicit, or receive any gratuity, contribution, or consideration to unlawfully influence the award of a contract;
2. Give, solicit, or receive any gratuity, contribution, or consideration that may reasonably be construed as an intention to influence the awarding of a contract; or
3. Offer or provide any gift or other valuable consideration in order to secure work.

B. The regulant shall not pay, directly or indirectly, a commission, percentage, or brokerage fee to a potential or existing client in order to secure work.

C. The regulant shall not falsify or knowingly allow misrepresentation of his or an associate's:

1. Academic or professional qualifications or work; or
2. Degree of responsibility for prior assignments.

D. Materials used in the solicitation of employment shall not misrepresent facts concerning employers, employees, associates, joint ventures, or past accomplishments of any kind.

*Historical Notes:*

*Derived from VR130-01-2 § 12.4, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 18, Issue 7, eff. March 1, 2002; Volume 23, Issue 1, eff. February 1, 2007; Volume 32, Issue 6, eff. January 1, 2016.*

**18VAC10-20-730. Competency for assignments.**

A. The professional shall undertake to perform professional assignments only when qualified by education or experience, or both, and licensed or certified in the profession involved. Licensed professionals may perform assignments related to interior design provided they do not hold themselves out as certified in this profession unless they are so certified by this board. The professional may accept an assignment requiring education or experience outside of the field of the professional's competence, but only to the extent that services are restricted to those phases of the project in which the professional is qualified. All other phases of such project shall be the responsibility of licensed or certified associates, consultants or employees.

B. A professional shall not misrepresent to a prospective or existing client or employer his qualifications and the scope of his responsibility in connection with work for which he is claiming credit.

C. The professional shall adhere to the minimum standards and requirements pertaining to the practice of his own profession, as well as other professions if incidental work is performed.

*Historical Notes:*

*Derived from VR130-01-2 §12.5, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 16, Issue 3, eff. December 1, 1999; Volume 23, Issue 1, eff. February 1, 2007; Volume 26, Issue 4, eff. July 1, 2010.*

**18VAC10-20-740. Professional responsibility.**

A. Unless exempt by statute, all architectural, engineering, land surveying, landscape architectural, and interior design work must be completed by a professional or a person performing the work who is under the direct control and personal supervision of a professional.

B. A professional shall be able to clearly define his scope and degree of direct control and personal supervision, clearly define how it was exercised, and demonstrate that he was responsible within that capacity for the work that he has sealed, signed, and dated. For the work prepared under his supervision, a professional shall:

1. Have detailed professional knowledge of the work;
2. Exercise the degree of direct control over work that includes:
  - a. Having control over decisions on technical matters of policy and design;
  - b. Personally making professional decisions or the review and approval of proposed decisions prior to implementation, including the consideration of alternatives to be investigated and compared for designed work, whenever professional decisions are made that could affect the health, safety, and welfare of the public involving permanent or temporary work;
  - c. The selection or development of design standards and materials to be used; and
  - d. Determining the validity and applicability of recommendations prior to incorporation into the work, including the qualifications of those making the recommendations;
3. Have exercised his professional judgment in professional matters that are embodied in the work and the drawings, specifications, or other documents involved in the work; and
4. Have exercised critical examination and evaluation of an employee's, consultant's, subcontractor's, or project team member's work product, during and after preparation, for purposes of compliance with applicable laws, codes, ordinances, regulations, and usual and customary standards of care pertaining to professional practice.

C. The regulant shall not knowingly associate in a business venture with, or permit the use of his name, by any person or firm when there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating statutes or any of these regulations.

D. A regulant who has knowledge that any person may have violated or may currently be violating any of these provisions, or the provisions of Chapters 7 (§ 13.1-542.1 et seq.) and 13 (§ 13.1-1100 et seq.) of Title 13.1 or Chapters 1 (§ 54.1-100 et seq.) through 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia, shall inform the board in writing and shall cooperate in furnishing any further information or assistance that may be required by the board or any of its agents.

E. Upon request by the board or any of its agents, the regulant shall produce any plan, plat, document, sketch, book, record, or copy thereof concerning a transaction covered by this chapter and shall cooperate in the investigation of a complaint filed with the board against a regulant.

F. Except as authorized by 18VAC10-20-760 A 2, a regulant shall not utilize the design, drawings, specifications, or work of another regulant to complete or to replicate any work without the written consent of the person or organization that owns the design, drawings, specifications, or work.

G. Utilization and modification of work.

1. A regulant who utilizes the designs, drawings, specifications, or work of another regulant pursuant to subsection F of this section or 18VAC10-20-760 A 2, or who modifies any plats or surveys, shall conduct a thorough review of the work to verify that it has been accomplished to the same extent that would have been done under the direct control and personal supervision of the regulant affixing the professional seal, signature, and date. The regulant shall assume full responsibility for the utilization of any unsealed work or any changes or modifications to previously sealed work.

2. Information from recorded plats or surveys may be utilized without permission. However, the modification of the actual recorded plat or survey is prohibited without written permission of the regulant.

*Historical Notes:*

*Derived from VR130-01-2 § 12.6, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 13, Issue 23, eff. October 1, 1997; Volume 16, Issue 3, eff. December 1, 1999; Volume 18, Issue 7, eff. March 1, 2002; Volume 23, Issue 1, eff. February 1, 2007; Volume 32, Issue 6, eff. January 1, 2016; Volume 37, Issue 24, eff. September 2, 2021.*

**18VAC10-20-760. Use of seal.**

A. Affixing of a professional seal, signature, and date shall indicate that the professional has exercised direct control and personal supervision over the work to which it is affixed. Affixing of the seal, signature, and date also indicates the professional's acceptance of responsibility for the work shown thereon.

1. No professional shall affix a seal, signature, and date or certification to plans, plats, documents, drawings, or other works constituting the practice of the professions regulated that has been prepared by an unlicensed or uncertified person unless such works were performed under the direct control and personal supervision of the professional while the unlicensed or uncertified person was an employee of the same firm as the professional or was under written contract to the same firm that employs the professional.

2. If the original professional of record is no longer able to seal, sign, and date completed professional work, such work may be sealed, signed, and dated by another qualified professional pursuant to the standards established in 18VAC10-20-740 G 1.

B. Documents to be sealed.

1. All final documents, including cover sheet of plans, plats, documents, drawings, technical reports, and specifications, and each sheet of plans or plats, or drawings prepared by the

professional, or someone under his direct control and personal supervision, shall be sealed, signed, and dated by the professional. All final documents shall also bear the professional's name or firm name, address, and project name.

2. For projects involving multiple professional services in the same project, each professional shall seal, sign, and date the final documents for the work component that he completed or that was completed under his direct control and personal supervision. The professional responsible for the compilation of the project shall seal, sign, and date the cover sheet of the aggregate collection of final documents for the project.

C. An electronic seal, signature, and date are permitted to be used in lieu of an original seal, signature, and date when the following criteria, and all other requirements of this section, are met:

1. It is a unique identification of the professional;
2. It is verifiable; and
3. It is under the professional's direct control.

D. Incomplete plans, plats, documents, and drawings, whether advance or preliminary copies, shall be so identified on the plans, plats, documents, or drawings and need not be sealed, signed, or dated. Advance or preliminary copies of incomplete plans, plats, documents, and drawings, must be clearly identified as not complete but need not be sealed, signed, or dated.

E. All work performed by a professional who is licensed or certified by this board, including work that is exempt from licensure pursuant to § 54.1-402 of the Code of Virginia, shall be sealed, signed, and dated pursuant to subsection B of this section.

F. The original seal shall conform in detail and size to the design illustrated in this subsection and shall be two inches in diameter. The designs illustrated may not be shown to scale:



\*The number referred to is the last six-digit number as shown on the license or certificate. The number is permanent. Leading zeros contained in the six-digit number may be omitted from the seal.

*Historical Notes:*

*Derived from VR130-01-2 § 12.8, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 13, Issue 23, eff. October 1, 1997; Volume 16, Issue 3, eff. December 1, 1999; Volume 18, Issue 7, eff. March 1, 2002; Volume 23, Issue 1, eff. February 1, 2007; Volume 25, Issue 3, eff. December 1, 2008; Volume 26, Issue 4, eff. July 1, 2010; Volume 32, Issue 6, eff. January 1, 2016; Volume 37, Issue 24, eff. September 2, 2021.*



**18VAC10-20-770. Organization and styling of practice.**

- A. A firm shall offer or practice only the professions shown on its board-issued registration.
- B. Nothing shall be contained in the name, letterhead or other styling of a professional practice implying a relationship, ability or condition which does not exist. Professional services that the firm is not properly registered to provide shall not be included in the name.
- C. An assumed, fictitious or corporate name shall not be misleading as to the identity, responsibility or status of those practicing professionals employed or contracted by the registrant. Any advertisement, sign, letterhead, business card, directory, or any other form of representation shall avoid reference to any service that cannot be provided for under a resident responsible person.

*Historical Notes:*

*Derived from VR130-01-2 § 12.9, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 23, Issue 1, eff. February 1, 2007; Volume 32, Issue 6, eff. January 1, 2016.*

**18VAC10-20-780. Professional required at each place of business.**

- A. Any regulant maintaining a place of business that offers or practices architectural, engineering, land surveying, landscape architectural, or certified interior design services in Virginia, shall name at least one responsible person for each profession offered or practiced at each place of business.
- B. Each resident responsible person designated by the firm shall exercise direct control and personal supervision of the work being offered or practiced at each place of business. Each resident responsible person may be responsible for more than one location provided that he is resident at each place of business during a majority of its operating hours.

*Historical Notes:*

*Derived from VR130-01-2 § 12.10, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 13, Issue 23, eff. October 1, 1997; Volume 16, Issue 3, eff. December 1, 1999; Volume 18, Issue 7, eff. March 1, 2002; Volume 23, Issue 1, eff. February 1, 2007; Volume 26, Issue 4, eff. July 1, 2010; Volume 32, Issue 6, eff. January 1, 2016.*

**18VAC10-20-790. Sanctions.**

A license, certificate, or registration shall not be sanctioned unless a majority of the eligible voting members of the entire board vote for the action. The board may discipline or sanction any regulant if the board finds that:

1. The regulant failed to maintain good moral character pursuant to the definition in 18VAC10-20-10;

2. The license, certification, or registration was obtained or renewed through fraud or misrepresentation;
3. The regulant has been found guilty by a court of competent jurisdiction of any material misrepresentation in the course of professional practice or has been convicted, pleaded guilty, or has been found guilty, regardless of adjudication or deferred adjudication, of any felony or non-marijuana misdemeanor that, in the judgment of the board, adversely affects the regulant's ability to perform satisfactorily within the regulated discipline. The board shall review the conviction pursuant to the provisions of § 54.1-204 of the Code of Virginia;
4. The regulant has committed acts constituting professional incompetence, negligence, or gross negligence;
5. The regulant has abused drugs or alcohol to the extent that professional competence is adversely affected;
6. The regulant fails to comply, or misrepresents any information pertaining to their compliance, with any of the continuing education requirements as contained in this chapter;
7. The regulant violates any standard of practice and conduct as defined in this chapter;
8. The regulant violates or induces others to violate any provision of Chapters 7 (§ 13.1-542.1 et seq.) and 13 (§ 13.1-1100 et seq.) of Title 13.1 or Chapters 1 (§ 54.1-100 et seq.) through 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia, or any other statute applicable to the practice of the professions regulated by this chapter.
9. The regulant has been disciplined by any county, city, town, state, or federal governing body. For purposes of this section "discipline" means reprimand; civil or monetary penalty; probation, suspension, or revocation of a license; or cease and desist order. The board will review such discipline before taking any disciplinary action of its own; or
10. The regulant fails to notify the board within 30 days of having been disciplined by any county, city, town, state, or federal governing body as stipulated in subdivision 9 of this section.

*Historical Notes:*

*Derived from VR130-01-2 § 12.11, eff. October 18, 1985; amended, Virginia Register Volume 4, Issue 8, eff. March 1, 1988; Volume 6, Issue 20, eff. September 1, 1990; Volume 7, Issue 14, eff. May 8, 1991; Volume 8, Issue 7, eff. February 1, 1992; Volume 10, Issue 15, eff. May 19, 1994; Volume 13, Issue 23, eff. October 1, 1997; Volume 16, Issue 3, eff. December 1, 1999; Volume 23, Issue 1, eff. February 1, 2007; Volume 25, Issue 12, eff. April 1, 2009; Volume 32, Issue 6, eff. January 1, 2016 ; Volume 37, Issue 24, eff. September 2, 2021; Volume 38, Issue 4, eff. December 1, 2021.*

**18VAC10-20-795. Change of address.**

All regulants shall notify the board of a change of mailing address on the designated address change form within 30 days of making the change. When submitting a change of address, regulants holding more than one license, certificate, or registration shall inform the

board of each affected by the change. A post office box will not be accepted in lieu of a physical address.

*Historical Notes:*

*Derived from Virginia Register Volume 16, Issue 3, eff. December 1, 1999; amended, Virginia Register Volume 23, Issue 1, eff. February 1, 2007; Volume 32, Issue 6, eff. January 1, 2016 ; Volume 37, Issue 24, eff. September 2, 2021.*

# Chapter 4

## Disciplinary Process

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### **Filing a Complaint**

The Compliance and Investigation Division reviews consumer reports against licensees to determine whether the Department of Professional and Occupational Regulation (DPOR) is authorized to process the complaint. DPOR only processes complaints against individuals or businesses that are subject to the laws or regulations of its regulatory boards. DPOR and its regulatory boards CANNOT require any individual or business to refund money, correct deficiencies, or provide other personal remedies. In some cases, private legal action may be your only recourse to resolve a matter. DPOR cannot provide legal advice.

### **Complaint Analysis and Resolution (CAR)**

The Complaint Analysis and Resolution section is responsible for the receipt, processing, and analysis of all complaints against licensees subject to DPOR's boards. After review, this section may close the file, obtain compliance, try to resolve the matter by negotiating a consent order, or refer the case to Alternative Dispute Resolution or Investigations for further action.

### **Alternative Dispute Resolution (ADR)**

In some instances, DPOR may offer Alternative Dispute Resolution (ADR) to resolve a report against a licensee. A form of mediation, ADR is free, voluntary, confidential, and non-adversarial, with the objective of reaching a mutually acceptable agreement between the consumer and the licensee. Parties that resolve disputes through ADR avoid months of a formal investigation and possible civil litigation. If the dispute cannot be resolved through the ADR process, the file will be assigned to Investigations and follow the traditional disciplinary process.

### **Investigations (INV)**

The Investigations section is responsible for obtaining evidence regarding complaints against licensees and determining whether that evidence indicates a probable violation of Board regulations or laws. Investigators prepare a *Report of Findings (ROF)*, which outlines the facts in support of probable violation(s) of Board regulations or laws.

Investigators also help enforce the criminal laws under DPOR's jurisdiction, including practicing without a required license and filing a false or fraudulent application for licensure or registration. This section conducts other special investigations involving potential public harm and provides assistance and support to law enforcement and government agencies.

## **Adjudication (ADJ) and Post-Adjudication (PAL)**

The Adjudication section reviews disciplinary cases referred from CAR or INV and the Post-Adjudication section processes application files. Both sections conduct *Informal Fact-Finding (IFF) Conferences*, the due process administrative proceedings used to gather information “on the record” for Boards to make decisions about applications for licensure or disciplinary action.

At the IFF Conference, the applicant or licensee is given the opportunity to present information before a presiding officer—a trained staff person, Board member or former Board member—and a court reporter transcribes the proceedings. After the IFF Conference, the presiding officer makes a recommendation on whether to issue a license (for application cases) or what sanctions, if any, the Board should impose for any violations of law or regulations (for disciplinary cases). The IFF recommendation and entire case file is then reviewed by the full Board at its next regularly scheduled meeting, where the Board votes on whether to accept, amend, or reject the IFF recommendation.

*Prima Facie disciplinary cases* are those in which the respondent waives the right to an IFF. These cases are presented to the Board with the investigative *Report of Findings (ROF)* and recommended sanctions, without the need for the administrative proceeding.

### **Consent Order**

If an investigation supports a probable violation, DPOR may offer a licensee the opportunity to enter into a voluntary Consent Order with the Board. Consent Orders negotiate terms that may include monetary penalties, remedial education, or probation. The licensee waives the right to an IFF Conference and any appeals under the Administrative Process Act. The Board must ratify the terms of any Consent Order at a regularly scheduled public meeting. Cases resolved with Consent Orders are closed without disciplinary action beyond the terms agreed to by the licensee, and the files are subject to public disclosure.

### **Final Order**

Final Orders are entered in licensing and disciplinary cases, and do not require the agreement of the applicant or licensee. They are subject to public disclosure and may be appealed to court under the Administrative Process Act.

## Chapter 5

# Review of Disciplinary Cases

The following disciplinary cases were extracted between March 12, 2019 and November 6, 2019 from the Winter 2020 "Dimensions" newsletter posted on the webpage of the APELSCIDLA Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Virginia Board.

**File Number:** 2018-02705  
**Effective Date:** March 12, 2019

**Regulation Violated:** 18VAC10-20-760.B.4

**Board Action:** Consent Order imposing \$650 in monetary penalties.

**File Number:** 2018-03048  
**Effective Date:** June 11, 2019

**Regulations Violated:** 18VAC10-20-790.6 and 18VAC10-20-740.E

**Board Action:** Consent Order imposing \$1,150 in monetary penalties and termination of license.

**File Number:** 2019-01308  
**Effective Date:** September 10, 2019

**Regulations Violated:** 18VAC10-20-790.8 and 18VAC10-20-750.B

**Board Action:** Consent Order imposing \$800 in Respondent agrees to cease and desist practicing engineering in Virginia until his expired PE license is renewed by the Board and engineering firm cease and desist from practicing or offering professional engineering services in Virginia until engineering firm is duly licensed by the Board.

**File Number:** 2018-02237  
**Effective Date:** September 10, 2019

**Regulation Violated:** 18VAC10-20-730.A

**Board Action:** Final Opinion and Order imposing \$2000.00 in penalties and completion of eight (8) classroom hours of continuing education pertaining to ethics.

**File Number:** 2019-00264  
**Effective Date:** September 10, 2019

**Regulation Violated:** 18VAC10-20-760.D

**Board Action:** Consent Order imposing \$400 in monetary penalties.

# Appendix A

## References

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The Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board)

<http://www.dpor.virginia.gov/Boards/APELS/>

Code of Virginia: Title 54.1, Chapter 4, and Sections 13.1-549 & 13.1-1111

<http://law.lis.virginia.gov/vacode/title54.1/chapter4/>

Virginia Administrative Code: Title 18, Agency 10, Chapter 20

<http://law.lis.virginia.gov/admincode/title18/agency10/chapter20/>

Complaint and Disciplinary Process

<http://www.dpor.virginia.gov/Report-Licensee/>

APELSCIDLA Board "Dimensions" Newsletter

<http://www.dpor.virginia.gov/News/Board-Newsletters/>