

California Architects Board

Regulatory & Enforcement  
Committee Meeting

November 8, 2016

Sacramento, California and  
Various Teleconference Locations





Edmund G. Brown Jr.  
GOVERNOR

# CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

## NOTICE OF MEETING

### REGULATORY AND ENFORCEMENT COMMITTEE

**November 8, 2016**  
**10:00 a.m. to 2:00 p.m.**  
**(or until completion of business)**  
**California Architects Board, Sequoia Room**  
**2420 Del Paso Road, Suite 109**  
**Sacramento, CA 95834**  
**(916) 574-7220**

The California Architects Board (Board) will hold a Regulatory and Enforcement Committee (REC) meeting, as noted above, and via teleconference at the following locations:

Robert De Pietro	Michael Merino
Frank De Pietro and Sons	AECOM
825 Colorado Boulevard, Suite 114	999 Town and Country Road
Los Angeles, CA 90041	Orange, CA 92868
(323) 257-4253	(714) 567-2480

The notice and agenda for this meeting and other meetings of the Board can be found on the Board's website: [cab.ca.gov](http://cab.ca.gov). For further information regarding this agenda, please see reverse or you may contact Kristin Walker at (916) 575-7203.

## AGENDA

- A. Call to Order/Roll Call/Establishment of Quorum
- B. Public Comment on Items Not on Agenda  
*(The REC may not discuss or take action on any item raised during this public comment section, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting [Government Code sections 11125 and 11125.7(a)].)*
- C. Review and Possible Action on April 28, 2016, REC Meeting Summary Report

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SUITE 105  
SACRAMENTO,  
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[www.cab.ca.gov](http://www.cab.ca.gov)

*(Continued on Reverse)*

- D. Enforcement Program Update
- E. Update and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Identify and Pursue Needed Statutory and Regulatory Changes so Laws and Regulations are Consistent with Current Architectural Practice to Promote Public Health, Safety, and Welfare
- F. Update and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Pursue Recruitment of Additional Architect Consultant to Ensure Continuity and Effectiveness in Board's Enforcement Program
- G. Discuss and Possible Recommendation Regarding Proposed Amendments to Title 16, California Code of Regulations (CCR) sections 152 (Citations) and 152.5 (Contest of Citations, Informal Conference)
- H. Update and Possible Recommendation Regarding Proposed Amendments to Board's *Disciplinary Guidelines* and Title 16, CCR section 154 (Disciplinary Guidelines)
- I. Adjournment

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the REC Chair and may be taken out of order. The meeting will be adjourned upon completion of the agenda, which may be at a time earlier or later than posted in this notice. In accordance with the Bagley-Keene Open Meeting Act, all meetings of the REC are open to the public. The meeting may be cancelled without notice. For meeting verification, call (916) 575-7203 or access the Board's website at [cab.ca.gov](http://cab.ca.gov) just prior to the meeting.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the REC prior to the REC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the REC, but the REC Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the REC to discuss items not on the agenda; however, the REC can neither discuss nor take official action on these items at the time of the same meeting [Government Code sections 11125 and 11125.7(a)].

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Kristin Walker at (916) 575-7203, emailing [kristin.walker@dca.ca.gov](mailto:kristin.walker@dca.ca.gov), or sending a written request to the Board. Providing your request at least five business days before the meeting will help to ensure availability of the requested accommodation.

*Protection of the public shall be the highest priority for the Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount. (Business and Professions Code section 5510.15)*

## **Agenda Item A**

### **CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF QUORUM**

Roll is called by the Regulatory and Enforcement Committee (REC) Vice Chair, or in his/her absence, by a member designated by the REC Chair.

### **COMMITTEE MEMBER ROSTER**

Matthew McGuinness, Chair

Barry Williams, Vice Chair

Fred Cullum

Robert De Pietro

Robert Ho

Gary McGavin

Michael Merino

Robert C. Pearman, Jr.

Sheran Voigt

## **Agenda Item B**

### **PUBLIC COMMENT ON ITEMS NOT ON AGENDA**

Members of the public may address the Regulatory and Enforcement Committee (REC) regarding items that are not contained in the meeting agenda at this time.

However, the REC may not discuss or take action on any item raised during this public comment session, except to decide whether to refer the item to the Board's next Strategic Planning session and/or place the matter on the agenda of a future meeting [Government Code sections 11125 and 11125.7(a)].

## **Agenda Item C**

### **REVIEW AND POSSIBLE ACTION ON APRIL 28, 2016, REC MEETING SUMMARY REPORT**

The Regulatory and Enforcement Committee (REC) is asked to review and take possible action on the April 28, 2016, REC Meeting Summary Report.

Attachment:

April 28, 2016, REC Meeting Summary Report



Edmund G. Brown Jr.  
GOVERNOR

# CALIFORNIA ARCHITECTS BOARD

PUBLIC PROTECTION THROUGH EXAMINATION, LICENSURE, AND REGULATION

## SUMMARY REPORT

### REGULATORY AND ENFORCEMENT COMMITTEE MEETING

April 28, 2016

California Architects Board  
2420 Del Paso Road, Suite 105, Sacramento, CA 95834

#### Committee Members Present

Matthew McGuinness, Chair  
Barry Williams, Vice Chair  
Fred Cullum  
Robert De Pietro (via teleconference in Los Angeles, CA)  
Robert Ho  
Gary McGavin  
Michael Merino (via teleconference in Orange, CA)  
Sheran Voigt

#### Board Staff Present

Doug McCauley, Executive Officer  
Vickie Mayer, Assistant Executive Officer  
Justin Sotelo, Program Manager, Administration/Enforcement  
Bob Carter, Architect Consultant  
Barry Williams, Architect Consultant  
Sonja Ruffin, Enforcement Analyst  
Kristin Walker, Enforcement Analyst

#### Guests

Jonathan Burke, Board and Bureau Relations Manager, Department of  
Consumer Affairs (DCA) Executive Office  
Yeaphana La Marr, Legislative Analyst, DCA Division of Legislative and  
Regulatory Review  
Kurt Cooknick, Director of Regulation and Practice, The American Institute  
of Architects, California Council (AIACC)  
Michael Corrick, President, Nacht & Lewis  
Mike Parrott, Vice President, Nacht & Lewis

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**A. Call to Order / Roll Call / Establishment of Quorum**

Regulatory and Enforcement Committee (REC) Chair Matthew McGuinness called the meeting to order at 11:03 a.m. He welcomed everyone and requested self-introductions. Guests and Board staff introduced themselves.

Vice Chair Barry Williams called the roll and indicated all Committee members were in attendance. A quorum was present.

Mr. McGuinness advised the REC that all motions and seconds should be repeated for the record, and votes on all motions would be taken by roll call.

**B. Public Comment on Items Not on Agenda**

Mr. McGuinness opened the floor for public comment on items not contained in the meeting agenda. No comments were received.

**C. Review and Approve November 5, 2015, REC Meeting Summary Report**

Mr. McGuinness asked if there were any questions, comments, or changes to the November 5, 2015, REC Meeting Summary Report. There were none.

**Sheran Voigt moved to approve the November 5, 2015, REC Meeting Summary Report.**

**Michael Merino seconded the motion.**

**Members De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. Member Cullum abstained due to the fact he was not present at the November 5, 2015, meeting. The motion passed 7-0-1.**

**D. Enforcement Program Update**

Justin Sotelo presented the Enforcement Program Update and highlighted items of interest to the REC, including the: architect consultant contract for the next three fiscal years (FY) [2016/17 through 2018/19], which was awarded to Bob Carter with a tentative agreement start date of July 1, 2016; and continuing education (CE) audits and actions taken for noncompliance.

Gary McGavin asked for clarification about the requirement for architects to maintain records of completion of the required coursework for two years from the date of license renewal and asked if staff could send yearly reminders to licensees via email regarding that requirement. Mr. Sotelo offered to distribute reminders through the Board's website and newsletter. Doug McCauley informed the REC that the Board must submit a report to the Legislature by January 1, 2019, regarding the provisions of the CE program and suggestions for improvements.



Mr. Merino remarked that the number of CE citations is much greater than he had expected, and inquired about the general causes for the citations. Mr. McCauley responded by informing the REC that the majority of the citations were issued to licensees who completed their coursework after being notified by the Board that they had been selected for an audit. He also reminded the REC that as with any new law, compliance generally improves over time. Mr. Merino expressed his concern that the CE citations may be overly punitive, and asked Kurt Cooknick of AIACC to comment on whether there is a perception in the profession that the penalties for noncompliance with the CE requirement should be modified. Mr. McGuinness commented that the Board's CE noncompliance rates were comparable to previous years and other licensing boards. Mr. McCauley offered to gather and portray any additional information regarding the CE requirements to meet the REC's needs, and explained that staff anticipates the number of enforcement actions as a result of CE audits will decrease over time. He described the CE citations as a zero-sum effort because, with a limited enforcement staff, they divert resources from other complaints.

Mr. Merino informed the REC that he raised his concerns regarding the impact of the CE requirement on the Board's Enforcement Program while he was a Board member, and expressed that he would prefer staff's efforts be focused on pursuing unpaid citations, unlicensed practice, and other more important matters. He opined that negative reinforcement may not encourage compliance with the CE requirement, and reiterated his request for a response to the matter from Mr. Cooknick on behalf of the profession. Mr. Cooknick concurred with Mr. McCauley, and stated that enforcement actions as a result of the CE requirement should decrease over time. He also requested that the Board remind licensees of the CE requirement through mail, email, and/or the Board's website, and stated that AIACC will remind its members of the requirement as well.

Mr. McCauley offered to include the REC's concerns in the Board's report to the Legislature regarding the CE requirement, and informed the REC that it may have an opportunity, along with the Professional Qualifications Committee, to review the report prior to submission. He suggested a possible conclusion for the report could be that the profession is doing well with accessibility, and there may not be a further need for mandatory CE on a continuing basis. He also informed the REC that he does not recall any complaints against architects in the past five years with regard to accessibility violations. Mr. McGavin asked if there was a sunset provision in the existing statute. Mr. McCauley responded that there is not currently a sunset provision, but it could be suggested in the report. Mr. Merino restated his concerns regarding the number of citations that have been issued as a result of the CE requirement. Robert Ho also shared similar concerns regarding the CE citations, and thanked Mr. McCauley for providing information regarding the lack of accessibility-related complaints received by the Board.

Mr. Sotelo directed the REC's attention to the Enforcement Statistics table within the Enforcement Program Update, and noted that the new content and format of the table was recommended by the REC and approved by the Board at its December 10, 2015, meeting. He explained that the Board's case aging and pending caseload statistics for March 2016 were significantly lower than the Board's average over the past five FYs.

Mr. Sotelo also informed the REC that the Board's proposal to amend Business and Professions Code section (BPC) 5536.22 by adding a description of the: 1) project and address; and 2) procedure to accommodate contract changes, was submitted to the Senate Business, Professions and Economic Development Committee (BP&ED) on January 11, 2016, for possible inclusion in an omnibus clean-up bill. He explained that BP&ED staff determined that the proposal is substantive and must be included in another bill in 2017, and noted the REC will be asked to consider adding two additional elements to the proposed language of BPC 5536.22 under Agenda Item F.

Mr. Sotelo updated the REC on the status of the Board's regulatory proposal to amend California Code of Regulations section (CCR) 154 to incorporate the Board's updated *Disciplinary Guidelines* by reference. He informed the REC that DCA legal counsel advised staff that further substantive changes to the *Guidelines* are necessary, and explained that staff is currently developing recommended revisions to the *Guidelines* in response to legal counsel's concerns.

Mr. Merino questioned if the increase in citations from FY 2013/14 to FY 2014/15 was a direct result of the CE requirement. Mr. Sotelo responded affirmatively. Mr. Merino asked Mr. McCauley if staff is able to issue letters of advisement, in lieu of citations, for noncompliance with the CE provisions. Mr. McCauley clarified that the statute states that a licensee shall be subject to a citation or disciplinary action for failure to comply with the CE requirement.

Mr. McCauley acknowledged the efforts of the Board's enforcement staff to reduce its pending caseload, and explained the Board is consistently exceeding DCA's performance standards for enforcement programs. Mr. Sotelo directed the REC's attention to the Enforcement Program Report within the meeting packet, and explained that the new report is the result of the REC's recommendation, which was approved by the Board, and will be included in all future Board and REC packets. He also noted that the meeting packet contains an overview of final citations and disciplinary actions since the last REC meeting.

**E. Discuss and Possible Recommendation Regarding Senate Bill 1132 (Galgiani) and The American Institute of Architects, California Council's (AIACC) Architect-in-Training Title Change Proposal**

Mr. McCauley presented this agenda item. He explained that the issue of creating a special title for candidates for licensure had been previously discussed by the REC twice and by the Board three times. He reminded the REC that the intern titling issue emerged when the National Council of Architectural Registration Boards (NCARB) appointed a Future Title Task Force to review and evaluate the terminology used during the life cycle of an architect's career, from education through retirement. He informed the REC that the Task Force's efforts have been primarily focused on the pre-licensure phase, and the name change of the Intern Development Program (IDP) to the Architectural Experience Program (AXP) was a direct result of the Task Force's work on the issue. Mr. McCauley reminded the REC that the Board's 2015-2016 Strategic Plan tasked the REC with an

objective of monitoring NCARB's actions on the intern titling issue, reviewing and analyzing the findings, and determining whether there was a need for Board action in response to those findings. He explained that as an offshoot to that effort, AIACC's Academy of Emerging Professionals (AEP) had a meeting on January 23, 2015, which Board representatives attended, to discuss titling in the profession. He explained that the Board ultimately received a letter from AIACC on March 4, 2015, requesting that the Board consider amending the Architects Practice Act (Act) to allow the use of the title "architectural intern" by candidates on the path to licensure. He informed the REC that AIACC sponsored legislation, Senate Bill (SB) 1132 (Galgiani) [Architects: architects-in-training], was introduced on February 18, 2016, and has already been heard by the BP&ED and the Senate Appropriations Committee.

Mr. Cooknick remarked that the AEP saw great value in creating a special title for candidates and asked AIACC to advance the issue to the Board and also through legislation. He shared the goal was to create something very simple that would not create confusion and would address the concerns of the Board, as well as the needs of the AEP. He added that the bill was not meant to cause additional workload or expense to the Board, but it was simply to encourage those who are on the path to licensure to stay on that path. He opined those intentions are clearly reflected in the language of SB 1132. He explained that SB 1132 includes two components: 1) if an individual has received Board confirmation of eligibility for the Architect Registration Examination (ARE), he or she has met the requirements to use the title "architect-in-training" (AIT); and 2) the individual who is choosing to use the title must obtain permission from his or her employer. He explained that those mechanisms are spelled out in AIACC's "Architect-in-Training Title Change Proposal."

Mr. Cooknick commented that he is at a loss to understand the amount of resistance the AIACC has experienced on the issue, both on the regulatory side of advancing its proposal, which was deemed not comprehensive, and on the legislative side with SB 1132. He informed the REC that a legislative staff person commented that for a bill the Board does not have a position on, it is working very hard to kill it. He referred to the Board's March 28, 2016, and April 20, 2016, letters to Senator Galgiani and the Senate Appropriations Committee, respectively, and alleged the letters included a false statement that the Board tabled the matter of creating a special title for candidates for licensure. Mr. Cooknick distributed copies of the fiscal analysis of SB 1132 that was drafted by legislative staff for members of the Senate Appropriations Committee. Robert De Pietro and Mr. Merino noted for the record that they did not receive copies of the document, as they were participating via teleconference.

Ms. Voigt questioned who would monitor the use of the proposed title, if it is not the Board. Mr. Cooknick replied that candidates and their employers would be responsible for maintaining their own records, and producing those records upon request by the Board, similar to the audit methods used by the Franchise Tax Board (FTB) or the Internal Revenue Service. He characterized the AIACC's proposal as the basis for collaborative discussion between the Board and AIACC, and explained he could have prepared a more detailed proposal, but it would have required assumptions on his part.

Mr. Cooknick explained that the Board's management of the proposed title could be as simple as what is contained in the bill, and suggested the Board include a paragraph in the Board's letter to an individual who is eligible for the ARE explaining he or she is now eligible to use the title AIT with the support of his or her employer. He commented that the individual would maintain documentation from the employer stating he or she is allowed to use the title, and provide that documentation to the Board upon request. He reiterated the intent of the proposal was to help those who are seeking licensure and encourage them to stay on that path, and suggested the Board and the profession get back on the path where they work collaboratively on these issues. Mr. Cooknick further described resistance to the issue as troubling because it cannot be understood, but cautioned the REC that the Board and AIACC must do everything possible to encourage licensure, or the Board may be merged with another board in the future because the licensure population may no longer justify an independent entity.

Ms. Voigt questioned why AIACC could not wait for NCARB's decisions on the issue. Mr. Cooknick replied that NCARB made its decision, but there was some pushback from Region 3 boards, and as result, the matter went back to NCARB and lost by one vote to return to the status quo. He commented that in his conversations with NCARB Chief Executive Officer Michael Armstrong, he was informed that the decision of whether to create a paraprofessional title is a state's decision, but NCARB's position on the matter is state boards regulate licensed architects, not unlicensed individuals, so NCARB no longer suggests titles for unlicensed individuals. Ms. Voigt informed the REC that she is the Chair of the NCARB Professional Conduct Committee, and noted that the issue of titling has been brought before the Committee at each meeting. She explained that current law prohibits the use of any term confusingly similar to the word "architect" unless licensed by the Board, and SB 1132 would be granting permission to use the word "architect" with the caveat "in-training" to someone who is not an architect. Mr. Cooknick explained that he put language in AIACC's proposal to prevent an individual from using the title to offer and provide services independently, and opined that an individual would be more likely to misuse the title "architect" rather than AIT. He also commented that a consumer would be able to understand the difference between an architect and an AIT.

Mr. McGavin noted that there is precedence for a title based on the Board for Professional Engineers, Land Surveyors, and Geologists' (BPELSG) engineer-in-training (EIT) title. Mr. McGuinness replied that EITs are required to pass an examination prior to using the title. Mr. McGavin commented that AITs would be on the path to being tested, and have reached a threshold after being deemed by the Board to be eligible for the ARE. He also questioned the examination development costs contained in the fiscal analysis of SB 1132, as he did not recall discussing an examination component at the previous REC meeting. Mr. McGuinness explained the information was included based on AIACC's comparison of the title AIT to other professions which include the testing component. He also noted that SB 1132 would be extending the Board's purview to regulate unlicensed candidates.

Mr. De Pietro, a professional engineer, recalled his experience as an EIT, and informed the REC that he never used the EIT title, but instead, used designer because he thought it

was a better title. He also noted that the term “engineer” is not a protected title in California, whereas the term “architect” historically has been. He explained that the title AIT may be confusing to consumers. He also commented that he is unaware of any problems with the current law, and explained that the Board’s workload would be increased by having to monitor the new title. He noted the topic has been extensively discussed by the REC, and suggested the issue not be returned to the REC until there is a strong argument detailing the need for the title.

**Robert De Pietro moved to recommend to the Board that it oppose SB 1132.**

**Sheran Voigt seconded the motion.**

Mr. Merino explained that he is torn on the issue, and asked if staff contacted BPELSG to obtain information regarding the EIT program. He also asked Ms. Voigt if NCARB has made its final decision on the titling issue, or if the issue may be reconsidered in the future. Ms. Voigt clarified that NCARB’s position on the issue is that it is not appropriate to regulate titles for unlicensed individuals, and explained that the NCARB Professional Conduct Committee continually reviews the use of the term “architect.” Mr. McCauley informed the REC that staff contacted BPELSG regarding its EIT program, and obtained information regarding the disciplinary actions and associated costs with managing the EIT program. He offered to obtain additional information regarding the history of the EIT program.

Mr. McCauley explained that NCARB has recently taken a number of actions regarding the term “intern,” including: 1) renaming IDP to AXP; 2) removing the term from its brochures, documents, website, and other communications; and 3) a possible amendment to NCARB *Model Law* from Region 6, of which the Board is a member. He also clarified that Region 3, which includes just 12 of the 54 NCARB Member Boards, expressed concerns with NCARB’s recommendation. Mr. McCauley informed the REC that the Board continually works to nurture the future of the profession, and cited examples of recent efforts to streamline the licensure process, including: 1) reducing the current nine-division ARE to six divisions; 2) removing the elective components from IDP, soon to be AXP, thereby reducing it to a two-year program; 3) offering the California Supplemental Examination in a computer-based format that is available to candidates six days a week in testing centers throughout California and the United States; and 4) eliminating the Comprehensive Intern Development Program requirement.

Mr. Merino questioned whether the REC should recommend to the Board that it oppose SB 1132, or attempt to amend the language of the proposal so that the Board would be able to implement it in the event it became law in 2017. Mr. McCauley explained that staff suggests the REC recommend to the Board that it oppose SB 1132 because it is not necessary for legislation to be passed immediately, and instead, recommended the REC consider developing a more comprehensive solution to the issue of encouraging licensure.

**Michael Merino moved to amend the motion to recommend to the Board that it oppose SB 1132 without prejudice.**

**Robert De Pietro accepted the amendment to the motion.**

Mr. Williams inquired if there was any research from the AEP demonstrating that the issue of titling was a problem. Mr. Cooknick replied that the issue came from a summit of emerging professionals that was held in Phoenix, Arizona, and explained that the AEP ultimately decided to pursue the title AIT because they felt it best conveyed that they possess the necessary skills, but had not passed the required examinations yet. Mr. Williams explained that he had the opportunity to discuss the issue of creating a special title for candidates with approximately 40 future graduates of California State Polytechnic University, San Luis Obispo. He informed the REC that he then polled the students regarding the titles they would want upon graduation, and 11 individuals preferred “designer,” 8 did not specify a title, 7 preferred “associate,” 5 preferred “intern,” 4 preferred AIT, 2 preferred “project manager,” and 2 preferred “production assistant.” He stated he then asked the students if they would prefer the title “project manager” or AIT, and nine preferred AIT whereas the other students wanted a different title. He expressed his concerns with amending the Act without any supporting data to demonstrate there is a problem. Mr. Cullum commented that he does not understand the need for a special title for candidates, and explained that the Board would need to regulate it, as it is not feasible for employers to manage the use of the title.

Yeaphana La Marr, a legislative analyst with the DCA Division of Legislative and Regulatory Review, informed the REC that third-year engineering students used to be required to take the Fundamentals of Engineering Examination and be granted the EIT certification in order to graduate. She explained that many institutions no longer require passage of the examination as a graduation requirement, but the certification is still available for individuals pursuing careers as professional engineers or licensed land surveyors. She also noted that BPELSG’s EIT and land surveyor-in-training programs have examination components, enforcement programs, and fees associated with issuing the certifications.

Michael Corrick, President of Nache & Lewis, informed the REC that he and Mike Parrott, Vice President of the firm, met with six of the firm’s candidates who would qualify to use the title AIT under SB 1132, and commented that his firm takes the comments and concerns of its emerging professionals seriously as they are the future of the architectural profession. He shared that one comment from the discussion was that the proposed title may encourage individuals to begin the licensure process sooner. He stated that the firm has always encouraged its candidates to pursue licensure because it is good for the profession, and the firm’s public sector clients also recognize the value of an architect’s involvement with a project. Mr. Corrick explained that the firm supports its candidates through helping them acquire their IDP hours, mentoring them, providing coaching for the licensing examinations, and granting a salary increase upon licensure. He remarked that as an employer, he supports anything the Board could do to encourage individuals to get licensed sooner. Mr. Parrott explained that within the architectural profession, the term “intern” often implies that an individual has not graduated from college yet, and with the competitive nature of the schools of architecture, the proposed title is an opportunity for the profession to recognize an individual who has obtained a

degree and made a commitment to the profession by pursuing licensure. He added that the title AIT recognizes individuals for their hard work on the path to licensure without devaluing the term “architect.”

Mr. Cooknick questioned the costs included in the fiscal analysis of SB 1132.

Ms. La Marr clarified that the document was prepared for the Senate Appropriations Committee by legislative staff, not DCA. Mr. Cooknick inquired about the source of the costs contained in the document. Ms. La Marr shared that DCA and the Board worked to develop the costs associated with implementing and enforcing the provisions of SB 1132 based upon the stated intent of the bill. She explained that the Department of Finance will not approve a legislative budget change proposal if the associated costs were not first identified in the fiscal analysis. Mr. Cooknick requested the first and second items be removed from the fiscal analysis of SB 1132. Mr. McGuinness informed Mr. Cooknick that the document is not subject to discussion. Ms. La Marr explained that those items cannot be removed, and suggested Mr. Cooknick discuss his concerns with Board and DCA staff.

Mr. McGuinness recalled that one of Mr. Cooknick’s first statements was that he was surprised the REC was not willing to collaborate, and reminded Mr. Cooknick that all the REC has been asking to do is to collaborate with AIACC on the issue. He explained that instead of returning to the REC with a proposal containing sufficient information to justify the need for a solution, AIACC sponsored legislation and provided misleading information to the Legislature regarding the Board’s actions on the issue, and as a result, the Legislature moved forward on the issue based on misinformation. He further stated the REC is more than willing to discuss the issue, but the AIACC’s actions in advancing legislation prior to addressing the REC’s concerns are inappropriate. He expressed his concerns that the legislation is being pushed through, despite the fact that it could have major effects on the Board, and explained that AIACC needs to revisit the issue, and work together with the REC and the Board to develop a solution if there is a problem.

**Sheran Voigt moved to end discussion.**

**Members Cullum, De Pietro, Ho, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion to end discussion. Member McGavin was opposed. The motion passed 7-1.**

**Robert De Pietro repeated the amended motion to recommend to the Board that it oppose SB 1132 without prejudice.**

**Sheran Voigt seconded the motion as amended.**

**Members Cullum, De Pietro, Ho, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. Member McGavin was opposed. The motion passed 7-1.**

Mr. Ho expressed his appreciation to Messrs. Corrick and Parrott for encouraging their employees to pursue licensure, and asked them to identify the job titles that are currently included on their employees' business cards. Messrs. Corrick and Parrott responded with the job titles "design technician" and "project coordinator." Mr. Ho questioned if those employees preferred AIT over their current job titles. Mr. Corrick responded that his employees did not express a preference for AIT over their existing job titles.

Mr. McCauley reiterated that the REC requires more information and research from AIACC in order to make a decision on the issue of titling for candidates, and noted that was the Board's last action reflects that fact as well. He reminded the REC that multiple forms of AIACC's proposal have been discussed, and offered to collaborate with AIACC to develop a solution to promote licensure beyond a title. Mr. McCauley remarked that the Board needs to be convinced that there is a real problem and that the proposed title is an effective solution. Ms. Voigt commented that the REC's decision takes all of that into account, and suggested it may be time to put the issue aside and focus on other objectives.

**F. Discuss and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Identify and Pursue Needed Statutory and Regulatory Changes so Laws and Regulations are Consistent with Current Architectural Practice to Promote Public Health, Safety, and Welfare**

Kristin Walker presented this agenda item, and advised the REC that this objective from the Board's 2015-2016 Strategic Plan objective had not been previously discussed in 2015. She explained that in 2013 and 2014, the REC was tasked with a similar objective to determine whether a provision concerning "scope of work" should be added to the written contract requirement. Ms. Walker explained that a working group, comprised of Phyllis Newton and Mr. McGavin, discussed the issue and, in an effort to add clarification and reduce confusion between the architect and the client, ultimately proposed that a description of the: 1) project and address; and 2) procedure to accommodate contract changes, be added to the written contract requirement. She reminded the REC that it reviewed and accepted the working group's proposed language to amend BPC 5536.22 at its April 24, 2014, meeting, and the proposed language was subsequently approved by the Board at its June 12, 2014, meeting. Ms. Walker explained that while drafting the legislative proposal to amend BPC 5536.22, staff reviewed the laws and regulations regarding architectural practice in other states and found that two states, Nevada and Ohio, also have written contract requirements. She informed the REC that in addition to the five elements currently contained in BPC 5536.22, both states have a provision requiring architects to include a statement identifying the ownership and/or reuse of documents. She advised the REC to consider also adding the following provisions to the written contract requirement: 1) a statement identifying the ownership and/or reuse of documents prepared by the architect; and 2) a notification to the client that the architect is licensed and the Board is the licensing entity.

Ms. Walker explained that another component of the Strategic Plan objective is to ensure laws and regulations are consistent with current architectural practice. She reminded the



REC that it previously appointed Messrs. McGavin and Williams to a working group to review the Board's Occupational Analysis of the architect profession and identify marketplace trends that impact consumer protection. She explained that the working group met on October 15, 2015, and discussed general marketplace trends affecting architectural practice, including: 1) the architect's role in leading the project team; 2) increased specialization within architectural firms; 3) changes in project delivery methods; 4) a lack of business courses within architectural programs; and 5) unlicensed practice.

Ms. Walker informed the REC that in addressing the objective, staff reviewed the Act and Board regulations, and compared them to other states' laws and regulations regarding the practice of architecture, as well as NCARB's *Legislative Guidelines and Model Law* (2014-2015 Edition). She advised the REC that possible statutory and regulatory changes the REC may wish to consider include: 1) strengthening the laws and regulations regarding aiding and abetting the unlicensed practice of architecture (BPC 5582 and 5582.1 and CCR 151); 2) enhancing the Board's Rules of Professional Conduct (CCR 160), and specifically, amending subsection (b)(2) to require licensees to respond to other Board requests for information and/or evidence within 30 days, not just in response to an investigation; and/or 3) clarifying the business entity reporting requirements (BPC 5558 and CCR 104). Ms. Walker suggested the REC consider forming a working group consisting of two members to review and analyze the Act and Board regulations, and develop proposals for possible statutory and/or regulatory changes for the REC's consideration at its next meeting.

Mr. Cooknick questioned if the proposed language for BPC 5536.22, which includes "contract changes, including, but are not limited to," would apply to changes in arbitration or settlement provisions of the written contract. Mr. Carter responded that the proposed language would not impact arbitration or mediation, because dispute resolution is not addressed in the basic contract requirements.

**Michael Merino moved to recommend to the Board that it approve the proposed language to amend BPC 5536.22.**

Mr. McCauley clarified that the Board has already approved the proposed language to add a description of the: 1) project and address; and 2) procedure to accommodate contract changes, to the written contract requirement. He informed the REC that staff is suggesting further amendments to the proposed language to require: 1) a statement identifying the ownership and/or reuse of documents; and 2) a notification to the client that the architect is licensed by the Board, in an architect's written contract. He explained that staff intends to develop proposed language for those two additional provisions and present it for the REC's consideration at its next meeting.

**Michael Merino moved to amend the motion to direct staff to add a: 1) statement identifying the ownership and/or reuse of documents prepared by the architect; and 2) notification to the client that the architect is licensed by the Board, to the**

**proposed language to amend BPC 5536.22 for the REC’s consideration at its next meeting.**

**Sheran Voigt seconded the motion as amended.**

**Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.**

**G. Update and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Pursue Methods to Obtain Multiple Collection Mechanisms to Secure Unpaid Citation Penalties**

Ms. Walker presented this agenda item. She explained that the Board currently utilizes the FTB “Intercept Program” as an additional tool to collect unpaid fines from unlicensed individuals, but the Board’s success has been limited, as the potential sources of recovery are limited to State tax refunds, Lottery proceeds, and unclaimed property. She reminded the REC that it discussed multiple strategies to collect the fines at its April 29, 2015, meeting, and, following the meeting, staff strengthened the content of the Board’s communications with licensees and unlicensed individuals who have not satisfied their citations, as well as became more proactive in offering payment plans. She also informed the REC that staff reviewed each of the options that was discussed by the REC at the meeting, and determined that pursuing a contract with a collection agency may be the most effective method to encourage payment of outstanding fines from unlicensed individuals. Ms. Walker reminded the REC that at its November 5, 2015, meeting, it recommended to the Board that it encourage staff to continue pursuing all avenues for collecting unpaid fines, and specifically, start utilizing a collection agency for unpaid accounts aged beyond 90 days, or at the discretion of the Executive Officer. She informed the REC that the recommendation was approved by the Board at its December 10, 2015, meeting.

Ms. Walker explained that following the Board meeting, staff has identified outstanding accounts that could be referred to a collection agency, as well as obtained quotes for full-service debt collection services, including “skip-tracing,” credit reporting, and filing legal actions, if appropriate. She advised the REC that staff also explored the feasibility of reporting unpaid accounts directly to the three credit reporting agencies (Equifax, Experian, and TransUnion), and obtained information regarding the reporting services they offer to government entities. She explained that based on the information provided by the agencies, staff determined it is more cost-effective to allow the collection agency to provide credit reporting services, as it already possesses and maintains nationwide credit reporting accounts and the required software to electronically transmit data to the credit reporting agencies. She explained that staff is currently in the process of securing the contract with a collection agency through the informal solicitation method (Government Code section 14838.5). Ms. Walker advised the REC that, as another component to address the objective, staff is strengthening its efforts to collect unpaid fines from licensees, including increasing the frequency of enforcement letters and possible disciplinary action against licensees who have not satisfied their citations.

Mr. Cooknick asked if the Board is able to offer an amnesty program for unpaid fines, where an individual could settle the matter by paying a reduced amount of the fine. Mr. McCauley replied that he previously discussed the concept with a past Board president, but it was not well-received at that time. He informed the REC that another issue to consider is the fine amounts, and suggested that staff review the fine amounts for the outstanding citations and determine if there is a more effective strategy that may encourage payment. Ms. Voigt asked if the Board just recently increased the fine limits. Mr. McCauley responded that the maximum fine is \$2,500, unless certain aggravating conditions are met, which would allow for a maximum fine of \$5,000. Mr. Merino inquired about the total amount of unpaid fines. Ms. Walker replied with an estimate of \$150,000. Mr. McCauley clarified that amount is over the history of the Board's cite and fine program, and explained that at some point, the Board is investing more in its collection efforts than it will receive in paid fines. He also reminded the REC that the fines are not intended to sustain the Board's Enforcement Program, and advised that the fine amounts often do not even cover the Board's costs for issuing the citation and participating in the appeal process. Mr. Cooknick commented that Governor Brown signed an amnesty bill for traffic citations, and explained that the bill waived the penalties and assessments if individuals paid the original fines. Mr. McCauley clarified that the Board does not assess penalties for unpaid fines at this time.

Mr. Williams asked if the Board can suspend a license for failure to pay the fine. Vickie Mayer informed the REC that staff will research that option, as other DCA boards and bureaus may have automatic license suspension provisions for failure to satisfy citations. She explained that under current law, the Board is unable to automatically suspend a license for failure to pay a fine, but instead, precludes a licensee from renewing his or her license until both the renewal fee and the outstanding fine have been paid. She advised the REC that staff will investigate whether licensees with unpaid fines may also be practicing architecture without a current license. Mr. McGuinness asked if the license renewal period is two years. Ms. Mayer responded affirmatively, and explained that if a citation is issued at the beginning of the renewal period, a licensee has up to two years to pay the fine, without accruing any interest or penalties. Mr. Cooknick asked if the majority of fines were assessed against unlicensed individuals. Ms. Mayer responded affirmatively, but explained that the amount of unpaid fines from licensees has been increasing over time. Mr. Carter commented that some licensees with CE citations have not been paying the fines, similar to unlicensed individuals.

**Michael Merino moved to receive and file staff's report on the status of the Strategic Plan objective and request that staff continue to investigate other options for citation collection as they present themselves.**

**Barry Williams seconded the motion.**

**Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.**

**H. Update and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Pursue Recruitment of Additional Architect Consultant to Ensure Continuity and Effectiveness in Board's Enforcement Program**

Mr. Sotelo presented this agenda item. He reminded the REC that it made a recommendation at its November 5, 2015, meeting that the Board authorize staff to pursue a Request for Proposal (RFP) to provide the Board with an additional architect consultant and continue to utilize the services of independent expert consultants through the delegated contract process. He explained that the Board currently contracts with two architect consultants, and one of the contracts expires on June 30, 2016, and the other contract expires on January 31, 2017. He informed the REC that staff originally intended to pursue two RFPs in April 2016, but staff from the DCA Business Services Office advised the Board to stagger the process and release separate RFPs to eliminate confusion. Mr. Sotelo advised that staff will be pursuing the RFP for the additional architect consultant in the spring, and also informed the REC that staff has continued to utilize the services of independent expert consultants through the delegated contract process.

**Michael Merino moved to receive and file staff's report on the status of the Strategic Plan objective.**

**Sheran Voigt seconded the motion.**

**Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.**

**I. Discuss and Possible Recommendation Regarding 2015-2016 Strategic Plan Objective to Monitor AIACC Legislation Requiring Architect of Record to Perform Mandatory Construction Observation to Promote Consumer Protection**

Ms. Walker presented this agenda item. She informed the REC that AIACC has shared that the proposal is intended to give architects the ability to protect themselves and the rights of individuals with disabilities through an accessible built environment.

Ms. Walker explained that the proposal will be the subject of a more detailed explanation by AIACC in the future, and suggested the REC consider referring the objective to the Board's next Strategic Planning session for discussion.

Mr. Cullum questioned why the REC should support the proposal based on the fact that the Board has not received any complaints against architects for accessibility-related violations. Mr. Cooknick responded that architects have a mandatory CE requirement due to the prevalence of accessibility-related issues. Mr. McCauley clarified that Mr. Cooknick is focused on civil litigation related to accessibility issues whereas Mr. Cullum is referring to the Board's consumer protection and enforcement efforts. He also noted that the Board previously pursued mandatory construction observation as a consumer protection enhancement, and commented that it may be beneficial to allow the architect to visit the construction site and ensure that what was designed was actually

constructed. Mr. Cooknick agreed, and explained that because construction observation services are often not included in architect's agreement with the client, the architect is not afforded the opportunity to ensure that the access features of a commercial building were constructed as designed by the architect and approved by the building department. He also clarified that AIACC's proposal would allow the architect, or his or her designee, to compare the approved set of plans to what was actually constructed, and provide a report documenting the deviations to the client, the general contractor, and the building department. He noted AIACC's current proposal does not require the architect's designee to be a Certified Access Specialist (CAsp). Mr. Cooknick commented that the architect and the client are often included in a civil suit related to an access code violation, despite the fact that the violation may be the result of a third-party vendor. He reiterated that AIACC's intent is to ensure what was designed by the architect is reflected in the constructed facility, and characterized the proposal as beneficial for consumers and design professionals.

Mr. Cullum commented that the concept is already addressed in the administrative provisions of the California Building Standards Code (CBC), which allow an architect or engineer to specify on the construction documents that construction observation is necessary. Mr. Carter suggested that the issue may be related to compensation for those services. He also stated that the Act does not require the licensee who stamped and signed drawings to provide construction observation services, and, per the administrative provisions of the CBC, the building official can require the owner to furnish an architect to be in responsible control of the work during construction. Mr. Carter further explained that the term "architect of record" is outdated, as there could be multiple architects in responsible control of a project, and suggested AIACC consider which architect would be required to prepare the report documenting deviations from the approved construction documents. Mr. Cooknick responded to Mr. Cullum's statement by expressing his concerns that the administrative provisions of the CBC expose the architect to liability without compensation. Mr. Carter informed the REC that some jurisdictions have not adopted the administrative portion of the CBC, so those provisions may not apply, and explained that jurisdictions are able to create their own processes. Mr. Cullum explained that he supports having architects and engineers at construction sites, but expressed his concerns with limiting the efforts to access-related issues. He explained that current law requires each building department to have CAsps on staff or available for plan check and inspections, and Assembly Bill 2873 (Thurmond) [Certified access specialists] would require all building inspectors, who conduct permitting and plan check services for compliance with state construction-related accessibility standards by a place of public accommodation, to be CAsps.

**Michael Merino moved to receive and file staff's report on the status of the Strategic Plan objective.**

Mr. Ho voiced his philosophical support for the intent of AIACC's proposal. Mr. McGuinness questioned whether there would be antitrust implications associated with the proposal, as it may restrict competition. Mr. Merino explained that the proposal may not be feasible within the free-market system, as it essentially requires a potential

consumer to hire an architect to provide a specific service that he or she may not even be seeking.

**Sheran Voigt seconded the motion.**

**Members Cullum, De Pietro, Ho, McGavin, Merino, Voigt, Williams, and Committee Chair McGuinness voted in favor of the motion. The motion passed 8-0.**

**J. Adjournment**

The meeting adjourned at 1:23 p.m.

DRAFT

### **ENFORCEMENT PROGRAM UPDATE**

Attached is the Enforcement Program Update, which is a synopsis of Board and Enforcement Program activities and projects of interest to the Regulatory and Enforcement Committee (REC).

Also included in this item are the Enforcement Program Report (fiscal year [FY] 2014/15 through 2016/17) and an overview of Citations Issued and Final and Administrative Actions from April 1, 2016, through September 30, 2016 (reporting period since the last REC meeting).

#### Attachments:

1. Enforcement Program Update, April 2016 through October 2016
2. Enforcement Program Report, FY 2014/15 through 2016/17
3. Citations Issued and Final, April 1, 2016 through September 30, 2016
4. Administrative Actions, April 1, 2016 through September 30, 2016

**ENFORCEMENT PROGRAM UPDATE**

April 2016 through October 2016

**Architect Consultants**

Building Official Contact Program:

Architect consultants were available on-call to Building Officials from April 2016 through October 2016, when they received 28 telephone, email, and/or personal contacts. These types of contacts generally include discussions regarding the California Architects Board's (Board) policies and interpretations of the Architects Practice Act (Act), stamp and signature requirements, and scope of architectural practice.

Contracts:

One of the architect consultant contracts expires on January 31, 2017. A Request for Proposal (RFP) for architect consultant services for three years (February 1, 2017, through January 31, 2020) was released on October 5, 2016, and advertised on the Internet under the Cal eProcure system. The RFP was also posted on the Board's website, tweeted, distributed to the Board's e-subscribers, and shared with The American Institute of Architects, Central Valley Chapter, the Asian American Architects and Engineers, the National Organization of Minority Architects, and the Board's subject matter experts. The final date for submission of proposals is November 28, 2016. Proposals received in response to the RFP will be evaluated through a two-phase process, which includes scoring each written proposal (First Phase Evaluation), and each proposer receiving an overall technical score of 30 or more in the first phase will then proceed to an oral interview (Second Phase Evaluation). The Notice of Intent to Award announcing the consultant selected will be posted, as required by law, in the Board's office on December 12, 2016, and the tentative agreement start date will be February 1, 2017, or upon approval.

Education/Information Program:

Architect consultants are the primary source for responses to technical and/or practice-related questions from the public and licensees. From April 2016 through October 2016, there were 173 telephone and/or email contacts requesting information, advice, and/or direction. Licensees accounted for 62 of the contacts and included inquiries regarding written contract requirements, out-of-state licensees seeking to do business in California, scope of practice relative to engineering disciplines, and questions about stamp and signature requirements.

**Board Meetings**

Since April 2016, the Board met on: June 9, 2016, in San Francisco; July 28, 2016, in Sacramento and via teleconference; and September 29, 2016, in Los Angeles. The final Board meeting for 2016 is scheduled for December 15-16 (Sacramento). The December meeting will include a Strategic Planning session.



## **BreEZe**

The Department of Consumer Affairs (DCA) has been working with Accenture, LLP to design, configure, and implement an integrated, enterprise-wide enforcement case management and licensing system (BreEZe). This system supports DCA's highest priority initiatives of job creation and consumer protection by replacing aging legacy business systems with an industry-proven software solution that utilizes current technologies to facilitate increased efficiencies for DCA board and bureau licensing and enforcement programs. More specifically, BreEZe supports applicant tracking, licensing, license renewal, enforcement, monitoring, cashiering, and data management capabilities. Additionally, the system is web-based which allows the public to file complaints and search licensee information and complaint status via the Internet. It also allows applicants and licensees to submit applications, license renewals, and make payments online. BreEZe is being deployed department-wide via three separate releases. Release 1 was implemented on October 9, 2013; Release 2 was implemented on January 19, 2016; and Release 3 is planned to begin development in 2016. The Board is currently part of Release 3.

The State Auditor recommended that DCA conduct a cost-benefit analysis for Release 3 boards and bureaus. Absent any contrary finding in that analysis, DCA plans to bring the remaining boards and bureaus into BreEZe, but likely will do so in smaller groups. Additionally, DCA is collaborating with the Release 3 boards and bureaus and the California Department of Technology in preparing a project plan for the remaining boards and bureaus. A Project Approval Lifecycle Framework outlining four stages (business analysis, alternative analysis, solution development, and project readiness and approval), was provided to Executive Officers (EO) and board presidents on September 7, 2016. DCA will conduct a formal cost benefit analysis. Part of this formal evaluation includes a gap analysis of all existing BreEZe functionality as delivered at the completion of Release 2, in comparison to the Release 3 boards and bureaus' business needs and current systems' functionality. The cost benefit analysis/feasibility study will determine the strategy to be utilized; and, whether a vendor, state staff, or a combination thereof will be implementing Release 3.

## **Collection Agency Contract**

The Board's 2015-2016 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to pursue methods to obtain multiple collection mechanisms to secure unpaid citation penalties. At its November 5, 2015, meeting, the REC reviewed and discussed this objective, and voted to recommend to the Board that it should encourage staff to continue pursuing all avenues for collecting unpaid administrative fines, and specifically, start utilizing a collection agency for unpaid accounts aged beyond 90 days, or at the discretion of the EO. The Board approved the REC's recommendation at its December 10, 2015, meeting.

Following the Board meeting, staff identified outstanding accounts that could be referred to a collection agency and obtained quotes for full-service debt collection services, including "skip-tracing," credit reporting, and filing legal actions if appropriate. Staff is currently in the process of securing a contract with a collection agency through the informal solicitation method (Government Code section 14838.5) to allow the Board to refer unpaid accounts aged beyond 90 days to a collection agency. The collection agency contract is planned to be presented to the Board for review and possible action at its December 2016 meeting.

## Continuing Education (CE) Audit System

Assembly Bill 1746 (Chapter 240, Statutes of 2010) became effective January 1, 2011, and amended the statutory provisions of Business and Professions Code sections (BPC) 5600 and 5600.05 pertaining to the CE requirement for licensees. This bill amended the CE provisions by: 1) requiring an audit of license renewals beginning with the 2013 renewal cycle; 2) adding a citation and disciplinary action provision for licensees who provide false or misleading information; and 3) mandating the Board to provide the Legislature a report on the level of licensee compliance, actions taken for noncompliance, findings of Board audits, and any recommendations for improving the process.

An audit system was developed by the Professional Qualifications Committee and approved by the Board on June 14, 2012. The Board has audited at least 3% of the license renewals received each year since January 2013 to verify the completion of the CE requirements by licensees. As of October 31, 2016, the Board has audited approximately 1,300 licensees and found 215 cases where licensees have: 1) certified false and/or misleading information regarding their compliance with this requirement when filing their license renewal applications with the Board; 2) failed to maintain records of completion of the required coursework; or 3) failed to provide the Board with records of completion of the required coursework upon request. As of October 31, 2016, 73 citations have been issued to licensees for noncompliance with the CE provisions of BPC 5600.05.

## Enforcement Program Statistics

<u>Enforcement Statistics</u>	<u>Current Month</u> October 2016	<u>Prior Month</u> September 2016	<u>FYTD</u> 2016/17	<u>5-FY Avg</u> 2011/12- 2015/16
<b>Complaints</b>				
Received/Opened:	20	27	92	295
Closed:	22	34	110	303
Average Days to Close:	126 days	119 days	132 days	130 days
Pending:	64	66	71*	106
Average Age of Pending:	121 days	128 days	138 days*	164 days
<b>Citations</b>				
Issued:	2	4	10	40
Pending:	10	17	13*	11
Pending AG:†	7	7	7*	3
Final:	9	0	16	36
<b>Disciplinary Actions</b>				
Pending AG:	6	5	5*	3
Pending DA:	0	0	0*	2
Final:	0	0	2	2
<b>Continuing Education (§5600.05)**</b>				
Received/Opened:	4	4	11	68
Closed:	2	4	6	68
Pending:	6	4	4*	26

## Settlement Reports (§5588)\*\*

Received/Opened:	1	3	9	29
Closed:	3	6	12	35
Pending:	6	8	9*	11

\* Calculated as a monthly average of pending cases.

\*\* Also included within "Complaints" information.

† Also included within "Pending Citations."

## Most Common Violations:

The majority of complaints received are filed by consumers for allegations such as unlicensed practice, professional misconduct, negligence, and contract violations, or initiated by the Board upon the failure of a coursework audit.

During FY 2016/17 (as of October 31, 2016), 16 citations with administrative fines became final with 24 violations of the provisions of the Act and/or Board regulations. Below are the most common violations that have resulted in enforcement action during the current FY:

- BPC 5536(a) and/or (b) - Practice Without License or Holding Self Out as Architect [33.3%]
- BPC 5536.22(a) - Written Contract [16.7%]
- BPC 5579 - Fraud in Obtaining License [8.3%]
- BPC 5584 - Negligence or Willful Misconduct [4.2%]
- BPC 5586 - Disciplinary Action by a Public Agency [4.2%]
- BPC 5600.05(a)(1) and/or (b) - License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements [16.7%]
- California Code of Regulations section (CCR) 160(b)(2) - Rules of Professional Conduct (Willful Misconduct) [4.2%]
- CCR 160(f)(1) - Rules of Professional Conduct (Informed Consent) [4.2%]
- Other Violations [8.2%]

## **Examination and Licensing Programs**

### Architect Registration Examination (ARE) 5.0:

Approved by the National Council of Architectural Registration Boards (NCARB) Board of Directors in June 2013, ARE 5.0 (the latest version of the ARE) launched on November 1, 2016, and consists of six standalone divisions that more closely align with current architectural practice and technology.

Each ARE 5.0 division will continue using multiple-choice, check-all-that-apply, and quantitative fill-in-the-blank item types, but will also add hot spot and drag-and-place item types and case studies to replace the graphic vignettes. NCARB stated that the new item types allow for testing at higher levels of cognition through analytical, synthetic, and evaluative exercises — which will be more like what an architect does as part of regular practice. A series of short videos for the new item types is available for viewing on YouTube.

In late August 2016, NCARB released the *Architect Registration Examination 5.0 Guidelines*, which was followed on September 8, 2016, by the *ARE 5.0 Handbook*. These guidelines and handbook contain all the pertinent information candidates will need to take the ARE. Additionally, on

September 13, 2016, NCARB announced the ARE 5.0 Community, where candidates can learn more about the ARE 5.0, find helpful resources, and engage in discussions with NCARB experts and other candidates. Board staff is continuing to monitor NCARB communications for the latest information regarding ARE 5.0.

Since ARE 5.0 launched on November 1, 2016, candidates can decide when to self-transition to the new exam and make an appointment to begin testing. NCARB will continue to administer ARE 4.0 until June 30, 2018. This period of dual delivery will enable candidates to finish the exam in a way that best suits their needs. New candidates, who want to take ARE 4.0 after November 1, 2016, were required to submit a completed Application for Eligibility Evaluation along with all required documentation to the Board and make an official request for testing eligibility via My NCARB by October 31, 2016. After October 31, 2016, all new candidates who apply with the Board or request testing eligibility will be required to complete ARE 5.0.

#### California Supplemental Examination (CSE) Results:

The computer-delivered CSE has been administered to 228 candidates during FY 2016/17 (as of September 30, 2016), of which 162 (71%) passed and 66 (29%) failed. During FY 2015/16, the computer-delivered CSE was administered to 976 candidates, of which 661 (68%) passed, and 315 (32%) failed.

#### NCARB Architectural Experience Program:

On June 29, 2016, NCARB, as part of an industry-wide push to retire the term “intern,” renamed its Intern Development Program the Architectural Experience Program (AXP). NCARB also implemented the last phase of its two-part alignment/streamline process. Now AXP requires candidates to document 3,740 hours in 6 simplified areas that cover all phases of architectural practice rather than the former 17 experience areas. NCARB also overhauled the experience settings and eliminated Setting S with the release of the new AXP Guidelines.

#### NCARB Integrated Path to Architectural Licensure (IPAL):

In September 2013, NCARB convened its Licensure Task Force to explore potential avenues to licensure by analyzing the essential components (education, experience, and examination) and determining where efficiencies can be realized in order to streamline the process. NCARB formally announced its endorsement for the concept of integrated programs on May 30, 2014. At the Board’s March 12, 2015, meeting, Woodbury University and NewSchool of Architecture & Design (NewSchool) provided the Board with detailed presentations that explained their respective integrated approach. Then on August 31, 2015, NCARB announced the names of the first 13 National Architectural Accrediting Board (NAAB) accredited programs accepted to participate in the IPAL. Three of the accepted programs are in California (NewSchool, University of Southern California, and Woodbury University). NCARB also established a new Integrated Path Evaluation Committee (IPEC) to oversee the ongoing work of this initiative. The IPEC will coach accepted programs, promote engagement with state boards regarding the necessary statutory or regulatory changes to incorporate integrated path candidates, and oversee the acceptance of future programs. On November 5, 2015, the University of Kansas in Lawrence was added to the list of IPAL accepted schools.

At its December 10, 2015, meeting, the Board was asked to consider granting early ARE eligibility to students enrolled in any NAAB-accredited program. The Board expressed its intent to monitor

the performance of IPAL programs prior to making any decision with respect to extending early eligibility to other accredited programs. On January 1, 2016, BPC 5550.2 became operative and authorizes the Board to grant candidates enrolled in an IPAL program early eligibility to take the ARE. The Board subsequently sponsored an amendment contained in Senate Bill (SB) 1479 that incorporates a general reference to the IPAL initiative and should prevent any issues with the name of NCARB's program. SB 1479 was approved by the Governor on September 25, 2016, and becomes effective January 1, 2017. During the Board's March 3, 2016, meeting, each of the three California NCARB-accepted schools provided an update on their respective approach to integration. On June 17, 2016, NCARB announced four additional programs that have been accepted to join the original cohort, including a second Woodbury University program in California.

## **Legislation**

SB 1132 (Galgiani) [Architect-in-Training] was introduced in February 2016 and is an American Institute of Architects, California Council (AIACC) proposal to create and define a special title for candidates for licensure. As introduced, it would have created the "architect-in-training" title for a person who has received Board confirmation of eligibility for the ARE and is employed under the direct supervision of an architect. At the July 28, 2016, Board meeting, the Board voted to support SB 1132 if amended with proposed language to, instead, require enrollment in AXP to use the architect-in-training title. SB 1132 was subsequently amended to include the Board's amendments, but was vetoed by the Governor on September 28, 2016.

SB 1195 (Hill) [Board Actions: Competitive Impact] would grant the DCA Director authority to review any board decision or other action to determine whether it unreasonably restrains trade. This bill is the Legislature's response to the North Carolina Dental Board v. Federal Trade Commission case. This case is regarding antitrust immunity for boards, and a key component in the holding is whether there is sufficient "active state supervision" of board actions. This bill addresses that issue by expanding the Director's authority and specifying the elements for the reviews. The Director's review would assess whether the action or decision reflects a clearly articulated and affirmatively expressed state law, and is the result of the board's exercise of ministerial or discretionary judgment. In addition, the Director would assess whether the anticompetitive effects of the action or decision are clearly outweighed by the benefit to the public. SB 1195 was referred to the Senate inactive file. Similar legislation will likely be introduced when the Legislature reconvenes in January.

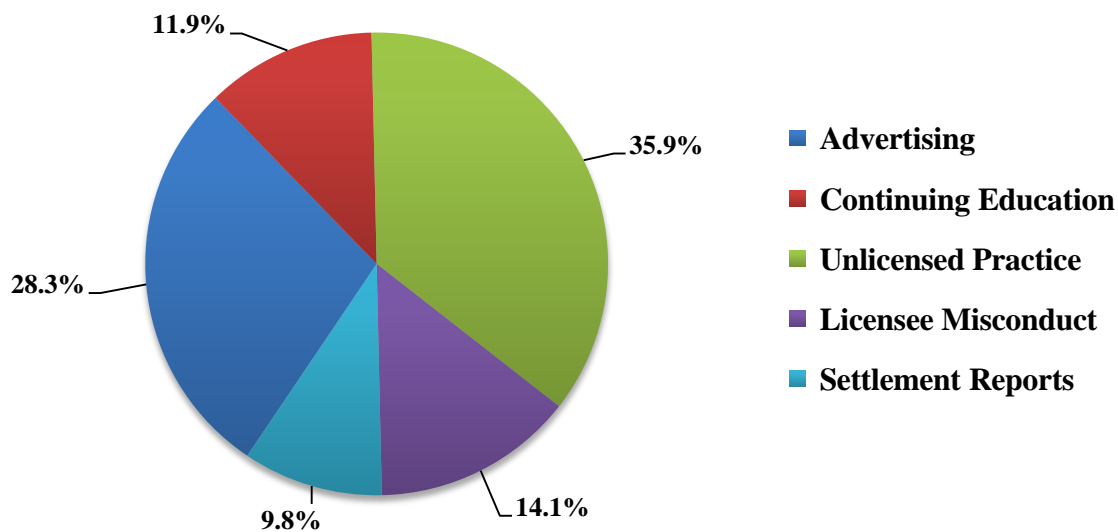
SB 1479 (Chapter 634, Statutes of 2016) contains the Board-sponsored amendment which clarifies language regarding integrated degree programs that was added to the Act via the Sunset Review bill last year. The bill updates BPC 5550.2, which permits the Board to grant early eligibility to take the ARE for students enrolled in an NCARB-accepted integrated degree program. The amendment incorporates a general reference to the Integrated Path to Architectural Licensure (IPAL) initiative to prevent any issues with the name of NCARB's program. SB 1479 was approved by the Governor on September 25, 2016, and becomes effective January 1, 2017.

## **Newsletter**

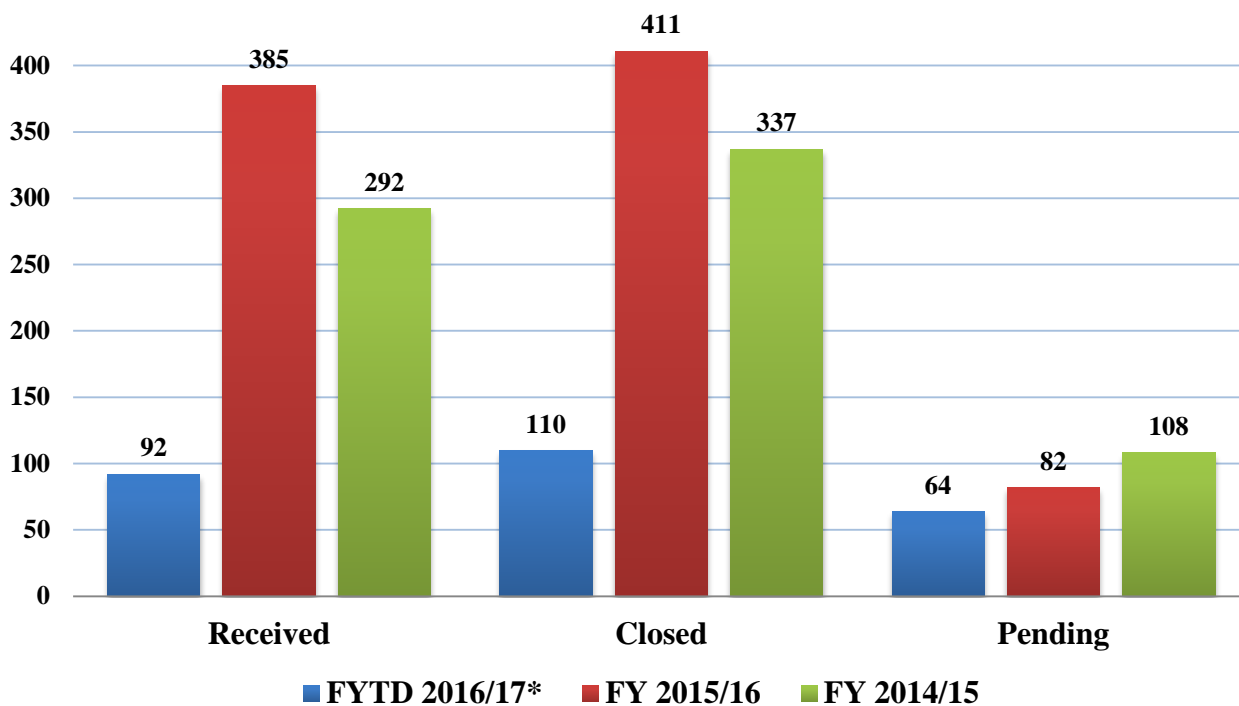
Issues of the Board's newsletter, *California Architects*, were published, posted on the website, and distributed to email subscribers on August 4, 2016, and September 19, 2016.

## ENFORCEMENT PROGRAM REPORT

### Types of Complaints Received FYTD 2016/17\*

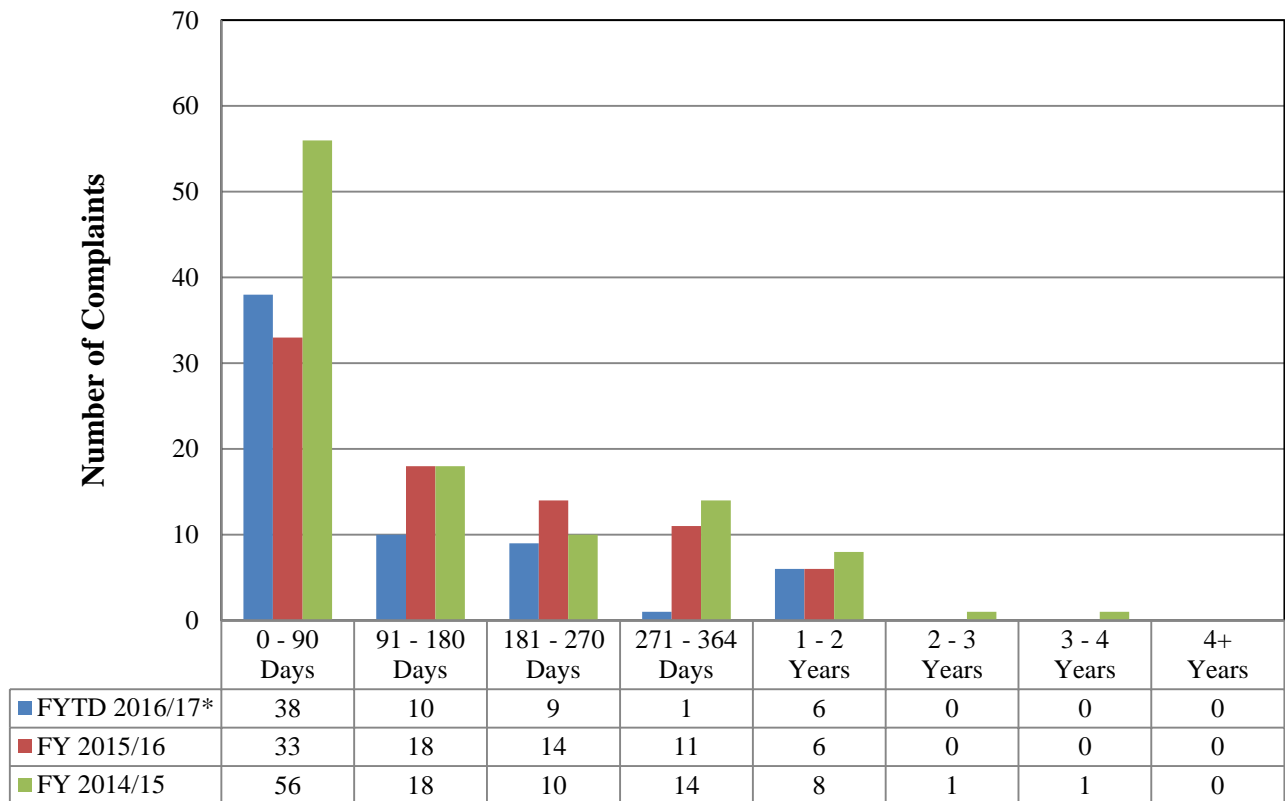


### Complaints Received, Closed, and Pending by FY



\* FYTD reflects data as of October 31, 2016.

## Comparison of Age of Pending Complaints by FY



\* FYTD reflects data as of October 31, 2016.

## Closure of Complaints by FY

Type of Closure	FYTD 2016/17*	FY 2015/16	FY 2014/15
Cease/Desist Compliance	33	56	9
Citation Issued	11	77	62
Complaint Withdrawn	4	6	2
Insufficient Evidence	4	20	13
Letter of Advisement	34	158	185
No Jurisdiction	5	14	11
No Violation	13	62	40
Referred for Disciplinary Action	2	4	6
Other (i.e., Duplicate, Mediated, etc.)	4	14	9

\* FYTD reflects data as of October 31, 2016.

## **Disciplinary and Enforcement Actions by FY**

<b>Action</b>	<b>FYTD 2016/17*</b>	<b>FY 2015/16</b>	<b>FY 2014/15</b>
Disciplinary Cases Initiated	2	4	5
Pending Disciplinary Cases	6	6	6
Final Disciplinary Orders	2	4	1
Final Citations	16	65	47
Administrative Fines Assessed	\$18,500	\$79,750	\$78,000

\* FYTD reflects data as of October 31, 2016.

## **Most Common Violations by FY**

During FY 2016/17 (as of October 31, 2016), 16 citations with administrative fines became final with 24 violations of the provisions of the Architects Practice Act and/or Board regulations. The most common violations that resulted in enforcement action during the current and previous two fiscal years are listed below.

<b>Business and Professions Code Section (BPC) or California Code of Regulations Section (CCR)</b>	<b>FYTD 2016/17*</b>	<b>FY 2015/16</b>	<b>FY 2014/15</b>
BPC 5536(a) and/or (b) – Practice Without License or Holding Self Out as Architect	33.3%	24.5%	41.8%
BPC 5536.1(c) – Unauthorized Practice	0%	4.1%	5.1%
BPC 5536.22 (a) – Written Contract	16.7%	3.1%	5.1%
BPC 5584 – Negligence or Willful Misconduct	4.2%	5.1%	2.5%
BPC 5600.05(a)(1) and/or (b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements**	16.7%	52.0%	31.6%
CCR 160(b)(2) – Rules of Professional Conduct	4.2%	7.1%	5.1%

\* FYTD reflects data as of October 31, 2016.

\*\* Assembly Bill 1746 (Chapter 240, Statutes of 2010) became effective January 1, 2011, and amended the coursework provisions of BPC 5600.05 by requiring an audit of license renewals beginning with the 2013 renewal cycle and adding a citation and disciplinary action provision for licensees who provide false or misleading information.



**CITATIONS ISSUED AND FINAL**

April 1, 2016 – September 30, 2016

David C. Baum  
(Milwaukee, Wisconsin)

BPC 141(a) – Effect of Disciplinary Action Taken by Another State or the Federal Government  
BPC 498 – License Secured by Fraud, Deceit, or Knowing Misrepresentation  
BPC 5579 – Fraud in Obtaining License  
BPC 5586 – Disciplinary Action by a Public Agency

The Board issued a two-count citation that included a \$2,000 administrative fine to Baum, architect license number C-28568, for alleged violations of Business and Professions Code sections (BPC) 141(a), 498, 5579, and 5586. The action alleged that Baum obtained the renewal of his California architect license by fraud or misrepresentation when he signed his 2011 License Renewal Application declaring under penalty of perjury that he had not been disciplined by a public agency or convicted of a crime in the preceding renewal period when in fact he was disciplined by the Texas Board of Architectural Examiners. Baum also certified under penalty of perjury that all representations on the Renewal Application were true, correct, and contained no material omissions of fact. In addition, Baum was disciplined by architectural boards in Colorado, Florida, Missouri, South Dakota, and Texas for acts substantially related to the qualifications, functions, or duties of an architect. The citation became final on August 29, 2016.

Robert E. Burkhart  
(Aptos)

BPC 5536.22(a)(3) and (5) – Written Contract

The Board issued a one-count modified citation that included a \$250 administrative fine to Burkhart, architect license number C-29991, for alleged violations of BPC 5536.22(a)(3) and (5). The action alleged that Burkhart failed to include his architect license number and a description of the procedure to be used by either party to terminate the contract in his written contracts to provide preliminary design drawings and permit-construction drawings for a project located in Boulder Creek, California, and failed to execute the contract for permit-construction drawings prior to commencing that work. Burkhart paid the fine, satisfying the citation. The citation became final on July 14, 2016.

Eric Cole  
(San Francisco)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Cole, architect license number C-34014, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Cole certified false or misleading information on his 2015 License Renewal Application. The citation became final on May 31, 2016.

Robert York Crockett  
(Beverly Hills)

BPC 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$1,000 administrative fine to Crockett, architect license number C-19399, for an alleged violation of BPC 5536(a). The action alleged that while Crockett’s license was expired, he executed an “AIA Document B155 Standard Form of Agreement Between Owner and Architect for a Small Project.” The Agreement contained the words “Architect” and “Architectural” and Crockett was listed as the “Architect.” He also signed his name on the signature line under the heading, “Architect.” Crockett paid the fine, satisfying the citation. The citation became final on July 28, 2016.

Joseph Michael Fazio  
(Boston, Massachusetts)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Fazio, architect license number C-22467, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Fazio certified false or misleading information on his 2015 License Renewal Application. Fazio paid the fine, satisfying the citation. The citation became final on May 18, 2016.

Alvin Huang  
(Los Angeles)

BPC 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$2,000 administrative fine to Huang, dba Synthesis Design + Architecture, an unlicensed individual, for alleged violations of BPC 5536(a). The action alleged that Huang’s resume and Facebook profile stated “Synthesis Design + Architecture” and “Architect Research Services” with a California address. His LinkedIn profile included the word “Architecture” and described him as an “award winning architect.” “Synthesis Design + Architecture” had a LinkedIn profile

with a California address and was registered with the California Secretary of State as a corporation. Huang paid the fine, satisfying the citation. The citation became final on May 18, 2016.

Diane Noelle Jones  
(Aptos)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Jones, architect license number C-32319, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Jones certified false or misleading information on her 2015 License Renewal Application. Jones paid the fine, satisfying the citation. The citation became final on May 24, 2016.

Charles Andrew Sang-Ho Lee  
(Oakland)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Lee, architect license number C-35189, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Lee certified false or misleading information on his 2015 License Renewal Application. Lee paid the fine, satisfying the citation. The citation became final on May 27, 2016.

Jason Maune  
(San Diego)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Maune, architect license number C-35053, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Maune certified false or misleading information on his 2015 License Renewal Application. Maune paid the fine, satisfying the citation. The citation became final on May 31, 2016.

Susannah B. Meek  
(San Francisco)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Meek, architect license number C-27503, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Meek certified false or misleading information on her 2015 License

Renewal Application. Meek paid the fine, satisfying the citation. The citation became final on May 18, 2016.

Susan Jean Nelson  
(Sierra Madre)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Nelson, architect license number C-23300, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Nelson certified false or misleading information on her 2015 License Renewal Application. Nelson paid the fine, satisfying the citation. The citation became final on May 31, 2016.

Christopher Thanh Ngo  
(Garden Grove)

BPC 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a three-count citation that included a \$3,000 administrative fine to Ngo, dba C.T.N. Design Group, an unlicensed individual, for alleged violations of BPC 5536(a). The action alleged that on or about April 26, 2014, Ngo provided an agreement to his client offering layout site plans, floor plans, and elevations for a residential project located in Rosemead, California. The agreement included “Architectural Plans” and “Architectural Details” as part of the services Ngo would provide. On or about July 24, 2014, Ngo provided a contract to another client offering layout site plans, floor plans, and elevations for a residential project located in Temple City, California. The contract included “Architectural back checks” and an “Architectural plan” as part of the services Ngo would provide and contained the term “Architecture” under the “Liability/Responsibility” clause. On or about August 27, 2015, Ngo provided a business card and an agreement to a third client offering layout site plans, floor plans, and elevations for a residential project located in Topanga, California. The business card contained the term “Architectural” and the agreement included “Architectural Plans” as part of the services Ngo would provide. The citation became final on July 21, 2016.

Miles Samuel Reifsnyder  
(San Clemente)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Reifsnyder, architect license number C-24620, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Reifsnyder certified false or misleading information on his 2015

License Renewal Application. Reifsnyder paid the fine, satisfying the citation. The citation became final on May 10, 2016.

Ubaldo Amaury Reyes  
(National City)

BPC 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$3,500 administrative fine to Reyes, dba J7 Plans & Permits, an unlicensed individual, for alleged violations of BPC 5536(a). The action alleged that Reyes provided his client, a senior citizen, with a proposal offering “architectural services,” “Architecture,” and a “complete set of Architectural Plans” for an addition to a single-family residence located in San Diego, California. Reyes’ advertisement on the Internet at yellowpages.com under the business name “J7 Plans & Permits” also included “Architectural Plans for New Construction, Additions, Remodel, Landscape, Hardscape, and any other Work (Residential or Light Comm) that needs Plans & Permits” under “Services/Products.” The citation became final on June 3, 2016.

Oscar M. Sanchez  
(Lakewood)

BPC 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count citation that included a \$1,000 administrative fine to Sanchez, dba Ideal Designs, an unlicensed individual, for alleged violations of BPC 5536(a). The action alleged that Sanchez’ company, Ideal Designs, initiated an agreement with his client offering to provide architectural drawings for an existing property to be subdivided into two properties located in or around Long Beach, California. The agreement included “Architectural drawings” and “Architectural Details” as part of the services Sanchez would provide. In addition, on or about June 1, 2016, the Internet revealed that Sanchez was listed on the website linkedin.com under the “Architecture & Planning” category and was identified as an “Architect.” Sanchez’ company, Ideal Designs, was listed on the website yelp.com under the “Architects” category. Sanchez identified himself as an “architect” in an interview and listed his contact email as “oscararchitect\_id@yahoo.com” on the website beachbusinesscenter.com. Sanchez was also identified as a “local architect” and stated that he has a “decade working in architecture” on the website womensinvestclub.com. The citation became final on July 20, 2016.

Harry Michael Smith  
(Atlanta, Georgia)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Smith, architect license number C-22966, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Smith certified false or misleading information on his 2015 License Renewal Application. Smith paid the fine, satisfying the citation. The citation became final on May 18, 2016.

Michael Song  
(Long Beach)

BPC 5600.05(b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$750 administrative fine to Song, architect license number C-32566, for an alleged violation of BPC 5600.05(b). The action alleged that Song failed to maintain records of completion of the required coursework for two years from the date of license renewal and failed to make those records available to the Board for auditing upon request. The citation became final on July 13, 2016.

Earle Edward Weiss  
(Mill Valley)

BPC 5536(a) – Practice Without License or Holding Self Out as Architect  
BPC 5536.22(a)(5) – Written Contract  
BPC 5584 – Negligence

The Board issued a three-count citation that included a \$1,500 administrative fine to Weiss, architect license number C-22416, for alleged violations of BPC 5536(a), 5536.22(a)(5), and 5584. The action alleged that while Weiss' license was expired, he executed a written contract to remodel an existing convent in San Francisco, California. The contract was on "E.E. Weiss Architects, Inc." letterhead, described the "Proposed Architectural Services" to be performed, contained the words "Architectural" and "Architect(s)" throughout, included Weiss' signature next to the title "Architect," and did not contain a termination clause. Weiss also failed to confirm the height of an existing entry deck to the convent, thereby designing a ramp that would not satisfy accessibility design standards. The citation became final on July 14, 2016.

Claire Deborah Weisz  
(New York, New York)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to Weisz, architect license number C-22348, for an alleged violation of BPC 5600.05(a)(1). The action alleged that Weisz certified false or misleading information on her 2015 License Renewal Application. Weisz paid the fine, satisfying the citation. The citation became final on May 24, 2016.

Douglas John White  
(Tacoma, Washington)

BPC 5600.05(a)(1) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

The Board issued a one-count citation that included a \$500 administrative fine to White, architect license number C-31329, for an alleged violation of BPC 5600.05(a)(1). The action alleged that White certified false or misleading information on his 2015 License Renewal Application. White paid the fine, satisfying the citation. The citation became final on May 31, 2016.

Chang Kil Woo  
(Fullerton)

BPC 5536(a) – Practice Without License or Holding Self Out as Architect

The Board issued a one-count modified citation that included a \$2,000 administrative fine to Woo, dba CW Designs, an unlicensed individual, for alleged violations of BPC 5536(a). The action alleged that Woo's company website, cwdbinc.com, described his services as "Architectural" and contained the meta tag keyword "Architectural." Woo's company was also categorized under "Architects" on the website yelp.com, and Woo's advertisements for his company on the websites citysearch.com, ehardhat.com, ezlocal.com, getfave.com, hop.stop.com, local.dispatch.com, local.yahoo.com, mapquest.com, merchantcircle.com, pennysaverusa.com, plus.google.com, yellowbot.com, yellowise.com, and yellowpagecity.com offered "Architect & Engineering Plan Services." In addition, Woo's advertisement for his company on the website losangeles.craigslist.org described his services as "Architectural," included the title "Architect," and contained the keywords "Architect," "Architectural," "Architecture," "Professional Architect," and "Stamped." The citation became final on May 16, 2016.

**ADMINISTRATIVE ACTIONS**

April 1, 2016 – September 30, 2016

**PAUL CURTIS BUNTON** (San Jose) Effective April 7, 2016, Paul Curtis Bunton’s architect license number C-18659, was revoked; however, the revocation was stayed and Bunton’s license was placed on probation for three years with specific terms and conditions, including reimbursing the Board \$6,512.50 for its investigative and enforcement costs. The action came after a Proposed Decision was adopted by the Board.

An Accusation was filed against Bunton for alleged violations of Business and Professions Code sections 5588 (Report of Settlement or Arbitration Award), 490 (Conviction of Crime), and 498 (License Secured by Fraud, Deceit, or Knowing Misrepresentation). The Accusation alleged that Bunton failed to report to the Board in writing within 30 days of the date of a civil settlement. On March 26, 2012, he pled guilty to aiding the commission of a misdemeanor under Penal Code section 659. On his 2013 License Renewal Application, he answered “no” to the question, “In the preceding renewal period, have you been disciplined by a public agency or have you been convicted of a crime in any state, the USA and its territories, federal jurisdiction, military court, or other country, which involved a plea or verdict of guilty or a conviction following a plea of nolo contendere?” Bunton submitted a false statement under penalty of perjury on the application to renew his architect license.

**EDWARD W. POWELL** (Oak View) On August 11, 2015, a Petition to Revoke Probation was filed against Edward W. Powell after he failed to make \$3,083.28 in restitution payments to his clients from December 2014 through July 2015, thereby violating the terms and conditions of his probation.

Effective May 6, 2016, Powell’s architect license number C-27775 was revoked; however, the revocation was stayed and Powell was placed on probation for an additional one year beginning August 22, 2016. The action came after a stipulated settlement was negotiated and adopted by the Board.



### **UPDATE AND POSSIBLE RECOMMENDATION REGARDING 2015-2016 STRATEGIC PLAN OBJECTIVE TO IDENTIFY AND PURSUE NEEDED STATUTORY AND REGULATORY CHANGES SO LAWS AND REGULATIONS ARE CONSISTENT WITH CURRENT ARCHITECTURAL PRACTICE TO PROMOTE PUBLIC HEALTH, SAFETY, AND WELFARE**

The California Architects Board's 2015-2016 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to identify and pursue needed statutory and regulatory changes so laws and regulations are consistent with current architectural practice to promote public health, safety, and welfare, such as amending the Architects Practice Act (Act) written contract requirement.

Business and Professions Code section (BPC) 5536.22 currently requires that an architect's written contract:

1. Describe the services to be provided by the architect;
2. Describe the basis of compensation and method of payment;
3. Identify the name, address, and license number of the architect and the name and address of the client;
4. Describe the procedure to accommodate additional services; and
5. Describe the procedure to be used by both parties to terminate the contract.

The Board's 2013 and 2014 Strategic Plans also contained an objective to determine whether a provision concerning "scope of work" should be added to the written contract requirement in BPC 5536.22. At its April 25, 2013, meeting, the REC considered staff's recommended revisions to add: the project scope; the project address; the name and address of the project owner; and a description of the procedure to accommodate contract changes, including changes in the project scope, to the written contract requirement. At the meeting, the REC assigned a working group, comprised of members Phyllis Newton and Gary McGavin, to further refine the proposed language before making a recommendation to the Board. The working group met on July 15, 2013, and based on its discussion, in an effort to add clarification and reduce miscommunication and confusion between the architect and the client, the working group ultimately decided to propose that a description of the project and address, and a procedure to accommodate contract changes be added to the written contract requirement.

Staff subsequently revised the proposed language for BPC 5536.22 and submitted the changes to the Board's legal counsel for review on October 21, 2013. Legal counsel made minor edits which were approved by the REC on April 24, 2014, and recommended to the Board. At its June 12, 2014, meeting, the Board subsequently approved the REC's recommendations, and proposed language to add a description of the: 1) project and address; and 2) procedure to accommodate contract changes, to the written contract requirements.

On January 11, 2016, the Board submitted a proposal to amend BPC 5536.22 to the Senate Business, Professions and Economic Development Committee (BP&ED) for possible inclusion in an omnibus clean-up bill. BP&ED staff determined that the proposal is substantive and must be included in another bill in 2017.

Staff reviewed the laws and regulations regarding the practice of architecture in other states, and found that two other states (Nevada and Ohio) currently require an architect to execute a written contract with the client prior to providing professional services for a project. Both states require an architect's written contract to include a statement identifying the ownership and/or reuse of documents prepared by the architect, in addition to the five elements currently required by BPC 5536.22.

To improve the protections afforded to consumers and architects through the written contract requirement, staff recommended that, in addition to the amendments to BPC 5536.22 that were previously approved by the Board, the REC also consider requiring a: 1) statement identifying the ownership and/or reuse of documents prepared by the architect; and 2) notification to the client that the architect is licensed and the Board is the licensing entity, in an architect's written contract. At its April 28, 2016, meeting, the REC reviewed and discussed the objective, and recommended that staff develop proposed language to amend BPC 5536.22 that includes these two additional provisions for the REC's consideration at its next meeting.

Following the meeting, staff added two additional provisions (highlighted in yellow) to the proposed language to amend BPC 5536.22 (see attachment) which would require the written contract between an architect and a client to include a: 1) statement identifying the ownership and use of instruments of service prepared by the architect; and 2) notification to the client that the architect is licensed by the Board. This proposed language to further amend BPC 5536.22 was subsequently reviewed by legal counsel on November 2, 2016.

The REC is asked to review and discuss the proposed language to amend BPC 5536.22 and make a recommendation to the Board.

Attachment:

Proposed Language for Possible Amendment to Business and Professions Code Section 5536.22

**PROPOSED LANGUAGE FOR POSSIBLE AMENDMENT TO BUSINESS AND PROFESSIONS CODE SECTION 5536.22**

**Amend Section 5536.22 of the Business and Professions Code to read:**

- (a) An architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. That written contract shall be executed by the architect and the client, or his or her representative, prior to the architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following items:
- (1) A description of the project for which the client is seeking services.
  - ~~(2)~~ A description of the services to be provided by the architect to the client.
  - ~~(3)~~ A description of any basis of compensation applicable to the contract and the method of payment agreed upon by both parties.
  - ~~(3)~~ The name, address, and license number of the architect, and the name and address of the client and the project address.
  - ~~(4)~~ A description of the procedure that the architect and the client will use to accommodate additional services.
  - (6) A description of the procedure that the architect and the client will use to accommodate contract changes including, but not limited to, changes in the description of the project, in the description of the services, or in the description of the compensation and method of payment.
  - ~~(5)~~ A description of the procedure to be used by either party to terminate the contract.
  - (8) A statement identifying the ownership and use of instruments of service prepared by the architect.
  - (9) A statement in at least 10-point type that reads: "Architects are licensed and regulated by the California Architects Board. Any questions or complaints concerning an architect may be referred to the California Architects Board, 2420 Del Paso Road, Suite 105, Sacramento, CA 95834."
- (b) This section shall not apply to any of the following:
- (1) Professional services rendered by an architect for which the client will not pay compensation.
  - (2) An arrangement as to the basis for compensation and manner of providing professional services implied by the fact that the architect's services are of the same general kind which the architect has previously rendered to and received payment from the same client.
  - (3) If the client knowingly states in writing after full disclosure of this section that a writing which complies with the requirements of this section is not required.
  - (4) Professional services rendered by an architect to a professional engineer registered to practice engineering under Chapter 7 (commencing with Section 6700), or to a land surveyor licensed under Chapter 15 (commencing with Section 8700).

### **UPDATE AND POSSIBLE RECOMMENDATION REGARDING 2015-2016 STRATEGIC PLAN OBJECTIVE TO PURSUE RECRUITMENT OF AN ADDITIONAL ARCHITECT CONSULTANT TO ENSURE CONTINUITY AND EFFECTIVENESS IN THE BOARD'S ENFORCEMENT PROGRAM**

The California Architects Board's 2015-2016 Strategic Plan contains an objective assigned to the Regulatory and Enforcement Committee (REC) to pursue the recruitment of an additional architect consultant to ensure continuity and effectiveness in the Board's Enforcement Program.

#### **Architect Consultants**

Business and Professions Code section (BPC) 5528 authorizes the Board to contract with licensed architect consultants to assist in its Enforcement Program. The Board recruits architect consultants through the Department of General Services Request for Proposal (RFP) process using the "secondary method" to select the most qualified individuals to successfully and effectively carry out the services identified in the RFP. To be considered, each proposer must: 1) possess an active valid license to practice architecture in California; 2) have no history of enforcement and/or administrative actions; 3) have been in practice, as defined in BPC 5500.1, within California for the last five years; and 4) have experience preparing for testimony or testifying in a minimum of three architectural related civil or other matters.

The Board's architect consultants review practice-based consumer complaints concerning deceptive, incompetent, or negligent acts of architects or unlicensed individuals, and assist the Board in the development of disciplinary cases by preparing reports of findings and testifying as expert witnesses on behalf of the Board. The architect consultants' services also include: 1) responding to practice-based inquiries from the public and members of the profession; 2) participating in the Board's Building Official Contact Program; 3) analyzing and researching issues and trends affecting consumer protection; 4) assisting in the Board's consumer education programs by providing presentations at conferences and seminars; 5) drafting newsletter articles, press releases, and bulletins on matters concerning professional practice issues; and 6) providing input to the Board on matters requiring technical expertise.

The Board currently contracts with two architect consultants who work from the Board's office in Sacramento. One of the architect consultant contracts expires on January 31, 2017, and the other expires on June 30, 2019. An RFP for architect consultant services to replace the contract that expires on January 31, 2017, was released on October 5, 2016, and advertised on the Internet under the Cal eProcure system. The RFP was also posted on the Board's website, tweeted, distributed to the Board's e-subscribers, and shared with The American Institute of Architects, Central Valley Chapter, the Asian American Architects and Engineers, the National Organization of Minority Architects, and the Board's subject matter experts (SMEs). The final date for submission of proposals is November 28, 2016.

#### **Independent Expert Consultants**

Senate Bill (SB) 541 (Price) [Chapter 339, Statutes of 2011] established BPC 40, which streamlines the process for boards and bureaus to contract with independent expert consultants to provide an

expert opinion on enforcement-related matters, and assist as SMEs in examination development, examination validation, or occupational analyses. The Board contracts with SMEs under the provisions in SB 541 to assist in California Supplemental Examination development and occupational analyses.

The scope of services for enforcement case review by independent expert consultants under delegated contracts is limited to the preparation of expert opinions on enforcement-related matters, including technical subject matters, professional standards and any deviations therefrom, the quality and completeness of evidentiary material, and assistance in all phases of the judicial and administrative process, including hearings and appeals, if required. Under the delegated contract process, independent expert consultants are compensated based on an hourly rate for their services, with a maximum duration of 36 months and a maximum value of \$50,000 per contract. The Board can execute delegated contracts with independent expert consultants for enforcement-related matters and amend the contracts as needed, staying within the stated parameters.

In July 2015, the Enforcement Program executed its first delegated contract under this streamlined process with an independent expert consultant who was tasked with examining and evaluating evidentiary material pertaining to an enforcement case, and preparing a written report of findings and expert opinion describing the architectural work relative to the standard of practice and any deviations therefrom.

At its November 5, 2015, meeting, the REC reviewed this objective and voted to recommend to the Board that it authorize staff to also pursue an RFP to provide the Board with an additional architect consultant and continue to utilize the services of independent expert consultants through the delegated contract process. The Board approved the REC's recommendation at its December 10, 2015, meeting.

Following the meeting, an SME expressed interest in assisting the Board with enforcement case review, but, as a current public employee, was precluded from contracting with the Board under the provisions of SB 541. Therefore, staff executed a Volunteer Service Agreement with the SME effective March 1, 2016 through May 1, 2016. Staff also consulted with Department of Consumer Affairs Business Services Office staff, which advised the Board to release separate RFPs to replace the architect consultant contract that expired on June 30, 2016, and to pursue the additional contract as approved by the Board at its December 2015 meeting.

The REC was informed at its April 28, 2016, meeting that staff was preparing a second RFP to recruit and hire a third architect consultant for the purpose of succession planning. Following the meeting, staff has continued to work diligently to address consumer complaints and has reduced the Board's pending caseload by approximately 30% (from 94 to 64). Consequently, a third architect consultant contract may not be necessary and would be difficult to justify at this time. However, as previously noted, efforts are underway to replace the architect consultant contract that expires on January 31, 2017. Staff also intends to continue to utilize the services of independent expert consultants through the delegated contract process on an intermittent basis to complement the work of the Board's two architect consultants.

The REC is asked to review and discuss this objective, and consider recommending to the Board that it no longer pursue the recruitment of an additional architect consultant at this time, due to the significant reduction in the Board's pending caseload.

### **DISCUSS AND POSSIBLE RECOMMENDATION REGARDING PROPOSED AMENDMENTS TO TITLE 16, CALIFORNIA CODE OF REGULATIONS (CCR) SECTIONS 152 (CITATIONS) AND 152.5 (CONTEST OF CITATIONS, INFORMAL CONFERENCE)**

Title 16, California Code of Regulations section (CCR) 152 (Citations) [Attachment 1] authorizes the California Architects Board's Executive Officer (EO) to issue citations containing orders of abatement and/or administrative fines pursuant to Business and Professions Code sections (BPC) 125.9 or 148 against an architect or an unlicensed person for violations of the Architects Practice Act (Act) or Board regulations. Following the issuance of a citation, a cited person may request an informal conference and/or a formal administrative hearing, as outlined in CCR 152.5 (Contest of Citations, Informal Conference). An informal conference provides a cited person with the opportunity to review the acts charged in the citation and demonstrate to the EO that there was not a violation of the Act as alleged in the citation.

Staff requests the Regulatory and Enforcement Committee (REC), and ultimately the Board, consider amendments to CCR 152.5 that would allow the EO to delegate to a designee, such as the Assistant Executive Officer or the Enforcement Program Manager, the authority to hold an informal conference with a cited person and make a decision to affirm, modify, or dismiss a citation. This delegation would only be utilized in the event the EO knows one of the parties in the investigation or for simple unlicensed cases.

Staff also suggests the REC consider additional revisions to CCR 152.5, including:

- Changing the deadline for requesting an informal conference from 10 days after service of the citation to 30 days of the date of issuance of the citation, for consistency with the deadline for requesting a formal administrative hearing as provided for in BPC 125.9(b)(4).
- Authorizing the EO or a designee to extend the 60-day period for holding the informal conference for good cause.
- Clarifying that the decision to affirm, modify, or dismiss a citation is made following (rather than at the conclusion of) an informal conference, and a copy of the decision will be transmitted to the cited person within 30 days after the conference.

Staff worked with legal counsel to prepare the proposed regulatory language to amend CCR 152.5 (Attachment 2) to include the above-referenced revisions.

The REC is asked to review and discuss the proposed regulation to amend CCR 152.5, and consider recommending to the Board that it approve the regulation and delegate authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and make minor technical or non-substantive changes to the language, if needed.

Attachments:

1. Title 16, California Code of Regulations Section 152
2. Proposed Regulatory Language, Title 16, California Code of Regulations Section 152.5

**TITLE 16, CALIFORNIA CODE OF REGULATIONS SECTION 152**

(a) The Board's executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to sections 125.9 or 148 of the code against an architect or an unlicensed person who has committed any acts or omissions which are in violation of the Architects Practice Act or any regulation adopted pursuant thereto.

(b) A citation shall be issued whenever any order of abatement is issued or any fine is levied. Each citation shall be in writing and shall describe with particularity the nature and facts of the violation, including a reference to the statutes or regulations alleged to have been violated. The citation shall be served upon the individual personally or by certified mail.

(c) Where citations include an assessment of an administrative fine, they shall be classified according to the nature of the violation and shall indicate the classification on the face thereof as follows:

(1) Class "A" violations are violations which the executive officer has determined involve an unlicensed person who has violated Business and Professions Code section 5536, including but not limited to, acting in the capacity of or engaged in the practice of architecture. A class "A" violation is subject to an administrative fine in an amount not less than seven hundred and fifty dollars (\$750) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.

(2) Class "B" violations are violations which the executive officer has determined involve either a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has caused physical damage to a structure or building or to real property or monetary damage to a client or member of the public or a person who has committed a class "C" violation and has one or more prior, separate class "C" violations. A class "B" violation is subject to an administrative fine in an amount not less than one thousand dollars (\$1,000) and not exceeding two thousand five hundred dollars (\$2,500) for each and every violation.

(3) Class "C" violations are violations which the executive officer has determined involve a person who, while engaged in the practice of architecture, has violated a statute or regulation relating to the practice of architecture and which has not caused either the death or bodily injury to another person or physical damage to a structure or building or to real property or monetary damage to a client or a member of the public. A class "C" violation is subject to an administrative fine in an amount not less than two hundred and fifty dollars (\$250) and not exceeding one thousand dollars (\$1,000) for each and every violation.

(d) In assessing the amount of an administrative fine, the executive officer shall consider the following criteria:

(1) The good or bad faith exhibited by the cited person.



(2) The nature and severity of the violation.

(3) Evidence that the violation was willful.

(4) History of violations of the same or similar nature.

(5) The extent to which the cited person has cooperated with the board's investigation.

(6) The extent to which the cited person has mitigated or attempted to mitigate any damage or injury caused by his or her violation.

(7) Such other matters as justice may require.

(e) Notwithstanding the administrative fine amounts specified in subsection (c), a citation may include a fine between \$2,501 and \$5,000 if one or more of the following circumstances apply:

(1) The citation involves a violation that has an immediate relationship to the health and safety of another person.

(2) The cited person has a history of two or more prior citations of the same or similar violations.

(3) The citation involves multiple violations that demonstrate a willful disregard of the law.

(4) The citation involves a violation or violations perpetrated against a senior citizen or disabled person.

(f) The sanction authorized under this section shall be separate from, and in addition to, any other civil or criminal remedies.

**Note: Authority cited: Sections 125.9 and 5526, Business and Professions Code. Reference: Sections 125.9, 148, 149, 5510.1 and 5560, Business and Professions Code.**

CALIFORNIA ARCHITECTS BOARD  
PROPOSED REGULATORY LANGUAGE

Article 8. Disciplinary Proceedings

Amend Section 152.5 as follows:

**Section 152.5. Contest of Citations, Informal Conference.**

(a) In addition to requesting an administrative hearing as provided for in subdivision (b)(4) of section 125.9 of the code, the cited person may request an informal conference to review the acts charged in the citation. A request for an informal conference shall be made in writing, within ~~ten (10)~~thirty (30) days ~~after service~~of the date of issuance of the citation, to the executive officer.

(b) The executive officer or his or her designee shall hold, within sixty (60) days from the receipt of the request, an informal conference with the cited person. The sixty-day (60-day) period may be extended by the executive officer or his or her designee for good cause. ~~At the conclusion of~~Following the informal conference, the executive officer or his or her designee may affirm, modify or dismiss the citation, including any fine levied, order of abatement or order of correction issued. The executive officer or his or her designee shall state in writing the reasons for his or her action and transmit a copy of his or her findings to the cited person within thirty (30) days after the informal conference.

Unless an administrative hearing as provided for in subdivision (b)(4) of section 125.9 of the code was requested in a timely manner, an informal conference decision which affirms the citation shall be deemed to be a final order with regard to the citation issued, including the fine levied and the order of abatement or order of correction.

(c) If the citation, including any fine levied or order of abatement or correction, is modified, the citation originally issued shall be considered withdrawn and a new citation issued. If the cited person desires a hearing to contest the new citation, he or she shall make a request in writing, within thirty (30) days of ~~receipt~~the date of issuance of the informal conference decision, to the executive officer. The hearing shall be conducted as provided for in subdivision (b)(4) of section 125.9 of the code.

A cited person may not request an informal conference for a citation which has been modified following an informal conference.

**Note: Authority cited: Section 5526, Business and Professions Code. Reference: Sections 125.9, 148 and 149, Business and Professions Code.**

### **UPDATE AND POSSIBLE RECOMMENDATION REGARDING PROPOSED AMENDMENTS TO BOARD'S *DISCIPLINARY GUIDELINES* AND TITLE 16, CCR SECTION 154 (DISCIPLINARY GUIDELINES)**

The California Architects Board's 2013 and 2014 Strategic Plans contained an objective to review and update the Board's *Disciplinary Guidelines*. The Regulatory and Enforcement Committee (REC) reviewed recommended updates to the Board's *Disciplinary Guidelines* in 2013 and 2014. At its December 2014 meeting, the Board approved the proposed revisions to the *Disciplinary Guidelines* based on input provided by staff, the Board's legal counsel from the Department of Consumer Affairs (DCA), Deputy Attorney General (DAG) liaisons, and the REC. Additionally, the Board authorized staff to proceed with a regulatory proposal to amend Title 16, California Code of Regulations section (CCR) 154 in order to incorporate the revised *Disciplinary Guidelines* by reference. The Board subsequently approved the proposed regulatory language to amend CCR 154 at its June 10, 2015, meeting and delegated the authority to the Executive Officer (EO) to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes, if needed.

At its August 6, 2015, meeting, the Landscape Architects Technical Committee (LATC) reviewed recommended updates to LATC's *Disciplinary Guidelines* based on the revisions made to the Board's *Guidelines*. Following the meeting, legal counsel advised LATC staff that additional research may be necessary regarding Optional Conditions 9 (California Supplemental Examination) and 10 (Written Examination) in LATC's *Guidelines*. LATC staff subsequently discussed the matter with legal counsel on September 30, 2015. Board staff reviewed legal counsel's comments as they relate to the Board's *Disciplinary Guidelines*, and determined the Board's *Guidelines* would also need to be amended. On October 21, 2015, Board and LATC staff sent proposed edits to these conditions to legal counsel for review. Legal counsel notified Board and LATC staff on November 12, 2015, that the proposed edits were acceptable, but substantive, and would require re-approval by the Board. On November 25, 2015, legal counsel further advised staff to include the current version of the Board's Quarterly Report of Compliance form (1/11) as "Attachment A" in the Board's *Disciplinary Guidelines*, as this method was previously approved by the Office of Administrative Law (OAL) in the 2000 edition of the *Guidelines*.

At its December 10, 2015, meeting, the Board reviewed and approved the additional recommended revisions to the Board's *Disciplinary Guidelines* and the proposed regulation to amend CCR 154, and delegated authority to the EO to adopt the regulation, provided no adverse comments are received during the public comment period, and to make minor technical or non-substantive changes to the language, if needed. Staff prepared the proposed regulatory package for legal counsel's approval on March 15, 2016. On April 8, 2016, legal counsel advised staff that further substantive changes were necessary prior to submission to OAL, and recommended: comparing the Board's *Guidelines* to other DCA boards' and bureaus' disciplinary guidelines; lowering the minimum penalty of 90 days suspension and 5 years probation; adding recommended penalties for additional violations of the Architects Practice Act (Act), general provisions of the Business and Professions Code (BPC), and Board regulations, if necessary; and further refining the timelines in Optional Conditions 9 and 10 as they relate to the tolling provisions.

Based on legal counsel's recommendations, staff is proposing additional revisions to the Board's *Disciplinary Guidelines*, including:

- Expanding the content of the "General Considerations" section to better assist Administrative Law Judges in preparing proposed decisions and DAGs in negotiating stipulated settlements.
- Adding recommended maximum and minimum penalties for violations of BPC:
  - § 5536 (Practice Without License or Holding Self Out as Architect);
  - § 5536.1 (Signature and Stamp on Plans and Documents; Unauthorized Practice);
  - § 5536.22 (Written Contract);
  - § 5536.4 (Instruments of Service – Consent);
  - § 5536.5 (State of Emergency – Practice Without License or Holding Self Out as Architect);
  - § 5558 (Mailing Address and Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements);
  - § 5588 (Report of Settlement or Arbitration Award);
  - § 5600.05 (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements);
  - § 140 (Failure to Record and Preserve Cash Transactions Involving Wages);
  - § 141 (Effect of Disciplinary Action Taken by Another State or the Federal Government);
  - § 143.5 (Provision Prohibited in Settlement Agreements);
  - § 490 (Conviction of Crime; Suspension, Revocation – Grounds); and
  - § 499 (False Statement in Support of Another Person's Application).
- Amending the recommended minimum penalties for violations of the Act, general provisions of the BPC, and Board regulations based upon changes made to the standard and optional conditions of probation.
- Lowering the minimum recommended penalty for less egregious violations of the Act (i.e., written contract requirement, mailing address and business entity reporting requirements, etc.) to stayed revocation with three years probation.
- Adding model language for disciplinary orders involving license revocation, probation, public reproof, the surrender of a license, a petition for reinstatement, a petition to revoke probation, and the denial of a license application.
- Adding a severability clause, a license surrender option, and requirements for a probationer to maintain an active and current license and notify the Board of any changes to his or her address, telephone number, and employment, to the standard conditions of probation.
- Adding an ethics course and the procedures for the notification to clients to the optional conditions of probation.
- Amending the language of Optional Conditions 9 (California Supplemental Examination) and 10 (Written Examination) to revise the timelines within the "condition subsequent"

option as they relate to the tolling provisions, and provide a “condition precedent” option that would require a probationer to take and pass the examination(s) prior to resuming or continuing practice.

- Making minor, technical or non-substantive changes, such as adding page numbers to the table of contents, renaming and updating the Quarterly Probation Report form (Rev. 9/2016), and renumbering the conditions of probation.

The Board’s *Disciplinary Guidelines* with the additional recommended revisions highlighted in yellow (see Attachment 1) and the proposed regulatory language to amend CCR 154 (see Attachment 2) were approved by DCA legal counsel on November 1, 2016.

The REC is asked to review the additional recommended revisions to the Board’s *Disciplinary Guidelines* and the revised proposed regulation to amend CCR 154, and consider making a recommendation to the Board.

Attachments:

1. Board’s *Disciplinary Guidelines* with Proposed Revisions
2. Proposed Regulatory Language, Title 16, California Code of Regulations Section 154

PENDING REGULATORY CHANGE

California Architects Board  
*Public Protection Through  
Examination, Licensure, and Regulation*



DISCIPLINARY GUIDELINES

# CALIFORNIA ARCHITECTS BOARD

*Public Protection Through Examination,  
Licensure, and Regulation*

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## I. Introduction

To establish consistency in disciplinary penalties for similar offenses on a statewide basis, the California Architects Board (~~CAB hereinafter referred to as the~~ Board) has adopted these uniform disciplinary guidelines for particular violations. This document, designed for use by Administrative Law Judges, attorneys, Board licensees, others involved in the Board's disciplinary process, and ultimately the Board, ~~shall~~may be revised from time to time and will be distributed to interested parties upon request.

These guidelines include general factors to be considered, probationary terms, and guidelines for specific offenses. The guidelines for specific offenses are referenced to the statutory and regulatory provisions.

For purposes of this document, terms and conditions of probation are divided into two general categories: (1) Standard Conditions are those conditions of probation which will generally appear in all cases involving probation ~~as a standard term and condition~~; and (2) Optional Conditions are those conditions which address the specific circumstances of the case and require discretion to be exercised depending on the nature and circumstances of a particular case.

The Board recognizes that these recommended penalties and conditions of probation are merely guidelines and that mitigating or aggravating circumstances and other factors may necessitate deviations, as discussed herein. If there are deviations from the guidelines, the Board would request that the Administrative Law Judge hearing the matter include an explanation in the Proposed Decision so that the circumstances can be better understood and evaluated by the Board upon review of the Proposed Decision and before final action is taken.

Additional copies of this document may be obtained by contacting the ~~CAB~~Board at its office in Sacramento, California. There may be a charge assessed sufficient to cover the cost of production and distribution of copies.

## II. General Considerations

### A. Proposed Decisions

The Board requests that proposed decisions following administrative hearings include the following:

- a. Specific code sections violated with their definitions.
- b. Clear description of the violation.
- c. Respondent's explanation of the violation if he/she is present at the hearing.
- d. Findings regarding aggravation, mitigation, and rehabilitation where appropriate.
- e. When suspension or probation is ordered, the Board requests that the disciplinary order include terms within the recommended guidelines for that offense unless the reason for departure from the recommended terms is clearly set forth in the findings and supported by the evidence.

## B. Stipulated Settlements

The Board will consider agreeing to stipulated settlements to promote cost-effective consumer protection and to expedite disciplinary decisions. The respondent should be informed that in order to stipulate to a settlement with the Board, he/she may be required to admit to the violations set forth in the accusation or statement of issues. All proposed stipulated settlements must be accompanied by a memorandum from the Deputy Attorney General addressed to Board members explaining the background of the case and defining the allegations, mitigating circumstances, admissions, and proposed penalty, along with a recommendation for the Board to adopt the stipulated settlement.

## C. Cost Reimbursement

The Board seeks reimbursement of its investigative and prosecution costs in all disciplinary cases. The costs include all charges incurred from the Office of the Attorney General, the Division of Investigation, and Board services, including, but not limited to, expert consultant opinions and services. The Board seeks reimbursement of these costs because the burden for payment of the costs of investigation and prosecution of disciplinary cases should fall upon those whose proven conduct required investigation and prosecution, not upon the profession as a whole.

## D. Factors to be Considered:

In determining whether revocation, suspension, or probation is to be imposed in a given case, factors such as the following should be considered:

1. Nature and severity of the act(s), offense(s), or crime(s) under consideration.
2. Actual or potential harm to any consumer, client, or the general public.
3. Prior disciplinary record.
4. ~~Number and/or variety of current violations.~~ Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code. Number and/or variety of current violations.
5. Aggravating evidence.
6. ~~Mitigating~~ evidence.
7. ~~Rehabilitation evidence.~~ Evidence, if any, of rehabilitation submitted by the ~~applicant~~ respondent.
8. ~~In the case of a criminal conviction, compliance with terms of sentence and/or court-ordered probation.~~
8. ~~Overall criminal record.~~
9. ~~Time passed since the act(s) or offense(s) occurred.~~ The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant. Time passed since the act(s) or offense(s) occurred.
9. Whether the respondent's conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct.
10. Any financial benefit to the respondent from his/her misconduct.
11. Whether or not the respondent cooperated with the Board's investigation, other law enforcement or regulatory agencies, and/or the injured parties.

- ~~11912.~~ Recognition by the respondent of his ~~or~~ her wrongdoing and demonstration of corrective action to prevent recurrence.

### **E. Substantial Relationship Criteria**

Title 16, California Code of Regulations section 110 states:

For the purposes of denial, suspension, or revocation of the license of an architect pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions and duties of an architect if to a substantial degree it evidences present or potential unfitness of an architect to perform the functions authorized by his/her license in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include, but not be limited to, those involving the following:

- (a) Any violation of the provisions of Chapter 3, Division 3 of the Business and Professions Code.

### **F. ~~Rehabilitation Criteria~~Criteria for Rehabilitation**

(For cases involving an applicant, the conviction of a crime, the reinstatement of licensure, or the reduction of penalty)

Title 16, California Code of Regulations, ~~Title 16,~~ section 110.1, ~~Criteria for Rehabilitation states:~~ requires the Board, when considering the denial of an architect's license under Section 480 of the Business and Professions Code; the suspension or revocation of a license based on the conviction of a crime; a petition for reinstatement of a license; or a petition for reduction of penalty, to consider the following criteria:

- (a) When considering the denial of an architect's license under Section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:

- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.
- (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

- (b) When considering the suspension or revocation of the license of an architect on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for licensure will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

(c) When considering the petition for reinstatement of the license of an architect, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection (b).

### III. Disciplinary Guidelines

The offenses are listed by section number in the Business and Professions Code or California Code of Regulations. The standard terms of probation as stated herein shall be included for all probations. The optional conditions of probation as stated herein, are to be considered and imposed along with any other optional conditions if facts and circumstances warrant. The number(s) in brackets ~~listed after each condition of probation~~ refers to the specific standard or optional conditions of probation listed on pages 9-12.

#### A. Business and Professions Code Sections

##### Section 5536

##### Practice Without License or Holding Self Out as Architect

MAXIMUM: Revocation or denial of license application

MINIMUM: Issue initial license (if applicable), stayed revocation, and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

a. Ethics course [#14]

b. Cost reimbursement [#16]

c. Restitution [#17] (if applicable)

##### Section 5536.1

##### Signature and Stamp on Plans and Documents; Unauthorized Practice

MAXIMUM: Revocation or denial of license application

MINIMUM: Issue initial license (if applicable), stayed revocation, and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

a. Ethics course [#14]

b. Cost reimbursement [#16]

c. Restitution [#17] (if applicable)

**Section 5536.22**

**Written Contract**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. Cost reimbursement [#16]
- b. Restitution [#17] (if applicable)

**Section 5536.4**

**Instruments of Service – Consent**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. Cost reimbursement [#16]
- b. Restitution [#17] (if applicable)

**Section 5536.5**

**State of Emergency – Practice Without License or Holding Self Out as Architect**

**MAXIMUM:** Revocation or denial of license application

**MINIMUM:** Issue initial license (if applicable), stayed revocation, and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. Ethics course [#14]
- b. Cost reimbursement [#16]
- c. Restitution [#17] (if applicable)

**Section 5558**

**Mailing Address and Name and Address of Entity Through Which License Holder Provides Architectural Services; Filing Requirements**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional condition:

- a. Cost reimbursement [#16]

### Section 5577

#### Conviction of a Crime Substantially Related to the Qualifications, Duties, and Functions of an Architect

**MAXIMUM:** Revocation ~~or denial of license application~~

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

~~a. All standard conditions of probation [#1-7]~~

~~ba.~~ Cost reimbursement [#1216]

~~eb.~~ Criminal probation reports [#1418]

### Section 5578

#### Acts in Violation of the Architects Practice Act

The appropriate penalty depends on the nature of the offense.

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional conditions:

a. Cost reimbursement [#16]

b. Restitution [#17] (if applicable)

### Section 5579

#### Fraud or Misrepresentation in Obtaining License

**MAXIMUM/MINIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

a. Ethics course [#14]

b. Cost reimbursement [#16]

## Section 5580

### Impersonation or Use of Assumed or Corporate Name

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

~~a. All standard conditions of probation~~ ~~[#1-7]~~

~~ba. Continuing education courses~~ Ethics course ~~[#11-14]~~

~~eb.~~ Cost reimbursement ~~[#1216]~~

~~ec.~~ Restitution ~~[#1317]~~ ~~(if applicable)~~

## Section 5582

### Aiding and Abetting the Unlicensed Practice of Architecture

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

~~a. All standard conditions of probation~~ ~~[#1-7]~~

~~ba. Continuing education courses~~ Ethics course ~~[#11-14]~~

~~eb.~~ Cost reimbursement ~~[#1216]~~

~~ec.~~ Restitution ~~[#1317]~~ ~~(if applicable)~~

## Section 5582.1

### Signing Others Instruments of Service or Permitting Misuse of Name

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

~~a. All standard conditions of probation~~ ~~[#1-7]~~

~~ba. Continuing education courses~~ Ethics course ~~[#11-14]~~

~~eb.~~ Cost reimbursement ~~[#1216]~~

~~ec.~~ Restitution ~~[#1317]~~ ~~(if applicable)~~

**Section 5583**  
**Fraud or Deceit**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- a. ~~All standard conditions of probation~~ Ethics course [#1-714]
- b. Continuing education courses [#115]
- c. Cost reimbursement [#1216]
- d. Restitution [#1317] (if applicable)

**Section 5584**  
**Negligence**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- a. ~~All standard conditions of probation~~ [#1-7]
- b. ~~California Supplemental Examination~~ [#9]
- ea. Continuing education courses [#115]
- eb. Cost reimbursement [#1216]
- ec. Restitution [#1317] (if applicable)

**Section 5584**  
**Willful Misconduct**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- a. ~~All standard conditions of probation~~ Ethics course [#1-714]
- b. Continuing education courses [#115]
- c. Cost reimbursement [#1216]
- d. Restitution [#1317] (if applicable)



**Section 5585**  
**Incompetency or Recklessness**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

~~a. All standard conditions of probation [#1-7]~~

~~ba.~~ California Supplemental Examination [#912]

~~eb.~~ Continuing education courses [#115]

~~ec.~~ Cost reimbursement [#1216]

~~ed.~~ Restitution [#1317] (if applicable)

**Section 5586**  
**Disciplinary Action by a Public Agency**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

~~a. All standard conditions of probation [#1-7]~~

~~b. California Supplemental Examination [#9]~~

~~ea.~~ Continuing education courses [#115]

~~eb.~~ Cost reimbursement [#1216]

~~ec.~~ Restitution [#1317] (if applicable)

**Section 5588**  
**Report of Settlement or Arbitration Award**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional condition:

~~a.~~ Cost reimbursement [#16]

## Section 5600.05

### License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. Continuing education courses [#15]
- b. Cost reimbursement [#16]

## B. General Provisions of Business and Professions Code

### Section 125.6

#### Discrimination by Licensee

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 60 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- a. ~~All standard conditions of probation [#1-7]~~
- ba. Cost reimbursement [#1216]

## Section 140

### Failure to Record and Preserve Cash Transactions Involving Wages

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional condition:

- a. Cost reimbursement [#16]

## Section 141

### Effect of Disciplinary Action Taken by Another State or the Federal Government

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. Continuing education courses [#15]
- b. Cost reimbursement [#16]
- c. Restitution [#17] (if applicable)

## Section 143.5

### Provision Prohibited in Settlement Agreements

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation and 3 years probation on all standard conditions [#1-10] and the following optional conditions:

a. Ethics course [#14]

b. Cost reimbursement [#16]

## **Section 480(a)**

### **Denial of Licenses**

An applicant's application may be denied for (1) conviction of a crime substantially related to the qualifications, functions, or duties of the practice of architecture; (2) any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; (3) any act ~~which~~that if done by a licensee would be grounds for suspension or revocation of license; or (4) knowingly making a false statement of fact required to be revealed in the application for such license.

**RECOMMENDED DISCIPLINE** **MAXIMUM:** Denial of license application

**MINIMUM:** Issue initial license, stayed revocation, and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

a. Ethics course [#14]

b. Continuing education courses [#15]

c. Cost reimbursement [#16]

d. Restitution [#17] (if applicable)

## Section 490

### Conviction of Crime; Suspension, Revocation – Grounds

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

a. Cost reimbursement [#16]

b. Criminal probation reports [#18]

## Section 496

### Subversion of Licensing Examinations or Administration of Examinations

~~RECOMMENDED DISCIPLINE~~ **MAXIMUM:** ~~Denial or r~~ Revocation or denial of license application

**MINIMUM:** Issue initial license (if applicable), stayed revocation, and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. Ethics course [#14]
- b. Continuing education courses [#15]
- c. Cost reimbursement [#16]
- d. Restitution [#17] (if applicable)

## Section 499

### False Statement in Support of Another Person's Application

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. Ethics course [#14]
- b. Cost reimbursement [#16]

## C. Title 16, California Code of Regulations

### Article 9. Professional Conduct

#### Section 160

##### Rules of Professional Conduct

###### a. Competence

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- ~~a. All standard conditions of probation [#1-7]~~
- ba. California Supplemental Examination [#912]
- eb. Continuing education courses [#115]
- dc. Cost reimbursement [#1216]
- ed. Restitution [#1317] (if applicable)

**b. Willful Misconduct**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- ~~a. All standard conditions of probation~~ [#1-7]
- ~~ba. California Supplemental Examination~~ Ethics course [#914]
- ~~eb.~~ Continuing education courses [#115]
- ~~dc.~~ Cost reimbursement [#1216]
- ~~ed.~~ Restitution [#1317] (if applicable)

**c. Conflict of Interest**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- ~~a. All standard conditions of probation~~ [#1-7]
- ~~ba. Continuing education courses~~ Ethics course [#114]
- ~~eb.~~ Cost reimbursement [#1216]
- ~~dc.~~ Restitution [#1317] (if applicable)

**d. Full Disclosure**

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] ~~and~~ the following optional conditions:

- ~~a. All standard conditions of probation~~ [#1-7]
- ~~ba. Continuing education courses~~ Ethics course [#114]
- ~~eb.~~ Cost reimbursement [#1216]
- ~~dc.~~ Restitution [#1317] (if applicable)

## e. Copyright Infringement

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. ~~All standard conditions of probation~~ Ethics course [#1-714]
- b. Continuing education courses [#115]
- c. Cost reimbursement [#1216]
- d. Restitution [#1317] (if applicable)

## f. Informed Consent

**MAXIMUM:** Revocation

**MINIMUM:** Stayed revocation, 90 days actual suspension [#11], and 5 years probation on all standard conditions [#1-10] and the following optional conditions:

- a. ~~All standard conditions of probation~~ [#1-7]
- ba. Continuing education courses [#115]
- eb. Cost reimbursement [#1216]
- ec. Restitution [#1317] (if applicable)

## D. Violation of Probation

### Maximum Penalty

Actual suspension; vacate stay order and reimpose penalty that was previously stayed; and/or revoke, separately and severally, for violation of probation and/or for any additional offenses.

### Minimum Penalty

Actual suspension and/or extension of probation.

The maximum penalty is appropriate for repeated similar offenses, or for probation violations indicating a cavalier or recalcitrant attitude. If the probation violation is due in part to the commission of additional offense(s), additional penalties shall be imposed according to the nature of the offense; and the probation violation shall be considered as an aggravating factor in imposing a penalty for those offenses.

## **IV. Model Disciplinary Orders**

### **A. Licensee**

#### **Revocation of License**

Architect License No. \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked.

Respondent shall relinquish and shall forward or deliver his/her license to practice architecture and wall certificate to the Board within ten (10) days of the effective date of this Decision. Respondent may not reapply or petition the Board for reinstatement of his/her revoked license for three (3) years from the effective date of this Decision.

Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_ within thirty (30) days of the effective date of this Decision.

**Option:** As a condition precedent to reinstatement of his/her revoked license, respondent shall reimburse the Board for its costs of investigation and prosecution in the amount of \$ \_\_\_\_\_. Said amount shall be paid in full prior to the reinstatement of his/her license unless otherwise ordered by the Board.

#### **Revocation Stayed and License Placed on Probation**

Architect License No. \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked; however, the revocation is stayed and respondent is placed on probation for \_\_\_\_\_ years on the following terms and conditions:

#### **Public Reproval**

Architect License No. \_\_\_\_\_, issued to respondent \_\_\_\_\_, is publicly reproved. This reproval constitutes disciplinary action by the Board and shall become a part of respondent's license history with the Board.

#### **Surrender of License**

Respondent \_\_\_\_\_ surrenders Architect License No. \_\_\_\_\_ as of the effective date of this Decision. Respondent shall relinquish and shall forward or deliver his/her license to practice architecture and wall certificate to the Board within ten (10) days of the effective date of this Decision.

The surrender of respondent's license and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against respondent. This Decision constitutes disciplinary action by the Board and shall become a part of respondent's license history with the Board.

### **B. Petition for Reinstatement**

#### **Grant Petition with No Restrictions on License**

The petition for reinstatement filed by petitioner \_\_\_\_\_ is hereby granted and petitioner's architect license shall be fully restored.

### **Grant Petition and Place License on Probation**

The petition for reinstatement filed by petitioner \_\_\_\_\_ is hereby granted, and petitioner's architect license shall be reinstated and immediately revoked; however, the revocation shall be stayed and the petitioner shall be placed on probation for a period of \_\_\_\_\_ years on the following terms and conditions:

### **Grant Petition and Place License on Probation After Completion of Conditions Precedent**

The petition for reinstatement filed by petitioner \_\_\_\_\_ is hereby granted and petitioner's architect license shall be fully reinstated upon the following conditions precedent:

Upon completion of the conditions precedent above, petitioner's architect license shall be reinstated and immediately revoked; however, the revocation shall be stayed and petitioner shall be placed on probation for a period of \_\_\_\_\_ years on the following terms and conditions:

### **Deny Petition**

The petition for reinstatement filed by petitioner \_\_\_\_\_ is hereby denied.

## **C. Petition to Revoke Probation**

### **Revocation of Probation**

Architect License No. \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked.

### **Extension of Probation**

Architect License No. \_\_\_\_\_, issued to respondent \_\_\_\_\_, is revoked; however, the revocation is stayed and respondent is placed on probation for an additional \_\_\_\_\_ year(s) on the following terms and conditions:

## **D. Applicant**

(in cases where a Statement of Issues has been filed)

### **Grant Application with No Restrictions on License**

The application filed by respondent \_\_\_\_\_ for initial licensure is hereby granted and an architect license shall be issued to respondent upon successful completion of all licensing requirements including payment of all fees.

### **Grant Application and Place License on Probation**

The application filed by respondent \_\_\_\_\_ for initial licensure is hereby granted and an architect license shall be issued to respondent upon successful completion of all licensing requirements including payment of all fees. However, the license shall be immediately revoked, the revocation shall be stayed, and respondent shall be placed on probation for \_\_\_\_\_ years on the following terms and conditions:



## Grant Application and Place License on Probation After Completion of Conditions Precedent

The application filed by respondent \_\_\_\_\_ for initial licensure is hereby granted and an architect license shall be issued to respondent upon the following conditions precedent:

Upon completion of the conditions precedent above and successful completion of all licensing requirements including payment of all fees, respondent shall be issued an architect license. However, the license shall be immediately revoked, the revocation shall be stayed, and respondent shall be placed on probation for \_\_\_\_\_ years on the following terms and conditions:

### Deny Application

The application filed by respondent \_\_\_\_\_ for initial licensure is hereby denied.

## V. Conditions of Probation

### A. Standard Conditions

(To be included in all Cases of Probation)

#### Severability Clause

Each condition of probation is a separate and distinct condition. If any condition of this Decision and Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Decision and Order, and all other applications thereof, shall not be affected. Each condition of this Decision and Order shall separately be valid and enforceable to the fullest extent permitted by law.

#### **1. Obey All Laws**

Respondent shall obey all federal, state, and local laws and regulations ~~governing the practice of architecture in California~~ and comply with all conditions of probation.

#### **2. Submit Quarterly Reports**

Respondent, within 10 days of completion of the quarter, shall submit quarterly written reports to the Board ~~on using the Board's a-Quarterly Probation Report of Compliance~~ form (1/001/11 Rev. 9/2016) obtained from the Board (Attachment ~~A~~).

#### **3. Personal Appearances**

Upon reasonable notice by the Board, ~~the~~ respondent shall report to and make personal appearances at times and locations as the Board may direct.

#### **4. Cooperate During Probation**

Respondent shall cooperate fully with the Board, and with any of its agents or employees in their supervision and investigation of his/her compliance with the terms and conditions of this probation. Upon reasonable notice, ~~the~~ respondent shall provide the Board, its agents or employees with the opportunity to review all plans, specifications, and instruments of service prepared during the period of probation.

## **5. Maintain Active and Current License**

Respondent shall maintain an active and current license to practice architecture in California for the length of the probation period. Failure to pay all fees and meet applicable coursework requirements prior to respondent's license expiration date shall constitute a violation of probation.

## **6. Notification of Changes to Address, Telephone Number, and/or Employment**

Respondent shall notify the Board in writing of any and all changes to his/her address of record, telephone number, and employment within 10 calendar days of such change.

## **57. Tolling for Out-of-State Practice, Residence or In-State Non-Practice**

Respondent shall provide a list of all states, United States territories, and elsewhere in the world where he ~~or~~/she has ever been licensed as an architect or held any architecture related professional license or registration within 30 calendar days of the effective date of this ~~d~~Decision. Respondent shall further provide information regarding the status of each license and registration and any changes in the license or registration status within ~~ten~~10 calendar days, during the term of probation. Respondent shall inform the Board if he or she applies for or obtains an architectural license or registration outside of California within ~~ten~~10 calendar days, during the term of probation.

In the event respondent should leave California to reside or to practice outside the State or for any reason stop practicing architecture in California, respondent shall notify the Board or its designee in writing within ~~ten~~10 days of the dates of departure and return, or the dates of non-practice or the resumption of practice within California. Respondent's probation is tolled, if and when he or she ceases practicing in California. Non-practice is defined as any period of time exceeding ~~thirty~~30 days in which respondent is not engaging in any activities defined in Section 5500.1 of the Business and Professions Code. Periods of temporary or permanent residency or practice outside California or of non-practice within California will not apply to the reduction of this probationary period. Respondent shall not be relieved of the obligation to maintain an active and current license with the Board. It shall be a violation of probation for ~~R~~respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a total of five years.

All provisions of probation other than the quarterly report requirements, examination requirements, costs reimbursement, restitution, and education requirements, shall be held in abeyance until respondent resumes practice in California. All other provisions of probation shall recommence on the effective date of resumption of practice in California. ~~Periods of temporary or permanent residency or practice outside California or of non-practice within California will not apply to the reduction of this probationary period.~~

## **68. Violation of Probation**

If respondent violates probation in any respect, the Board, after giving respondent notice and opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If an accusation or a petition to revoke probation is filed against respondent during probation or the matter is referred to the Attorney General's office, the Board shall have continuing jurisdiction ~~until the matter is final,~~ and the period of probation shall be automatically extended until the matter is final.

If ~~a~~ respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat

the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

~~If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.~~

## **9. License Surrender While on Probation**

During respondent's term of probation, if he/she ceases practice due to retirement or health reasons, or is otherwise unable to satisfy any condition of probation, respondent may surrender his/her license to the Board. The Board reserves the right to evaluate respondent's request and exercise its discretion in determining whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, respondent will no longer be subject to the conditions of probation. All costs incurred (i.e., cost reimbursement) are due upon reinstatement or relicensure.

Surrender of respondent's license shall be considered a disciplinary action and shall become a part of respondent's license history with the Board.

## **710. Completion of Probation**

Upon successful completion of probation, respondent's license will be fully restored.

## **B. Optional Conditions**

### **811. Suspension**

Respondent is suspended from the practice of architecture for \_\_\_\_\_ days beginning on the effective date of ~~the~~this Decision.

### **912. California Supplemental Examination**

#### **Option 1 (Condition Subsequent)**

Within ~~\_\_\_\_\_ days~~six months of the effective date of this Decision, respondent shall take and pass the California Supplemental Examination (CSE) designated by the Board.

If respondent fails to pass said examination within ~~6~~six months, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. Tolling provisions apply during any period of non-practice due to respondent's failure to take and pass said examination. It shall be a violation of probation for respondent's probation to remain tolled pursuant to this condition for a period exceeding a total of three years. The term of probation shall be extended by the period of time during which respondent ceased practice. Failure to pass the required examination no later than 100 days one year prior to the termination of probation shall constitute a violation of probation. Respondent is responsible for paying all costs of such examination.

#### Option 2 (Condition Precedent)

Prior to resuming or continuing practice, respondent shall take and pass the California Supplemental Examination (CSE) designated by the Board within two years of the effective date of this Decision.

This probationary period shall not commence until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. Respondent is responsible for paying all costs of such examination.

### **1013. Written Examination**

#### Option 1 (Condition Subsequent)

Within one year of the effective date of this Decision, Respondent shall take and pass (specified) sections of the Architect Registration Examination (ARE).

If respondent fails to pass said examination within one year or within two attempts, respondent shall so notify the Board and shall cease practice until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. Tolling provisions apply during any period of non-practice due to respondent's failure to take and pass said examination. It shall be a violation of probation for respondent's probation to remain tolled pursuant to this condition for a period exceeding a total of three years. ~~The term of probation shall be extended by the period of time during which respondent ceased practice. Failure to pass the required examination no later than 100 days one year prior to the termination of probation shall constitute a violation of probation.~~ Respondent is responsible for paying all costs of such examination.

#### Option 2 (Condition Precedent)

Prior to resuming or continuing practice, respondent shall take and pass (specified) sections of the Architect Registration Examination (ARE) within two years of the effective date of this Decision.

This probationary period shall not commence until respondent takes and successfully passes said examination, has submitted proof of same to the Board, and has been notified by the Board that he/she may resume practice. Respondent is responsible for paying all costs of such examination.

### **14. Ethics Course**

Within 30 days of the effective date of this Decision, respondent shall submit for prior Board approval a course in ethics that will be completed within the first year of probation.

Failure to satisfactorily complete the required course as scheduled or failure to complete same within the first year of probation shall constitute a violation of probation. Respondent is responsible for submitting to the Board for its approval the specifics of the course required by this condition, and for paying all costs of said course.

### **115. Continuing Education Courses**

Respondent shall successfully complete and pass professional education courses approved in advance by the Board or its designee, directly relevant to the violation as specified by the Board. The professional education courses shall be completed within a period of time designated by the Board, which timeframe shall be incorporated as a condition of this probation.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than ~~100 days~~ one year prior to the termination of probation shall constitute a violation of probation. Respondent is responsible for submitting to the Board for its approval the specifics of each course required by this condition, and for paying all costs of such courses.

#### **1216. Cost Reimbursement**

Respondent shall reimburse the Board \$ \_\_\_\_\_ for its investigative and prosecution costs. The payment shall be made within \_\_\_\_\_ days/months of the effective date ~~the Board's of this d~~ Decision is final.

Option: The payment shall be made as follows: \_\_\_\_\_ (specify either prior to the resumption of practice or in monthly or quarterly payments, the final payment being due one year before probation is scheduled to terminate).

#### **1317. Restitution**

Within \_\_\_\_\_ days of the effective date of this Decision, respondent shall make restitution to \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ and shall provide the Board with proof from \_\_\_\_\_ attesting the full restitution has been paid. In all cases, restitution shall be completed no later than one year before the termination of probation.

Note: Business and Professions Code section 143.5 prohibits the Board from requiring restitution in disciplinary cases when the Board's case is based on a complaint or report that has also been the subject of a civil action and that has been settled for monetary damages providing for full and final satisfaction of the parties in the civil action.

#### **1418. Criminal Probation Reports**

~~In the event of conviction~~ If respondent is convicted of any crime, Respondent shall provide the Board with a copy of the standard conditions of the criminal probation, copies of all criminal probation reports, and the name of his/her probation officer.

#### **15. Relinquish License and Wall Certificate**

~~Respondent shall relinquish and shall forward or deliver the license to practice and the wall certificate to the Board within 10 days of the effective date of this decision and order.~~

#### **1619. Notification to Clients/Cessation of Practice**

In orders which provide for a cessation or suspension of practice, within 30 days of the effective date of this Decision, respondent shall ~~comply with procedures provided by the Board regarding notification to, and management of,~~ provide all clients with whom he/she has a current contractual relationship in the practice of architecture with a copy of the Decision and Order of the Board and provide the Board with evidence of such notification, including the name and address of each person or entity required to be notified.

## Rehabilitation Criteria

California Code of Regulations, Title 16, Division 2, Section 110.1, Criteria for Rehabilitation states:

- (a) When considering the denial of an architect's license under Section 480 of the Business and Professions Code, the Board, in evaluating the rehabilitation of the applicant and his/her present eligibility for a license will consider the following criteria:
- (1) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial.
  - (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.
  - (3) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
  - (4) The extent to which the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
  - (5) Evidence, if any, of rehabilitation submitted by the applicant.
- (b) When considering the suspension or revocation of the license of an architect on the grounds that the person licensed has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his/her present eligibility for licensure will consider the following criteria:
- (1) Nature and severity of the act(s) or offense(s).
  - (2) Total criminal record.
  - (3) The time that has elapsed since commission of the act(s) or offense(s).
  - (4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
  - (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
  - (6) Evidence, if any, of rehabilitation submitted by the licensee.
- (c) When considering the petition for reinstatement of the license of an architect, the Board shall evaluate evidence of rehabilitation submitted by the petitioner, considering those criteria specified in subsection (b).



CALIFORNIA ARCHITECTS BOARD



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E-mail: cab@dca.ca.gov

Web: cab.ca.gov

Attachment A

Header banner for California Architects Board with seal, name of Governor Edmund G. Brown Jr., and contact information.

QUARTERLY PROBATION REPORT OF COMPLIANCE

1. NAME: (Last/First/Middle) TELEPHONE #: ( ) (Residence)

RESIDENCE ADDRESS OF RECORD:

CITY: STATE: ZIP CODE:

2. NAME OF FIRM: YOUR TITLE:

FIRM ADDRESS:

CITY: STATE: ZIP CODE:

TELEPHONE #: ( )

3. On the backsecond page of this form, detail your architectural activities for the probation period beginning: beginning and ending: Mo. Day Year Mo. Day Year

4. SiteList any other activities related to the practice of architecture:

Table with columns for ACTIVITY and DATE, containing multiple rows for listing activities.

5. I declare under penalty of perjury under the laws of the State of California that the information contained in this quarterly report regarding my professional practice is true and correct.

Signature:

Date:

DATE: \_\_\_\_\_ QUARTER: \_\_\_\_\_ YEAR: \_\_\_\_\_

CLIENT NAME: \_\_\_\_\_ TELEPHONE #: ( ) \_\_\_\_\_  
(Last/First/Middle)

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PROJECT TITLE/ADDRESS	PROJECT DESCRIPTION	DATE START-COMPLETE	YOUR INVOLVEMENT

CLIENT NAME: \_\_\_\_\_ TELEPHONE #: ( ) \_\_\_\_\_  
(Last/First/Middle)

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PROJECT TITLE/ADDRESS	PROJECT DESCRIPTION	DATE START-COMPLETE	YOUR INVOLVEMENT

CLIENT NAME: \_\_\_\_\_ TELEPHONE #: ( ) \_\_\_\_\_  
(Last/First/Middle)

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP CODE: \_\_\_\_\_

PROJECT TITLE/ADDRESS	PROJECT DESCRIPTION	DATE START-COMPLETE	YOUR INVOLVEMENT



**CALIFORNIA ARCHITECTS BOARD**  
**PROPOSED REGULATORY LANGUAGE**

**Article 8. Disciplinary Proceedings**

Amend Section 154 as follows:

**Section 154. Disciplinary Guidelines.**

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400 et seq.), the Board shall consider the disciplinary guidelines entitled “Disciplinary Guidelines” [~~2000~~Rev. 12/2016] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the Board in its sole discretion determines that the facts of the particular case warrant such a deviation - for example: the presence of mitigating factors; the age of the case; evidentiary problems.

**Note: Authority cited: Sections 5510.1 and 5526, Business and Professions Code; and Section 11425.50(e), Government Code. Reference: Sections 125.3, 125.6, 140, 141, 143.5, 480(a), 490, 496, 499, 5536, 5536.1, 5536.22, 5536.4, 5536.5, 5553, 5560, 5561.5, 5565, 5577, 5578, 5579, 5580, 5582, 5582.1, 5583, 5584, ~~and 5585~~, 5586, 5588, and 5600.05, Business and Professions Code; and Section 11425.50(e), Government Code.**

**ADJOURNMENT**

Time: \_\_\_\_\_