



NOTICE OF MEETING
Landscape Architects Technical Committee

LATC MEMBERS

Marq Truscott, Chair
Andy C. N. Bowden, Vice Chair
Susan M. Landry
Jon S. Wreschinsky
Patricia M. Trauth

November 8, 2019

*Action may be
taken on any
item listed on
the agenda.*

Department of Consumer Affairs
Hearing Room
1747 North Market Blvd.
Sacramento, CA 95834
(916) 575-7230 (LATC)

The Landscape Architects Technical Committee (LATC) will hold a meeting, as noted above.

Agenda

9:30 a.m. – 2:00 p.m.

(or until completion of business)

- A. Call to Order – Roll Call – Establishment of a Quorum
- B. Chair’s Procedural Remarks and LATC Member Introductory Comments
- C. Public Comment on Items Not on the Agenda
The Committee 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 Committee’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)).
- D. Update on the Department of Consumer Affairs (DCA)
- E. Review and Possible Action on September 5, 2019 LATC Meeting Minutes
- F. Program Manager’s Report
 - 1. Update on LATC’s Administrative/Management, Examination, Licensing, and Enforcement Programs
 - 2. Discuss and Possible Action on Annual Enforcement Report

(Continued)

- G. Review and Discuss 2019 Legislation
- H. Discuss and Possible Action on LATC Budget Items
 - 1. Presentation by DCA, Budget Office Regarding LATC Annual Update
 - 2. Review and Possible Action on Potential Initial Landscape License Fee Decrease
- I. Occupational Analysis of Landscape Architect Profession
 - 1. Presentation by DCA, Office of Professional Examination Services (OPES) Regarding Occupational Analysis and Linkage Study to Update California Supplemental Examination
 - 2. Review and Possible Action to Approve Fiscal Year 2019-20 Intra-Departmental Contract with OPES for Occupational Analysis
- J. Discuss and Possible Action on LATC Member Administrative Manual
- K. Review and Discuss Requirements of Landscape Architects for Qualified Stormwater Pollution Prevention Plan Developer (QSD) Certification
- L. Discuss and Possible Action on New LATC Logo
- M. Election of 2020 LATC Officers
- N. Review of Future LATC Meeting Dates
- O. 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 Committee 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 Committee are open to the public. This meeting will not be webcast. If you wish to participate or to have a guaranteed opportunity to observe, please plan to attend at the physical location.

Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the Committee prior to the Committee taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the Committee, but the Committee Chair may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the Committee to discuss items not on the agenda; however, the Committee 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 to participate in the meeting may make a request by contacting:

Person: Blake Clark
Telephone: (916) 575-7236
Email: Blake.clark@dca.ca.gov
Telecommunication Relay Service: Dial 711

Mailing Address:
Landscape Architects Technical Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834

Providing your request at least five (5) 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 LATC 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 5620.1).

AGENDA ITEM A: CALL TO ORDER / ROLL CALL / ESTABLISHMENT OF A QUORUM

Roll is called by the Landscape Architects Technical Committee (LATC) Vice Chair or, in his/her absence, by an LATC member designated by the Chair.

Board Member Roster

Andrew C. N. Bowden
Susan M. Landry
Patricia M. Trauth
Marq Truscott
Jon S. Wreschinsky

AGENDA ITEM B: CHAIR'S PROCEDURAL REMARKS AND LATC MEMBER INTRODUCTORY COMMENTS

LATC Chair Marq Truscott or, in his absence, the Vice Chair will review the scheduled LATC actions and make appropriate announcements.

AGENDA ITEM C: PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Members of the public may address the Committee at this time.

The Committee 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 Committee'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)).

Public comments will also be taken on agenda items at the time the item is heard and prior to the Committee taking any action on said items. Total time allocated for public comment may be limited at the discretion of the Committee Chair.

AGENDA ITEM D: UPDATE ON THE DEPARTMENT OF CONSUMER AFFAIRS (DCA)

A member of DCA Board and Bureau Relations will provide the Committee with an update on the DCA.

Attachment

DCA Update Letter – October 29, 2019



BUSINESS, CONSUMER SERVICES, AND HOUSING AGENCY • GAVIN NEWSOM, GOVERNOR

Executive Office

1625 North Market Blvd., Suite S-308, Sacramento, CA 95834
P (916) 574-8200 F (916) 574-8613 | www.dca.ca.gov



October 29, 2019

Laura Zuniga
Executive Officer
California Architects Board – Landscape Architects Technical Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834

Executive Officer Zuniga:

Thank you for this opportunity to submit a written update from the Department of Consumer Affairs (DCA) to the Landscape Architects Technical Committee. You will find below an update on recent Department activities:

DEPARTMENT OF CONSUMER AFFAIRS DIRECTOR APPOINTMENT

We are pleased to share that, on October 8, 2019, Governor Newsom announced his appointment of Kimberly Kirchmeyer as Director of Department of Consumer Affairs. Ms. Kirchmeyer enters her new role with a wealth of DCA experience. Ms. Kirchmeyer has served as Executive Director of the Medical Board of California since 2013, where she was deputy director from 2011 to 2013. She was deputy director of board and bureau relations at the Department of Consumer Affairs from 2009 to 2011 and deputy director at the Medical Board of California from 2005 to 2009, where she was a staff services manager from 2001 to 2005 and an associate governmental program analyst from 1999 to 2001. Ms. Kirchmeyer is also a member of the International Association of Medical Regulatory Authorities, Federation of State Medical Boards Committees, Administrators in Medicine, and the United States Medical Licensing Examination State Board Advisory Panel.

We look forward to Ms. Kirchmeyer's leadership and working with her to carry out her vision for the Department!

EXECUTIVE TEAM UPDATE

It is bittersweet to report the departure of some of our colleagues in the DCA executive team:

- Chief Deputy Director, Chris Shultz, has been appointed by Governor Newsom to serve as Chief Deputy Commissioner at the California Department of Business Oversight. Mr. Shultz's last day with the Department will be Friday, November 1, 2019.
- Deputy Director Christopher Castrillo's last day with the Department is Friday, November 22, 2019. Mr. Castrillo is exploring opportunities for the coming year.
- Assistant Deputy Director Karen Nelson has accepted a position as Chief Impact Officer with the American Leadership Forum – Mountain Valley Chapter. Ms. Nelson's last day with the Department will be Thursday, October 31, 2019.

- September 6, 2019, was Assistant Deputy Director Patrick Le's last day with the Department. Mr. Le accepted a position as a consultant with the Assembly Business and Professions Committee.

Mr. Shultz, Mr. Castrillo, Ms. Nelson, and Mr. Le have been integral members of DCA's executive staff and their contributions to the Department will be dearly missed. We wish them well in the next chapter of each of their careers.

NEW PUBLICATION – “DCA – WE'RE LISTENING”

DCA's Communications Division has been working to find ways to improve the interactions of the public with DCA and our boards and bureaus; to help them understand how to bring to you their concerns, comments, accolades, and complaints as effectively as possible.

Toward that effort, the Communications Division created a simple, visual how-to guide for Californians who want to approach us.

It's called “DCA-We're Listening,” and it lays out everything the public needs to know about giving their feedback to DCA, our boards and bureaus. From public comment etiquette to meeting mechanics, this guide is the perfect primer for approaching the podium.

The guide is available in both brochure and poster form. The brochures work great at the welcome table for any public meeting, and anywhere else interested parties may see it. The poster will hang in DCA's two Sacramento hearing rooms, but additional copies are available for purchase, laminated with foam backing, to go in any room where you may hold a public meeting. If you would like more information, please contact the Communications Division.

FUTURE LEADERSHIP DEVELOPMENT PROGRAM

The third cohort had its kick-off meeting on September 24, 2019. Eight individuals were selected to be a part of this year's cohort. We look forward to reporting on the cohort's progress throughout this eight-month leadership program.

Thank you again for your valued partnership. Please let us know if the Department can be of service to your Committee. If you have any questions, feel free to contact Christopher.Castrillo@DCA.ca.gov.

All the best,



Christopher Castrillo
Deputy Director, Board and Bureau Services
Department of Consumer Affairs

AGENDA ITEM E: REVIEW AND POSSIBLE ACTION ON SEPTEMBER 5, 2019 LATC MEETING MINUTES

Summary

The Committee is asked to review and take possible action on the minutes of the September 5, 2019 LATC meeting.

Action Requested

Approval of the September 5, 2019 LATC Meeting Minutes.

Attachment

September 5, 2019 LATC Meeting Minutes (Draft)



Minutes

CALIFORNIA ARCHITECTS BOARD Landscape Architects Technical Committee Teleconference Meeting

September 5, 2019
Sacramento, California
&

Various Teleconference Locations

Landscape Architects Technical Committee (LATC) Members Present

Marq Truscott, Chair
Andrew C. N. Bowden, Vice Chair
Susan M. Landry
Patricia M. Trauth
Jon S. Wreschinsky

Staff Present

Laura Zuniga, Executive Officer (EO)
Vickie Mayer, Assistant EO
Trish Rodriguez, Program Manager
Tara Welch, Attorney III, Department of Consumer Affairs (DCA)
Kourtney Nation, Examination Coordinator
Deborah Dulay, Special Projects Analyst

Guests Present

Christine Anderson, Past President, Council of Landscape Architectural Registration Boards (CLARB)

A. Call to Order – Roll Call – Establishment of a Quorum

LATC Chair Marq Truscott called the meeting to order at 10:01 a.m. and called roll. Mr. Truscott announced his location as 2420 Del Paso Road in Sacramento, and he also requested that each member identify their respective teleconference locations for the record. Andrew C. N. Bowden stated that he was located at 5620 Friars Road in San Diego. Susan M. Landry affirmed her location as Campbell City Hall located at 70 North First Street. Patricia M. Trauth confirmed her location as 5620 Friars Road in San Diego. Jon S. Wreschinsky stated that his location was 4100 Normal Street in San Diego. Five members of the LATC were present, thus a quorum was established.

B. Chair’s Procedural Remarks and LATC Member Introductory Comments

Mr. Truscott announced that a voluntary sign-in sheet was located near the entrance to the meeting room, and if attendees were to sign-in, they would be recorded in the official minutes of the meeting.

C. Public Comment on Items Not on the Agenda

Mr. Truscott invited a member of the public to introduce herself. Christine Anderson stated that she is a licensed landscape architect and is the past president of CLARB. Ms. Anderson continued that her purpose in attending the meeting was to provide information and answer questions regarding the CLARB agenda items. Trish Rodriguez announced the LATC staff present at the meeting: Tara Welch, DCA Legal Counsel; Laura Zuniga, EO; Vickie Mayer, Assistant EO; Kourtney Nation, Examination Coordinator; and Deborah Dulay, Special Projects Analyst.

D. Review and Possible Action on May 29, 2019 LATC Meeting Minutes

Andrew C. N. Bowden moved to approve the May 29, 2019 LATC Meeting Minutes.

Susan M. Landry seconded the motion.

Mr. Wreschinsky identified two corrections: (1) misspelling on page 8, and (2) proper name of Southwestern College on page 13.

Andrew C. N. Bowden amended the motion to approve the May 29, 2019 LATC Meeting Minutes with the corrections to pages 8 and 13.

Susan M. Landry seconded the amended motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

E. Council of Landscape Architectural Registration Boards (CLARB)

Mr. Truscott stated that Mr. Bowden and Mses. Rodriguez and Zuniga will attend the CLARB Annual Meeting, and if members of the LATC had any items for the meeting to contact Ms. Rodriguez. Mr. Truscott said that Mr. Bowden participated on a conference call for the election of the CLARB Region 5 Director. Mr. Bowden elaborated that the LATC cast their vote for Joel Kurokawa, current Region 5 Director. Ms. Rodriguez advised that the CLARB Annual Meeting will be held September 26-28, 2019 in St. Louis, Missouri and directed members to the agenda included in the meeting packet.

Mr. Truscott prompted the Committee to address the following items: (1) approve the Letter of Delegate Credentials for the 2019 CLARB Annual Meeting, and (2) complete the elections ballot with the LATC’s selections. Ms. Rodriguez explained that Mr. Bowden would be represented as the Member Board Member in attendance, and she and Ms. Zuniga would be Member Board

Executives in attendance. Mr. Wreschinsky asked whether LATC will get only one vote, per the bylaws, regardless of how many individuals are in attendance, and Mr. Truscott confirmed Mr. Wreschinsky's inquiry.

Mr. Truscott initiated discussion regarding the elections ballot, and the Committee members proceeded to discuss the candidates and shared their knowledge of their backgrounds. Ms. Anderson commented that members may review candidate video biographies on CLARB's website for additional information, and she proclaimed that all candidates have been thoroughly vetted and satisfy the experience requirements to qualify for the post to which they were nominated. Mr. Bowden expressed concern that the candidates on the ballot were disproportionately from CLARB Region 5 jurisdictions, which undermines the overall objective of having diverse geographic representation among elected leadership. Ms. Anderson responded to Mr. Bowden's concerns about overrepresentation by individuals from Region 5 jurisdictions, and she stated that only two candidates on the ballot were from Region 5: (1) Cary Baird, and (2) Deb Peters. Ms. Anderson explained that Ms. Peters was running for the Committee on Nominations, a non-board position, and therefore Region 5 was not disproportionately represented among the board candidates. Ms. Landry observed that some candidates did not have CLARB certification listed on their candidate biographies. Ms. Anderson explained that the primary reason to be CLARB certified is when an individual holds credentials or licenses from more than one state.

Mr. Truscott directed the Committee to discuss their selection for President-Elect. Mr. Bowden addressed the qualifications of Michael Beresnak, suggesting that his Canadian background would give him a unique perspective on the profession and the diversity of his experiences and insights may be useful to CLARB given that the organization is primarily comprised of American professionals. Ms. Anderson commented that CLARB is made up of 54 member jurisdictions, including four provinces of Canada, and she continued that Mr. Beresnak was within his right to run for office. Mr. Wreschinsky asked whether Mr. Beresnak was a CLARB director, and Ms. Anderson clarified that Mr. Beresnak was a former director and he previously ran for Vice President last year but did not receive enough votes. Mr. Wreschinsky continued that at-large directors will also need to be selected, and if LATC selected Mr. Baird for President-Elect, then perhaps Mr. Beresnak could be nominated to be a director. Ms. Anderson confirmed that the current ballot cannot be revised; however, Mr. Beresnak could be recommended for next year's election. Mr. Wreschinsky asked for clarification on how an at-large director nomination process would work, and Ms. Anderson responded that anyone who satisfied the CLARB qualifications may be nominated by any member jurisdiction, or they may self-nominate. Mr. Truscott suggested that the nomination of Mr. Beresnak as CLARB director in next year's election could be brought up by either Mr. Bowden or Ms. Rodriguez at the upcoming CLARB Annual Meeting.

Susan M. Landry moved to support Cary Baird for President-Elect, Les Smith for Vice President, Allison Fleury for Treasurer, and Chad Danos and Deb Peters for Committee on Nominations.

Jon S. Wreschinsky seconded the motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

Mr. Truscott discussed the Letter of Delegate Credentials for the CLARB Annual Meeting, and he stated that Mr. Bowden would serve as delegate, and Mses. Rodriguez and Zuniga would be representatives.

Patricia M. Trauth moved to approve the Letter of Delegate Credentials for the CLARB Annual Meeting.

Jon S. Wreschinsky seconded the motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

Mr. Truscott directed the Committee to discuss the CLARB resolutions, and he prompted Ms. Anderson to provide a high-level explanation of the issues. Ms. Anderson explained that the purpose of the resolutions to be voted upon at the Annual Meeting was to improve the nomination and election processes, and CLARB's objective was to expand the pool of qualified candidates. Ms. Anderson continued that jurisdictions have been consolidating boards and consequently the number of qualified professionals who may serve in CLARB leadership positions has declined. Furthermore, Ms. Anderson stated that the goals of CLARB were to increase the number of eligible candidates, with a focus on diversity, and to adapt to the ongoing trend of deregulation throughout the various jurisdictions. Lastly, Ms. Anderson commented that Resolutions #1 and #2 were considered in the previous year; however, there were not enough votes to pass the resolutions, which is why the same resolutions were being presented at the upcoming CLARB Annual Meeting. Ms. Anderson elaborated that resolutions must pass by 75% of the quorum present at the meeting, and last year's vote failed by one because inclement weather conditions did not permit the voting member to cast their vote. Mr. Truscott observed that the LATC had previously approved the language of the resolutions except for the newly proposed Indiana amendment and resolution. Ms. Rodriguez reminded the Committee that she provided handouts regarding the resolutions currently under discussion.

Ms. Trauth commented that the current resolutions had been discussed in the previous year, and she wanted to verify whether the resolution language had remained the same. Ms. Anderson confirmed Ms. Trauth's inquiry, and Mr. Truscott commented that Ms. Anderson would proceed in the discussion as an active participant. Mr. Bowden asked whether CLARB allowed proxy votes, and Ms. Anderson clarified that CLARB bylaws did not allow for them. Ms. Anderson continued that Resolution #1 would amend the bylaws to include proxy votes. Mr. Bowden commented that California had been under a travel ban in the previous year; however, Ms. Trauth recalled that last year's meeting and vote was conducted via conference call. Ms. Anderson replied that conference calls are permissible under CLARB rules when the organization anticipates that a quorum cannot be established without facilitating the vote via conference call, provided that the vote is taken in-person and live. Ms. Anderson further clarified that the locations of voting members also need to be identified per CLARB's parliamentary procedure.

Mr. Wreschinsky inquired whether additional study group findings had been incorporated into Resolutions #1 and #2. Ms. Anderson replied that CLARB had reached out to member jurisdictions regarding their past bylaw vote, focusing on jurisdictions that voted against the resolution, and she continued that given the information gathered, it was not necessary to change the language in Resolutions #1 and #2. Mr. Wreschinsky inquired why Indiana submitted amendments to the resolutions, and Ms. Anderson replied that such amendments were permissible under CLARB bylaws. Mr. Wreschinsky expressed concern that there was nothing in the bylaws authorizing the Board of Directors to act, and he inquired about the Indiana amendment's language regarding how outcomes will be communicated and addressed at the CLARB Annual Meeting or any board meeting. Ms. Anderson replied that the purpose of this amendment was to implement a procedural item where outcomes in regional meetings would be conveyed to the Board of Directors. Ms. Anderson continued that this is already the current practice, but Indiana wanted to formalize the procedure by updating the bylaws. Mr. Wreschinsky asked whether the Indiana amendment was meant to address an issue unique to its region, and Ms. Anderson commented that it was likely that Indiana felt more comfortable updating the bylaws to reflect the current procedural practice. Mr. Wreschinsky inquired whether regions are required to schedule a separate, special meeting in order to discuss issues they wanted to present at the annual meeting. Ms. Anderson replied that it is permissible under the bylaws for any region to establish their own meeting, and she continued that it is normal practice for regions to meet on an annual basis to discuss policies and practices relevant to their region. Lastly, Mr. Wreschinsky asked whether fewer landscape architects serving on state boards and agencies was the reason why the pool of eligible candidates had been shrinking. Ms. Anderson confirmed Mr. Wreschinsky's observation and elaborated that the pool of candidates to the examination was shrinking, which also contributed to the decline in the number of eligible candidates who may serve on CLARB. Ms. Anderson continued that in order to serve on CLARB, a candidate must be a licensed landscape architect and have experience serving on a jurisdictional board either at the state or local government level. Ms. Anderson observed that the overall trend is that fewer people devote their time to serving on such boards, which was another reason why the pool of eligible candidates has declined.

Ms. Trauth inquired about the organizational structure of the National Council of Architectural Registration Boards (NCARB) for comparison, and Ms. Zuniga stated NCARB has non-licensed individuals in leadership positions. Ms. Anderson added that the structure of NCARB is not the same as CLARB, and she elaborated that NCARB has a larger board of directors. Ms. Anderson continued that because of their inherent differences, the organizational structure of NCARB and CLARB should not be confused with each other. Ms. Zuniga described the structure of NCARB in further detail, adding that there are two non-licensees who hold leadership positions. Ms. Trauth inquired about the eligibility requirements to serve on CLARB, and Ms. Anderson described the purpose of Resolution #2, stating that at least half of the full board must be comprised of licensed landscape architects and about 5 of the 12 board members may be non-licensed individuals. Ms. Trauth inquired about the qualifications for non-licensed individuals, and Ms. Anderson commented that the Nominating Committee's purpose is to implement best practices when identifying, recruiting, and vetting possible candidates who may serve on CLARB. Ms. Trauth asked whether the Nominating Committee may decline nominees who do not possess the requisite qualifications, and Ms. Anderson confirmed the inquiry and commented that the purpose of Resolution #2 was meant to memorialize the nominating process by updating the bylaws to reflect the current best practices.

Mr. Truscott prompted the LATC to further discuss or take possible action on Resolution #1.

Susan M. Landry moved to support Resolution #1 General Updates, Voting & Meetings, Leadership Advisory Council and Board of Directors' Structure and Process.

Jon S. Wreschinsky seconded the motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

Mr. Truscott directed the LATC to discuss Resolution #2, including the Indiana amendment. Mr. Truscott described the deliberation process, and Ms. Anderson commented that the voting member who attends the CLARB Annual Meeting needs to have flexibility to address any possible modifications to the resolutions that may occur during the parliamentary process. Ms. Welch added that the LATC may decide to accept or reject the Indiana amendment, and then instruct Mr. Bowden regarding how to proceed at the Annual Meeting if the language to the resolutions or amendment is modified during the parliamentary process.

Mr. Truscott prompted the LATC to specifically discuss the Indiana amendment to Resolution #2. Mr. Wreschinsky requested clarification on: (1) whether a director of CLARB also represents their respective region, and (2) whether CLARB had recommended to reject the Indiana amendment. Ms. Anderson began by replying to the second prong of Mr. Wreschinsky's inquiry and said that CLARB recommends the Indiana amendment to Resolution #2 because it memorializes in the bylaws the current procedural practice. Then, Ms. Anderson addressed the first prong of Mr. Wreschinsky's request and stated that under the current bylaws the organizational structure of CLARB is not representational. Ms. Anderson clarified that each of the member board members are representatives of their respective jurisdictions whereas directors are not representatives for any state, region, or jurisdiction, and the purpose of the director is to facilitate discussion for Region 5 at the meetings. Ms. Trauth commented that the Indiana amendment to Resolution #2 was overly restrictive, and she recommended that non-licensed landscape architects who serve on the board should at least be licensed professionals and possess an understanding of licensing. Mr. Truscott suggested that Mr. Bowden could inquire on Ms. Trauth's behalf at the Annual Meeting regarding the qualifications for non-landscape architects who occupy board positions within CLARB, and Ms. Trauth confirmed. Mr. Bowden stated that he did not support the Indiana amendment to Resolution #2 because it did not address the underlying issue of the declining pool of qualified candidates.

Andrew C. N. Bowden moved to reject the Indiana amendment to Resolution #2 Eligibility Requirements to Serve on the Board of Directors.

Patricia M. Trauth seconded the motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

Mr. Truscott prompted the LATC to further discuss or take possible action on Resolution #2.

Andrew C. N. Bowden moved to support Resolution #2 Eligibility Requirements to Serve on the Board of Directors.

Jon S. Wreschinsky seconded the motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

Mr. Truscott commented that modifications to the resolutions or the Indiana amendment could take place during the parliamentary process at the CLARB Annual Meeting, and therefore, the voting member, Mr. Bowden, needed flexibility and authority to vote accordingly. Ms. Anderson added that several hypothetical outcomes could occur depending on how the parliamentary process progresses during the meeting, and the Committee should anticipate and discuss the various outcomes. Ms. Landry summarized that even though the LATC rejected the Indiana amendment, the amendment could be approved and incorporated into Resolution #2 at the Annual Meeting, and therefore, the Committee should decide whether they should still support Resolution #2 even if the language is modified. Ms. Anderson confirmed, and she elaborated that other amendments could be introduced during the parliamentary process, and therefore, Mr. Bowden should be given flexibility to address any possible changes to the resolution language. Ms. Welch agreed, and asked the Committee to consider whether they would be comfortable with the language of Resolution #2 changing, specifically whether they would still support Resolution #2 if the Indiana amendment or any other modification to the original resolution language was incorporated during the parliamentary process. Ms. Welch continued that if the language of Resolution #2 were modified, then the possible actions would be as follows: (1) adopt the resolution without the Committee having the opportunity to review the modifications, (2) abstain, or (3) vote against the resolution so it could be brought forth next year. Mr. Wreschinsky inquired what would happen if the Indiana amendment were approved but Resolution #2 were ultimately rejected. Ms. Anderson replied that she could not speculate on a possible outcome to Mr. Wreschinsky's hypothetical scenario given that it was unclear how CLARB would react if the same set of resolutions were brought forth for a third time. Mr. Wreschinsky asked whether the bylaws would remain the same if the resolutions were tabled and no vote taken, and Ms. Anderson confirmed his inquiry. Mr. Wreschinsky commented that he supported Mr. Bowden's judgement to vote on the issues at the CLARB Annual Meeting.

Patricia M. Trauth moved to grant Andrew C. N. Bowden the authority to represent the LATC at the 2019 CLARB Annual Meeting.

Susan M. Landry seconded the motion.

Ms. Welch encouraged the Committee to consider modifying the motion to grant Mr. Bowden the authority to represent the LATC's interests and provide Mr. Bowden the greatest degree of flexibility regarding any actions related to the eligibility requirements under Resolution #2.

Patricia M. Trauth amended the motion to grant Andrew C. N. Bowden the authority to represent the interests of the LATC at the 2019 CLARB Annual Meeting with regards to the eligibility requirements.

Susan M. Landry seconded the amended motion.

Ms. Welch asked the Committee whether they agreed that the eligibility requirements should be flexible. Mr. Bowden commented that the LATC should not support the Indiana amendment, however, if most votes tend to favor the amendment during the deliberation process at the Annual Meeting, then support of the amendment may be acceptable, unless the LATC's vote were a swing vote. Mr. Truscott acknowledged Mr. Bowden's comments and redirected the Committee to discuss the language of the motion authorizing Mr. Bowden to vote on the eligibility requirements. Ms. Trauth stated that she had originally phrased her motion to give Mr. Bowden general authority to vote because of the various outcomes that could occur during the parliamentary process at the Annual Meeting. Ms. Welch summarized the comments of Ms. Trauth that the Committee should grant Mr. Bowden the authority to represent the interests of the LATC regarding all resolutions under consideration at the CLARB Annual Meeting.

Patricia M. Trauth amended the motion to grant Andrew C. N. Bowden the authority to represent the interests of the LATC regarding all resolutions at the 2019 CLARB Annual Meeting.

Susan M. Landry seconded the amended motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

Mr. Truscott prompted the Committee to discuss Resolution #3, and he asked whether Indiana had input regarding this resolution. Ms. Anderson explained that amendments to resolutions require majority vote of the quorum whereas resolutions require two thirds vote of the quorum. Ms. Anderson continued that any amendment that is not already resolved must be in a resolution, and therefore, Resolution #3 as presented by Indiana does not affect the other resolutions. Ms. Anderson reiterated that Resolution #3 is a separate resolution and would not modify anything that was presented previously. Mr. Bowden asked whether CLARB was in support of Resolution #3, and Ms. Anderson confirmed his inquiry. Mr. Truscott commented that CLARB did not have a separate Resolution #3, and Ms. Anderson stated that Indiana has the purview to propose a resolution of its own at the Annual Meeting.

Andrew C. N. Bowden moved to support Resolution #3 CLARB Bylaws 2015, Article V – Membership; Section 3, Organizational Structure.

Patricia M. Trauth seconded the motion.

There were no comments from the public.

Members Bowden, Landry, Trauth, Wreschinsky, and Chair Truscott voted in favor of the motion. The motion passed 5-0.

F. Review of Future LATC Meeting Dates

Mr. Truscott announced that the next LATC meeting is November 8, 2019 in Sacramento, and Ms. Rodriguez confirmed that the meeting would be at the DCA headquarters. Mr. Truscott continued that the California Architects Board (Board) has a meeting on September 11, 2019 in Pleasant Hill, and he would attend the meeting on behalf of the LATC. Lastly, Mr. Truscott announced that there was another Board meeting on December 11, 2019 in Los Angeles, and Ms. Rodriguez mentioned that there would likely be an LATC item on the agenda. Ms. Zuniga added that the Board meeting will be held at the East Los Angeles College. Ms. Landry inquired about the length of the November LATC meeting, and Ms. Rodriguez replied that she would provide an estimate given the anticipated items on the agenda. Mr. Wreschinsky asked whether he could suggest agenda items for the November LATC meeting, and Ms. Rodriguez confirmed.

G. Adjournment

The meeting adjourned at 11:55 a.m.

AGENDA ITEM F.1: PROGRAM MANAGER'S REPORT – UPDATE ON LATC'S ADMINISTRATIVE/MANAGEMENT, EXAMINATION, LICENSING, AND ENFORCEMENT PROGRAMS

The Program Manager, Trish Rodriguez, will provide an update on the LATC's Administration/Management, Examination, Licensing, and Enforcement programs.

Attachment

Executive Officer's Report



MEMORANDUM

DATE	October 31, 2019
TO	Board and Landscape Architects Technical Committee (LATC) Members
FROM	Laura Zuniga, Executive Officer
SUBJECT	Executive Officer Report

The following information is provided as an overview of Board activities and projects as of October 31, 2019.

Administrative/Management

Board The Board met on September 11, 2019, at Diablo Valley College in Pleasant Hill and will meet December 11, 2019 at East Los Angeles College. The Landscape Architects Technical Committee (LATC) will meet on November 8, 2019 in Sacramento.

Committee Meetings:

Professional Qualifications Committee (PQC) The PQC was scheduled to hold a teleconference on October 22nd; however, it was canceled because of a scheduling conflict for the Chair. A poll will be conducted to determine meeting dates in early-2020.

Regulatory and Enforcement Committee (REC) The REC met on August 1, 2019, in Sacramento. At this meeting, the REC began work on its assigned 2019-2021 Strategic Plan objectives. The next REC meeting has not yet been scheduled.

Communications Committee The Communications Committee will meet on November 19, 2019 to continue discussion of its 2019-2021 Strategic Plan objectives.

Budget In July 2017, the Department of Consumer Affairs (DCA) implemented FI\$Cal, the statewide system for budgets, accounting, and procurement that the State of California has implemented for all state departments. The transition continues to pose challenges in the reconciliation and closing of fiscal year (FY) 2017-18. The final financial reports for FY 2017-18 remain unavailable. Staff continuously monitor the Board's budget with the DCA Budget Office staff. Once the final reports are available, a budget update will be provided to the Board.

Business Modernization In December 2017, the Board, in collaboration with the DCA, finalized its Business Modernization Plan (Plan) to effectively facilitate the analysis,

approval, and potential transition to a new licensing and enforcement platform. The Stage 1 Business Analysis report was signed by California Business, Consumer Services, and Housing Agency Secretary, Alexis Podesta on October 17, 2019, and was forwarded to the California Department of Technology for approval. Stage 2 activities commenced in August 2019 and included software demonstrations by ten vendors. Five cohort DCA programs will meet sometime in November to discuss the vendors including market research questionnaire results, consolidated business requirements, and cost.

The first major software release is scheduled for November 1, 2021 and the project is estimated to be completed on November 1, 2022.

The Board and LATC pursued a stop gap measure to accept online credit card payments for license renewal applications, our highest volume transaction. The acceptance of online credit card payments for license renewal launched on February 5, 2019, for the Board and on April 23, 2019, for LATC. The Board had 4,821 licensees renew online since February, which averages to approximately 540 renewals per month. Currently, the LATC averages 60 online renewal payments each month and has successfully issued 402 license renewals using the online payment portal.

Newsletter The *California Architects* newsletter was published on October 23, 2019.

Publications On September 4, 2019, the Board published the *Architect Licensure Handbook* which includes information on the Board and the process to become licensed, from education and experience through examinations and required continuing education.

Staff is currently in the final stage of development of the *Building Official Information Guide*, which focuses on enforcement issues important to California Building Officials. The *Guide* will be available on the Board website and hard copies will be available upon request.

Additionally, staff created an informational bulletin describing the requirements attached to the use of the word architect in business names and description of services. A second bulletin is in preparation which describes the design limitations imposed under different categories of architect, contractor and engineering licenses, and those types of designs that can be prepared by unlicensed persons. The bulletins will be shared with the email subscribers and posted on the Board's website once completed.

Regulatory Proposals *California Code of Regulations (CCR) Sections 124 (California Supplemental Examination) and 124.5 (Review of California Supplemental Examination)* The Board approved proposed regulatory language to amend CCR sections 124 and 124.5 at its March 1, 2018, meeting and delegated authority to the Executive Officer (EO) to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of the Board's regulatory proposal for CCR sections 124 and 124.5:

March 1, 2018	Proposed regulatory language approved by the Board
June 12, 2018	Proposed regulation submitted to DCA Legal for prereview
July 2, 2018	DCA Legal concluded prereview
July 5, 2018	Proposed regulation submitted to DCA Legal for initial analysis
April 26, 2019	Proposed regulatory language approved by Business, Consumer Services and Housing Agency (Agency)
May 24, 2019	Notice of Proposed Changes in the Regulations published by OAL
July 8, 2019	Public hearing, no comments received
July 9, 2019	Final rulemaking file submitted to DCA Legal Office
September 3, 2019	Final rulemaking file approved by Agency
September 5, 2019	Final rulemaking file submitted to Department of Finance (DOF)
September 6, 2019	Final rulemaking file submitted to OAL
October 18, 2019	Final Rulemaking File approved by DOF
October 18, 2019	Final rulemaking file approved by OAL
January 1, 2020	Effective date of regulatory change

CCR Sections 110 (Substantial Relationship Criteria) and 110.1 (Criteria for Rehabilitation) The Board approved proposed regulatory language to amend CCR sections 110 and 110.1 at its February 27, 2019, meeting and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of the Board's regulatory proposal for CCR sections 110 and 110.1:

February 27, 2019	Proposed regulatory language approved by the Board
March 5, 2019	Proposed regulation submitted to DCA Legal for prereview
March 7, 2019	DCA Legal concluded prereview
March 8, 2019	Proposed regulation submitted to DCA Legal for initial analysis
September 13, 2019	Proposed regulation submitted to Agency

CCR section 152.5 (Contest of Citations, Informal Conference) - Staff developed proposed regulatory language to amend CCR section 152.5 to 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. The proposed regulatory language also contains additional revisions to CCR section 152.5, including: changing the deadline for requesting an informal conference for consistency with the deadline for requesting a formal administrative hearing; authorizing the EO or a designee to extend the 60-day period for holding the informal conference for good cause; and 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. Language was included in Senate Bill 608 and will take effect January 1, 2020.

CCR section 154 (Disciplinary Guidelines) - The Board's 2013 and 2014 Strategic Plans included an objective to review and update the Board's *Disciplinary Guidelines*. The REC reviewed recommended updates to the Board's *Disciplinary Guidelines* in 2013 and 2014. Additionally, at the request of the REC, staff consulted with a representative of the American Institute of Architects California to address a proposed modification to the "Obey All Laws" condition of probation. The Board approved the proposed regulatory language to amend CCR section 154 at its June 10, 2015 meeting and delegated the 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, if needed.

At its March 1, 2018 meeting, the Board reviewed and approved the proposed regulatory changes to the *Disciplinary Guidelines* and CCR section 154 as modified, directed the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified.

As a result of guidance from DCA, staff made additional changes to the *Disciplinary Guidelines* due to the passage of Assembly Bill (AB) 2138 as well as proposed changes to CCR sections 110 (Substantial Relationship Criteria) and 110.1 (Criteria for Rehabilitation) including two options. The Board adopted the proposed recommended changes for CCR section 110 and option 1 of section 110.1 and approved the revised *Disciplinary Guidelines* at its February 27, 2019 meeting. Staff is proceeding with the regulatory proposal process and submitted it to DCA Legal for pre-review on September 19, 2019.

Personnel Examination Technician Wendy Baker, who was in a limited-term Office Technician assignment transferred to the Bureau of Automotive Repair on October 1, 2019. Also effective October 1, 2019, Tim Rodda was approved for an Out-of-Class assignment for the Program Manager Administration/Enforcement position in the absence of Alicia Hegje. Oscar Diaz was selected for the Public Information Technician position in the Administration Unit. His first day at the Board was October 14, 2019.

Social Media

Social Media Statistics (As of October 29, 2019)

Platform	Q2* Posts	Q3* Posts	Difference	Followers 10/29/19	Followers 8/30/19*	Difference
Twitter (launched in 2014)	27	56	+207	1276	1260	+1.36
Instagram (launched in 2016)	17	15	-12	653	624	+4.6
Facebook (launched in 2017)	29	41	+141	154	120	+28
Platform	Q2* Posts	Q3* Posts	Difference	Followers 10/29/19	Followers 8/30/19	Difference
LinkedIn (launched July 2019)	1	0	new	144	122	+18%

*; Q2 May – July, August – October 29, 2019

Website The website was updated to provide licensees with information regarding the forthcoming discussions related to the fee for a retired architect license that is scheduled for the December Board meeting. Staff is preparing to transfer responsibility for website maintenance and update to the Office of Information Services (OIS). The effective date for the transfer is still to be determined by OIS.

Examination and Licensing Programs

Architect Registration Examination (ARE) Performance data for ARE 5.0 administrations of California candidates and comparisons to national performance (which includes California data) are shown in the following tables:

Candidate Performance ARE 5.0 (July 1, 2019 to September 30, 2019)

ARE Division	Divisions Administered	Pass		Fail	
		Total	Rate	Total	Rate
Construction & Evaluation	229	151	66%	78	34%
Practice Management	409	189	46%	220	54%
Programming & Analysis	284	124	44%	160	56%
Project Development & Documentation	359	155	43%	204	57%
Project Management	281	151	54%	130	46%
Project Planning & Design	443	163	37%	280	63%

Candidate Performance ARE 5.0 (FY 2019/20)

ARE Division	Divisions Administered	Pass		Fail	
		Total	Rate	Total	Rate
Construction & Evaluation	229	151	66%	78	34%
Practice Management	409	189	46%	220	54%
Programming & Analysis	284	124	44%	160	56%
Project Development & Documentation	359	155	43%	204	57%
Project Management	281	151	54%	130	46%
Project Planning & Design	443	163	37%	280	63%

**California to National ARE 5.0 Performance Comparison
(FY 18/19)**

ARE Division	California		National	Delta % (▲%)
	Total	Passed	Passed	
Construction & Evaluation	685	64%	71%	-7%
Practice Management	1,497	45%	49%	-4%
Programming & Analysis	1,245	45%	53%	-8%
Project Development & Documentation	1,357	43%	50%	-7%
Project Management	1,015	57%	62%	-5%
Project Planning & Design	1,693	35%	43%	-8%

▲% is the difference in the California and national (NCARB) pass rates.

**Multi-Year California to National ARE 5.0 Performance Comparison
(FY 2017/18 and 2018/19)**

DIVISION	FY 2017/18 ARE 5.0			FY 2018/19 ARE 5.0		
	CA Pass	National Pass	▲%	CA Pass	National Pass	▲%
Construction & Evaluation	62%	69%	-7%	64%	71%	-7%
Practice Management	48%	52%	-4%	45%	49%	-4%
Programming & Analysis	45%	54%	-9%	45%	53%	-8%
Project Development & Documentation	50%	55%	-5%	43%	50%	-7%
Project Management	61%	62%	-1%	57%	62%	-5%
Project Planning & Design	43%	49%	-6%	35%	43%	-8%

▲% is the difference in the California and national (NCARB) pass rates.

California Supplemental Examination (CSE) The current Intra-Agency Contract Agreement with the OPES for examination development for FY 2019/20 expires on June 30, 2020.

The pass rates for CSE administrations from July 1, 2019 to September 30, 2019 and the prior FY are displayed in the following tables:

**CSE Performance by Candidate Type
(July 1, 2019 to September 30, 2019)**

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
Instate First-time	90	68%	43	32%	133
Instate Repeat	62	64%	35	36%	97
Reciprocity First-time	31	56%	24	44%	55
Reciprocity Repeat	18	72%	7	28%	25
Relicensure First-time	1	50%	1	50%	2
Relicensure Repeat	0		0		0
TOTAL	202	65%	110	35%	312

**CSE Performance by Candidate Type
(FY 2019/20)**

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
Instate First-time	90	68%	43	32%	133
Instate Repeat	62	64%	35	36%	97
Reciprocity First-time	31	56%	24	44%	55
Reciprocity Repeat	18	72%	7	28%	25
Relicensure First-time	1	50%	1	50%	2
Relicensure Repeat	0		0		0
TOTAL	202	65%	110	35%	312

**CSE Performance by Candidate Type
(FY 2018/19)**

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
Instate First-time	432	64%	239	36%	671
Instate Repeat	191	57%	144	43%	335
Reciprocity First-time	141	57%	106	43%	247
Reciprocity Repeat	40	57%	30	43%	70
Relicensure First-time	3	30%	7	70%	10
Relicensure Repeat	1	33%	2	67%	3
TOTAL	808	60%	528	40%	1336

Enforcement Program

Enforcement Subject Matter Expert (SME) Program The Board's selected 14 qualified SMEs to provide case review, technical evaluation, and courtroom testimony as needed. The Board's enforcement staff will begin utilizing the SMEs on November 1, 2019.

Enforcement Actions

Mike De Alba, Jr. (Sanger) The Board issued a two-count citation that included a \$2,000 administrative fine to Mike De Alba, Jr., architect license number C-33144, for alleged violations of Business and Professions Code (BPC) section 5584 (Willful Misconduct), as defined in California Code of Regulations (CCR), title 16, sections 150 (Willful Misconduct) and 160(b)(2) (Willful Misconduct; Failure to Respond to Board Investigation). The action alleged that on or about September 16, 2014, De Alba, Jr. agreed to prepare drawings and/or calculations for a project located in Turlock, California. The contract provided that "Construction Documents will be completed in 60 days of Owner signing contract and initial payment." The contract also stated, "Owner will sign and date of approval of schematic design and design development drawings prior to commencement of construction documents." The initial payment for the contract was sent to De Alba, Jr. the day after the execution of the contract, September 17, 2014, so the plans should have been completed by November 17, 2014. De Alba, Jr. did not submit the plans to the city of Turlock until in or around April 2015, nor did he provide any designs to the client for approval prior to proceeding to the construction documents stage. The

client was not made aware of any delays until he received a copy of an email the city of Turlock sent in their response to De Alba, Jr.'s fifth attempt at submitting the plans, in or around February 2016. De Alba, Jr. thus violated a provision of the agreement with the client and made no reasonable effort to inform the client of the conduct or omission. De Alba, Jr. also failed to respond to the Board's requests for information regarding an investigation within 30 days. The citation became final on August 6, 2019.

Mohammad R. Hakimi (Oakland) The Board issued a one-count citation that included a \$500 administrative fine to Mohammad R. Hakimi, architect license number C-25024, for an alleged violation of Business and Professions Code (BPC) section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Hakimi certified false or misleading information on his 2019 License Renewal Application. Hakimi paid the fine, satisfying the citation. The citation became final on August 2, 2019.

Tuan Nguyen (Westminster) The Board issued a two-count citation that included a \$2,000 administrative fine to Tuan Nguyen, dba Do Green Company Design & Consultant Service and ICM Management Co., an unlicensed individual, for alleged violations of BPC section 5536(a) (Practice Without License or Holding Self Out as Architect) and CCR, title 16, section 134(a) (Use of the Term Architect). The first cause for citation alleged that Nguyen provided a proposal to add a 400 sq. ft. family room and open patio to a single-family residence located in Anaheim, California. The services offered in the proposal included "Architectural & Engineering (A/E) Consultant Service." The written proposal using the word "Architectural" is a device that might indicate to the public that Nguyen is an architect, that he is qualified to engage in the practice of architecture, or that he is an architectural designer. The second cause for citation alleged that Nguyen prepared drawings for the project that contained a title block that included his business name "ICM Management Co., Architecture & Consultant." Nguyen used a business name which included the term "architecture" in its title and description of services, without a California licensed architect who was in management control of the professional services that were offered and provided by the business entity and either the owner, a part-owner, an officer, or an employee of the business entity. The citation became final on August 5, 2019.

David W. Stark (Rocklin) The Board issued a one-count citation that included a \$500 administrative fine to David W. Stark, architect license number C-24144 for an alleged violation of BPC section 5600.05(a)(1) (License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements). The action alleged that Stark certified false or misleading information on his 2019 License Renewal Application. Stark paid the fine, satisfying the citation. The citation became final on August 29, 2019.

Hildegard Anna Richardson (Mill Valley) The Board issued a one-count citation that included a \$2,000 administrative fine to Hildegard Anna Richardson, architect license number C-11183 for an alleged violation of BPC section 5536.22(a) (Written Contract). The action alleged that Richardson failed to execute a written contract with her client for a new phase of work on a residential project located in Sonoma, California prior to commencing the professional services. Richardson paid the fine, satisfying the citation. The citation became final on August 28, 2019.

Jijun Han (Buena Park) The Board issued a one-count citation that included a \$750 administrative fine to Jijun Han, an unlicensed individual, for an alleged violation of BPC section 5536(b) (Use of Stamp by an Unlicensed Person). The action alleged that while Han was unlicensed, he affixed a stamp to drawings which read: "KTIK design," "INTERIOR + ARCHITECTURAL + DESIGN," "COMMERCIAL / RESIDENTIAL PLANNING / CONSTRUCTION," and "#985437." The stamp was circular in shape and of a similar design used by licensed architects, pursuant to CCR, title 16, section 136. The license number listed was Han's contractor's license number, not an architect's license number. The word "ARCHITECTURAL" was prominent and centered below the license number. Han paid the fine, satisfying the citation. The citation became final on September 9, 2019.

Rui Han (Santa Clara) The Board issued a one-count citation that included a \$500 administrative fine to Rui Han, architect license number C-32779 for an alleged violation of BPC section 5600.05(b) (License Renewal Process; Failure to Maintain Records of Completion of Required Coursework). The action alleged that Han 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. Han paid the fine, satisfying the citation. The citation became final on September 23, 2019.

Warren Earle Pechin (Bakersfield) The Board issued a one-count citation that included a \$500 administrative fine to Warren Earle Pechin, architect license number C-8366, for an alleged violation of BPC section 5536.22(a) (Written Contract). The action alleged that on or about October 10, 2016, Pechin failed to execute a written contract with his client prior to commencing professional services for a residential addition located in Bakersfield, California. Pechin paid the fine, satisfying the citation. The citation became final on September 23, 2019.

Disciplinary Actions

None

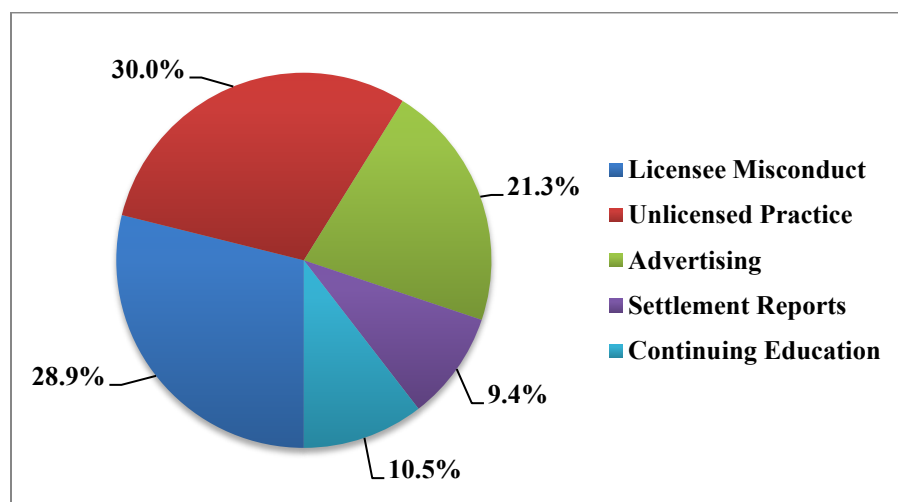
<u>Enforcement Statistics</u>	<u>Current Month</u>	<u>Prior Month</u>	<u>FY18/19</u>	<u>FY17/18</u>
	July 2019	June 2019	2018/19	2017/18
Complaints				
Received/Opened	51 (0)	51 (0)	310 (2)	380 (2)
Closed:	56	47	314	334
Average Days to Close:	79 days	165 days	188 days	97 days
Pending:	141	140	150*	161
Average Age of Pending:	207 days	243 days	230 days*	161 days
Citations				
Issued:	13	1	48	65
Pending:	6	2	32*	0
Pending AG: †	1	0	3*	0
Final:	6	8	55	58

Disciplinary Actions

Pending AG:	5	4	6*	4
Pending DA:	0	0	1*	1
Final:	0	0	1	3
Continuing Education (\$5600.05)**				
Received/Opened:	2	11	35	32
Closed:	0	8	24	30
Pending:	2	3	11*	10
Settlement Reports (\$5588)**				
Received/Opened:	4	2	24	14
Closed:	2	2	15	14
Pending:	10	5	9*	0

* Calculated as a monthly average of pending cases.
 ** Also included within "Complaints" information.
 † Also included within "Pending Citations."

Types of Complaints Received FY 2018/19



Closure of Complaints by FY

Type of Closure	FY 2018/19	FY 2017/18	FY 2016/17
Cease/Desist Compliance	10	9	67
Citation Issued	43	64	30
Complaint Withdrawn	10	8	6
Insufficient Evidence	16	14	8
Letter of Advisement	120	157	99

No Jurisdiction	13	15	13
No Violation	74	40	52
Referred for Disciplinary Action	4	5	4
Other (i.e., Duplicate, Mediated, etc.)	30	25	12

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 2018/19 42 citations with administrative fines became final with 58 violations of the provisions of the 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.

BPC or CCR Section	FY 2018/19	FY 2017/18	FY 2016/17
BPC § 5536(a) and/or (b) – Practice Without License or Holding Self Out as Architect	25.4%	8.1%	38.0%
BPC § 5536.1(c) – Unauthorized Practice	0%	3.2%	0%
BPC § 5536.22(a) – Written Contract	6%	1.6%	14.0%
BPC § 5584 – Negligence or Willful Misconduct	6%	1.6%	4.0%
BPC § 5600.05(a)(1) and/or (b) – License Renewal Process; Audit; False or Misleading Information on Coursework on Disability Access Requirements	37.3%	77.4% [†]	16.0%
CCR § 160(b)(2) – Rules of Professional Conduct	7.5%	4.8%	6.0%

† The high percentage of citations for BPC section 5600.05 violations compared to other violations is primarily due to vacancies in the Enforcement Unit.

Written Contract (BPC section 5536.22) The Board previously approved a legislative proposal to amend BPC section 5536.22 sought to clarify that the following elements are needed in architects' written contracts with clients for professional services: 1) a

description of the project; 2) the project address; and 3) a description of the procedure to accommodate contract changes. The Senate Business, Professions and Economic Development Committee (BP&ED) staff determined that the proposal was substantive and, as such, would need to be included in another bill. The Board subsequently approved a revision to one suggested amendment, as well as an exemption from the written contract requirements for public contracts.

The Board's proposal to amend BPC section 5536.22 was presented to the Legislature for consideration via the "New Issues" section of the Sunset Review Report, and the proposed changes are included in Senate Bill 608 and will take effect January 1, 2020.

Landscape Architects Technical Committee

LATC ADMINISTRATIVE/MANAGEMENT

Business Modernization Refer to section under Board's Administrative/Management.

Committee The LATC met on September 5, 2019 via teleconference. The next meeting is planned for November 8 in Sacramento.

Andrew Bowden's term expired on June 1, 2019, and he is serving in his one-year grace period.

Committee member mandatory trainings must be completed as follows:

- Ethics Orientation – completed within the first six months of appointment and repeat every two years throughout a member's term
- Sexual Harassment Prevention – completed within the first six months of appointment and every odd year throughout a member's term. (Note: 2019 is a mandatory year)
- Board Member Orientation – completed within one year of a member's appointment and reappointment
- Defensive Driver – once every four years

Social Media The LATC maintains a Twitter account that currently has 182 followers. This account largely permits the LATC to have active social media participation with the public and professionals.

Website The Interim Credit Card Renewal was launched on April 23, 2019 and can be found on the LATC's homepage and is included with each license renewal notice.

In June, LATC staff worked with SOLID to develop a strategy to create an online tutorial to assist candidates navigate through the process of becoming a licensed landscape architect. A content outline was created, from which staff and the DCA Public Information Office (PIO) will produce a web-based candidate tutorial for the LATC homepage, schools, and other outreach efforts. Staff is currently developing further detail to the content outline for clarity and will provide it to PIO in August.

LATC EXAMINATION PROGRAM

California Supplemental Examination (CSE) The current Intra-Departmental Contract Agreement with the OPES for examination development for FY 2019/20 expires on June 30, 2020. The LATC will review an Intra-Departmental Contract Agreement with the OPES to conduct an Occupational Analysis at their meeting on November 8, 2019.

The pass rates for CSE administrations in July 2019 and the prior FY are displayed in the following tables:

**CSE Performance by Candidate Type
(September 2019)**

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
First-time	1	100%	0	0%	1
Repeat	2	100%	0	0%	2
TOTAL	3	100%	0	0%	3

**CSE Performance by Candidate Type
(FY 2018/19)**

Candidate Type	Pass		Fail		TOTAL
	Total	Rate	Total	Rate	
First-time	122	79%	32	21%	154
Repeat	51	82%	11	18%	62
TOTAL	173	80%	43	20%	216

Landscape Architect Registration Examination (LARE) A LARE administration was held August 5-17, 2019. Examination results for all LARE administrations are released by the Council of Landscape Architectural Registration Boards (CLARB) within six weeks of the last day of administration. On September 12, 2019, LATC staff issued notifications to all California candidates who completed the LARE during the August administration to advise of their eligibility to sit for the CSE. The next LARE administration will be held December 2-14, 2019, and the application deadline was October 18, 2019.

The pass rates for LARE sections taken by California candidates during the August 5-17, 2019 administration are shown below:

SECTION	NUMBER OF SECTIONS	TOTAL PASSED		TOTAL FAILED	
		No. of Sections	Passed	No. of Sections	Failed
Project and Construction Management	59	34	58%	25	42%
Inventory and Analysis	63	31	49%	32	51%
Design	59	34	58%	25	42%
Grading, Drainage and Construction	39	21	54%	18	46%

National pass rates for LARE sections taken during the August 5-17, 2019 administration are shown below:

SECTION	CALIFORNIA		NATIONAL		▲ %
	Total	Passed	Total	Passed	
Project and Construction Management	59	58%	336	68%	-10%
Inventory and Analysis	63	49%	338	68%	-19%
Design	59	58%	332	64%	-6%
Grading, Drainage and Construction	39	54%	323	60%	--6%

▲ % is the difference in the California and national (CLARB) pass rates.

National pass rates for LARE sections taken in 2018 are shown in the following table:

SECTION	CALIFORNIA		NATIONAL		▲ %
	Total	Passed	Total	Passed	
Project and Construction Management	220	66%	1,187	71%	-5%
Inventory and Analysis	200	62%	1,172	68%	-6%
Design	181	62%	1,169	64%	-2%
Grading, Drainage and Construction	191	69%	1,156	69%	0%

▲ % is the difference in the California and national (CLARB) pass rates.

Outreach On November 12, 2019 LATC staff will provide presentations to students enrolled in two senior level professional practice and construction documentation courses at University of California Davis. The presentations will include an overview of the LATC's mandate, the Landscape Architects Practice Act, the importance of licensure, the examination process, and updates to the various education and training pathways to licensure.

Regulatory Proposals *CCR sections 2615 (Form of Examinations) and 2620 (Education and Training Credits)* At its meeting on February 10, 2015, LATC directed staff to draft proposed regulatory language to specifically state that California allows reciprocity to individuals who are licensed in another jurisdiction, have 10 years of practice experience, and have passed the CSE. At the LATC meeting on November 17, 2015, the Committee approved proposed amendments to CCR section 2615(c)(1) and the Board approved the regulatory changes at its meeting on December 10, 2015.

The LATC received extensive input during the public comment period expressing concern about the proposed length of post-licensure experience (at least 10 years, within the past 15 years) to be required of reciprocity candidates who do not meet California's educational requirements (specifically, a degree in landscape architecture). At its November 4, 2016 meeting, LATC reviewed and discussed the public comments, heard from several members of the audience, and directed staff to provide additional research and possible options for its next meeting in January 2017. At its January 17, 2017 meeting, the Committee directed staff to draft proposed regulatory language allowing reciprocity licensure to applicants licensed to practice landscape architecture by any US jurisdiction, Canadian province, or Puerto Rico, upon passing the CSE. Staff consulted with legal counsel to draft new, proposed regulatory language in accordance with the Committee's direction. Staff was also advised that it would be more efficient to begin a new regulatory proposal for this new language in lieu of continuing with the existing proposal. Pursuant to Gov. section 11346.4, the one-year deadline to finalize the existing regulatory proposal was August 12, 2017, which did not allow sufficient time to complete the required review/approval process through the control agencies.

At its April 18, 2017 meeting, the Committee approved the new proposed regulatory language to amend CCR section 2615(c)(1) and recommended that the Board authorize LATC to proceed with the regulatory change. The LATC's recommendation was considered by the Board at its June 15, 2017, meeting. Following discussion, the Board voted to reject the proposed regulatory language. The Board directed staff to prepare a proposal that addresses both the LATC's initial and reciprocal licensure requirements, and that closely aligns with the Board's current licensure requirements. The Board requested that the LATC's proposal should be presented to the Board at its next meeting.

At the July 13, 2017 meeting, the LATC reviewed proposed language to amend CCR section 2620 (Education and Training Credits) composed by staff and DCA Legal. This proposed language reflects the Board's licensing provisions by granting credit for related and non-related degrees while also adding an experience-only pathway. The LATC voted to recommend to the Board the approval of amendments to CCR section 2620. Upon the Board's review of amendments for CCR section 2620 during its meeting on December 7, 2017, the Board voted to approve the language. As initial licensing provisions and reciprocity provisions are closely tied, the LATC voted on July 13, 2017,

to recommend to the Board that reciprocity requirements align with the final, amended provisions to CCR section 2620.

It was found that minor changes are necessary for consistency with the proposed amendments to CCR section 2620. Specifically, these changes will replace the term “Board approved degree” with “degree from an accredited program” and update a reference to CCR section 2620(a)(7). This new language was presented to the LATC for review and possible approval at their meeting on May 4, 2018. During this meeting, the Committee expressed concern that the Certification of Experience form may not adequately structure the experience a candidate gains, especially as it would pertain to the proposed experience-only pathway. Following discussion, the Committee directed staff to conduct further research regarding experience credit allocation of other licensing jurisdictions and present findings at the next Committee meeting.

Subsequent to the Committee meeting on May 4, 2018, staff gathered research from other licensing jurisdictions who have detailed experience criteria on their experience verification forms as well as gathered data for California licensees and active candidates who qualify for licensure with one-year of education credit and five years of experience inclusive of examination pass rates, the types of experience gained, and whether enforcement actions were taken. The findings of staff research were presented to the LATC during its meeting on July 20, 2018; at which time the Committee granted approval to staff to move forward with the combined rulemaking file for CCR sections 2615 and 2620. The Board approved the LATC’s proposed regulatory language at its meeting on September 12, 2018. Staff has submitted the proposed regulatory package to DCA for initial analysis, prior to publicly noticing with the OAL.

Following is a chronology, to date, of the processing of LATC’s regulatory proposal for CCR sections 2615 and 2620:

November 17, 2015	Proposed regulatory language approved by the LATC
December 10, 2015	Proposed regulatory language approved by the Board
August 2, 2016	Notice of Proposed Changes in the Regulations submitted to OAL
August 12, 2016	Notice of Proposed Changes in the Regulations published by OAL
September 27, 2016	Public hearing, public comments received during 45-day period
April 18, 2017	LATC voted to withdraw regulatory proposal and approved new proposed regulatory language
June 15, 2017	Board requested LATC prepare an alternate proposal that refines both initial and reciprocal licensure requirements to be more closely related to those of the Board’s
July 13, 2017	LATC voted to recommend to the Board that reciprocity requirements align with initial licensure requirements once they are determined by the Education/Experience Subcommittee and approved by the LATC and the Board at subsequent meetings
October 3, 2017	The Education/Experience Subcommittee met and recommended expanded initial licensure pathways (and their respective education/ experience credit allocations) as amendments to CCR section 2620 for the LATC’s consideration

November 2, 2017	LATC met to review the Education/Experience Subcommittee's recommendations and voted to recommend that the Board approve proposed amendments to CCR section 2620 to expand initial licensure pathways
December 7, 2017	Board reviewed and approved the LATC's proposed amendments to CCR section 2620
May 4, 2018	LATC reviewed revised proposed regulatory language, to amend CCR 2615 and 2620, and directed staff to conduct further research regarding experience credit allocation of other licensing jurisdictions and present findings at a future Committee meeting
July 20, 2018	LATC voted to recommend to the Board to proceed with the combined rulemaking file for CCR sections 2615 and 2620
September 12, 2018	Proposed regulatory language approved by Board
November 1, 2018	Staff preparing regulatory package for DCA Legal review
February 7, 2019	Proposed regulation submitted to DCA Legal for prereview
March 21, 2019	DCA Legal concluded first round of prereview and returned regulation to staff
April 16, 2019	Proposed regulation returned to DCA Legal for additional prereview
June 5, 2019	DCA Legal concluded prereview
June 6, 2019	Proposed regulation submitted to DCA Legal for initial analysis
September 5, 2019	Proposed regulation submitted for Budget Office Review

CCR section 2620.5 (Requirements for an Approved Extension Certificate Program)

LATC established the original requirements for an approved extension certificate program based on university accreditation standards from the Landscape Architectural Accreditation Board (LAAB). These requirements are outlined in CCR section 2620.5. In 2009, LAAB implemented changes to their university accreditation standards. Prompted by the changes made by LAAB, LATC drafted updated requirements for an approved extension certificate program and recommended that the Board authorize LATC to proceed with a regulatory change. At the December 15–16, 2010 Board meeting, the Board approved the regulatory change and delegated authority to the EO to adopt the regulations to amend CCR section 2620.5 provided no adverse comments are received during the public comment period and make minor technical or non-substantive changes to the language, if needed. The regulatory proposal to amend CCR section 2620.5 was published by the OAL on June 22, 2012.

In 2012, the LATC appointed the University of California Extension Certificate Program Task Force, which was charged with developing procedures for the review of the extension certificate programs and conducting reviews of the programs utilizing the new procedures. As a result of these meetings, the Task Force recommended additional modifications to CCR section 2620.5 to further update the regulatory language with LAAB guidelines and LATC goals. At the November 14, 2012 LATC meeting, LATC approved the Task Force's recommended modifications to CCR section 2620.5, with an additional edit. The Board approved adoption of the modified language for CCR section 2620.5 at their March 7, 2013 meeting.

On July 17, 2013, a Decision of Disapproval of Regulatory Action was issued by OAL. The disapproval was based on OAL's determination that the regulatory package did not meet the necessity standard of the Gov. section 11349.1, subdivision (a)(1). Gov. section 11349(a) defines "necessity" as demonstrating the need for the regulatory change through evidence not limited to facts, studies, and expert opinion.

On December 8, 2014, staff was advised by LAAB that the accreditation standards are scheduled to be reviewed and updated beginning with draft proposals in the spring of 2015. LAAB anticipated adopting new standards in early 2016.

Proposed regulatory language was presented to the LATC at its February 10–11, 2015 meeting. At this meeting, the Committee approved the appointment of a new working group to assist staff in substantiating recommended standards and procedures in order to obtain OAL approval.

On June 5, 2015, LAAB confirmed that they are in the process of updating their Standards and Procedures for the Accreditation of Landscape Architecture Programs.

LAAB implemented its new Accreditation Standards and Procedures in March 2016, making significant changes to the curriculum requirements beginning in 2017. Staff recommended that LATC review the LAAB Accreditation Standards and Procedures

At the April 18, 2017 LATC meeting, the Committee heard comments from Mses. Landregan and Anderson, president-elect of the Council of Landscape Architectural Registration Boards, that offered insight on how LATC could incorporate LAAB accreditation standards and continue to approve University of California Extension Certificate programs. In addition, the LATC was presented with several written public comments addressing the University of California Extension Certificate programs.

At the July 20, 2018 LATC meeting, the Committee reviewed the proposed language to amend CCR section 2620.5 that was rejected by OAL on July 17, 2013. Following discussion, the Committee directed staff to explore options to engage LAAB as well as research private entities regarding the accreditation of extension certificate programs. The Committee requested that staff present their research findings for consideration at the next meeting on December 6-7, 2018.

At the December 6, 2018 LATC meeting, the Committee discussed opportunities to address the following in regulation: 1) extension certificate program approval, expiration, reauthorization, and extensions of said approval; 2) possible provisions for site reviews; and 3) the information that shall be provided by the extension certificate program to evaluate the program's compliance with the regulation. Following discussion, the Committee directed staff to form a subcommittee comprised of Marq Truscott and Ms. Landregan to work with staff to recommend regulatory changes for LATC's consideration at a later meeting date.

On January 17, 2019, staff held a conference call with the subcommittee where together they developed recommended changes to section 2620.5 and the review/approval procedures for LATC's consideration. At the February 8, 2019 LATC meeting, the Committee reviewed the subcommittee's recommendations and directed staff to prepare a regulatory proposal to amend CCR section 2620.5 for the LATC's consideration at its

next meeting. At its May 29, 2019 meeting, the LATC voted to recommend to the Board approval of the proposed regulatory language to amend CCR section 2620.5. The Board approved the proposal at its meeting on June 12, 2019 and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of LATC's regulatory proposal for CCR section 2620.5:

November 22, 2010	Proposed regulatory language approved by LATC
December 15, 2010	Proposed regulatory language approved by Board
June 22, 2012	Notice of Proposed Changes in the Regulations published by OAL (Notice re-published to allow time to notify interested parties)
August 6, 2012	Public hearing, no public comments received
November 30, 2012	40-Day Notice of Availability of Modified Language posted on website
January 9, 2013	Written comment (one) received during 40-day period
January 24, 2013	Modified language to accommodate public comment approved by LATC
February 15, 2013	Final rulemaking file submitted to DCA's Legal Office and Division of Legislative and Policy Review
March 7, 2013	Final approval of modified language by Board
May 31, 2013	Final rulemaking file submitted to OAL for approval
July 17, 2013	Decision of Disapproval of Regulatory Action issued by OAL
August 20, 2013	LATC voted not to pursue a resubmission of rulemaking file to OAL
February 21, 2014	Staff worked with Task Force Chair to draft justifications for proposed changes
December 8, 2014	LAAB reported that accreditation standards are scheduled to be reviewed and updated in 2015
February 10, 2015	LATC approved the appointment of a new working group to assist staff
October 8, 2015	LATC received LAAB's suggested revisions to curriculum requirements
March 2016	LAAB implemented its new Accreditation Standards and Procedures
April 18, 2017	LATC directed the formation of a subcommittee to recommend regulatory changes for LATC's consideration
March 2018	LATC staff consulted with legal counsel regarding previously proposed amendments to CCR 2620.5
July 20, 2018	LATC directed staff to explore options to engage LAAB and private entities in the approval process of extension certificate programs
December 6, 2018	LATC directed the formation of a two-person subcommittee to recommend regulatory changes for LATC's consideration
January 17, 2019	LATC staff held a conference call with the subcommittee where together they developed recommended changes for LATC's consideration at its February 8, 2019 meeting

February 8, 2019	LATC directed staff to prepare a regulatory proposal to amend CCR 2620.5 for the LATC's consideration at its May 23, 2019 meeting
May 29, 2019	Proposed regulatory language approved by LATC
June 12, 2019	Proposed regulatory language approved by Board
July 31, 2019	Proposed regulation submitted to DCA Legal for prereview
October 22, 2019	Proposed regulation submitted to DCA Legal for additional prereview

CCR Sections 2655 (Substantial Relationship Criteria) and 2656 (Criteria for Rehabilitation) At its meeting on February 8, 2019, LATC recommended to the Board approval of proposed regulatory language to amend CCR sections 2655 and 2656. The Board approved the proposed regulatory language at its February 27, 2019, meeting and delegated authority to the EO to adopt the regulations, provided no adverse comments are received during the public comment period, and, if needed, to make minor technical or non-substantive changes.

Following is a chronology, to date, of the processing of the LATC's regulatory proposal for CCR sections 2655 and 2656:

February 8, 2019	Proposed regulatory language approved by LATC
February 27, 2019	Proposed regulatory language approved by the Board
March 7, 2018	Proposed regulation submitted to DCA Legal for prereview
March 8, 2018	DCA Legal concluded prereview
March 12, 2018	Proposed regulation submitted to DCA Legal for initial analysis
September 24, 2019	Proposed regulatory language approved by Agency
October 11, 2019	Notice of Proposed Regulatory Action published by OAL

LATC ENFORCEMENT PROGRAM

Regulatory Proposal *CCR section 2680 (Disciplinary Guidelines)* As part of the Strategic Plan established by LATC at the January 2013 meeting, LATC set an objective of collaborating with the Board in order to review and update LATC's *Disciplinary Guidelines*. At its December 2014 meeting, the Board approved the proposed updates to their *Disciplinary Guidelines* and authorized staff to proceed with the required regulatory change in order to incorporate the revised *Disciplinary Guidelines* by reference. At its February 10, 2015 meeting, LATC approved proposed revisions to its *Disciplinary Guidelines* based on the recent Board approval for their *Guidelines*. Staff provided the revised *Disciplinary Guidelines* to the new Deputy Attorney General Liaison for review. He suggested several amendments, which staff added to the *Guidelines*. The amended *Disciplinary Guidelines* and proposed regulatory package were approved by LATC at its August 6, 2015 meeting and by the Board at their September 10, 2015 meeting.

On October 21, 2015, staff sent DCA Legal Counsel suggested edits to the Optional Conditions section in the *Disciplinary Guidelines* for review. Legal Counsel notified staff on November 12, 2015, that the edited portions were sufficient and substantive, and would require re-approval by the Board. At its December 10, 2015, meeting, the Board approved the revised *Disciplinary Guidelines* and the proposed regulation to amend CCR § 2680 and delegated the 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 review and approval on March 15, 2016. On April 8, 2016, Legal Counsel advised staff that further substantive changes were necessary prior to submission to OAL. The additional revisions to the *Guidelines* and the proposed regulatory language to amend CCR section 154 were approved by the Board at its December 15, 2016 meeting. Staff updated its *Guidelines* to include the approved revisions that are appropriate to the LATC. On July 13, 2017, the Committee approved the revised *Guidelines* and recommended they be presented to the Board for approval.

On September 5, 2017, Legal Counsel advised LATC staff that additional substantive changes to LATC's *Guidelines* and the proposed language to amend CCR section 2680 were necessary. These changes were communicated by Legal Counsel during the Board's September 7, 2017 meeting. The Board approved the revisions to LATC's *Guidelines*, including the necessary changes identified by Legal Counsel, as well as proposed language to amend CCR section 2680. Following the meeting, Board staff prepared additional, recommended revisions to the Board's *Guidelines* and the proposed language to amend CCR section 154 in response to Legal Counsel's concerns and presented those revisions to the Board for review and approval at its December 7, 2017 meeting. At the meeting, the Board accepted the additional revisions to the Board's *Guidelines* and directed Legal Counsel and staff to conduct further research to determine if the Board has the statutory authority to impose fines through the disciplinary process and whether it should be referenced in the *Guidelines*. At its March 1, 2018 meeting, the Board was presented with and approved the additional edits to its *Disciplinary Guidelines* with no changes and authorized staff to proceed with a regulatory amendment. Following the Board's approval of its *Guidelines*, LATC staff incorporated the changes made to the Board's *Guidelines* that were relevant to the LATC's *Guidelines*. On May 4, 2018, the Committee reviewed and approved the revised *Guidelines* and recommended they be presented to the Board for approval.

At its June 13, 2018 meeting, the Board reviewed and approved the proposed changes to the LATC's *Disciplinary Guidelines* and CCR section 2680 as modified, directed the EO to make any technical or non-substantive changes to the rulemaking package, notice the proposed text for a 45-day comment period, and, if no adverse comments are received during the 45-day comment period and no hearing is requested, adopt the proposed regulatory changes, as modified.

As a result of guidance from DCA, staff made additional changes to the *Disciplinary Guidelines* due to the passage of AB 2138 as well as proposed changes to CCR sections 2655 (Substantial Relationship Criteria) and 2656 (Criteria for Rehabilitation) including two options. On February 8, 2019, the Committee made a recommendation to the Board to adopt the proposed regulatory language for section 2655 and option 1 for section 2656 and approve the revised *Disciplinary Guidelines*. The Board approved the Committee's recommendation at its February 27, 2019 meeting. Staff proceeded with the regulatory proposal process and DCA Legal completed the prereview of the regulatory change package. On October 15, 2019 the regulatory change package was submitted to DCA for Initial Analysis.

Regulatory Proposal CCR section 2671 (*Public Presentments and Advertising Requirements*) As part of the Strategic Plan established by LATC at the January 2013

meeting, LATC set an objective of researching the feasibility of requiring a license number on all correspondence and advertisement platforms to inform and protect consumers.

LATC enforcement staff reviewed several non-healing arts board's and bureau's Practice Acts to identify language, if applicable, requiring license numbers to be included on all advertisements to determine if similar language could be added to LATC's California Code of Regulations (CCR) section 2671 (Public Presentments and Advertising Requirements). Staff found that the Bureau of Security and Investigative Services and Contractors State License Board Practice Acts require their licensees to include license numbers on all forms of advertisements, as well as the Regulations Relating to the Practices of Geology and Geophysics for the Board for Professional Engineers, Land Surveyors, and Geologists which also requires licensees include license numbers on all advertisements for geologic or geophysical services.

Currently, CCR section 2671 requires that a landscape architect only include their name and the words "landscape architect" in all forms of advertising or public presentments. In an effort to better inform and protect California consumers, the proposed changes of the LATC's current advertising requirements will expand to include license numbers in all forms of advertising.

Proposed language to amend CCR section 2671 was presented to the Committee and on May 29, 2019, where the Committee made a recommendation to the Board to adopt the proposed regulatory language. The Board approved the Committee's recommendation at its June 12, 2019 meeting. Staff proceeded with the regulatory proposal process and DCA Legal completed the prereview of the regulatory change package. On August 12, 2019 the regulatory change package was submitted to DCA for Initial Analysis.

Enforcement Actions

None

<u>Enforcement Statistics</u>	<u>Current Quarter</u> Jul-Sep 2019	<u>Prior Quarter</u> Apr-Jun 2019	<u>FYTD</u> 2019/20	<u>5-FY Avg</u> 2014/15- 2018/19
Complaints				
Received/Opened	9 (0)	13 (0)	9 (0)	30 (0)
Closed:	11	20	11	33
Average Days to Close:	67 days	108 days	67 days	208 days
Pending:	5*	13*	5*	13
Average Age (Pending):	124 days*	98 days*	124 days*	161 days
Citations				
Issued:	1	0	0*	3
Pending:	0*	0*	0*	1
Pending AG: †	0*	0*	0*	0
Final:	1	1	1	3
Disciplinary Actions				
Pending AG:	0*	0*	0*	1
Pending DA:	0*	0*	0*	0

Final:	0	0	0	1
Settlement Reports (§5678)**				
Received/Opened:	0	0	0	3
Closed:	0	2	0	2
Pending:	0*	1*	0*	2

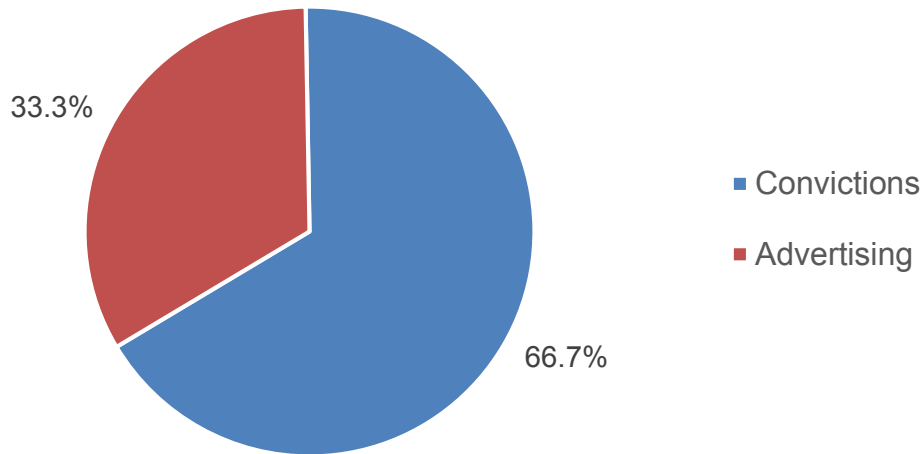
* Calculated as a monthly average of pending cases.

** Also included within "Complaints" information.

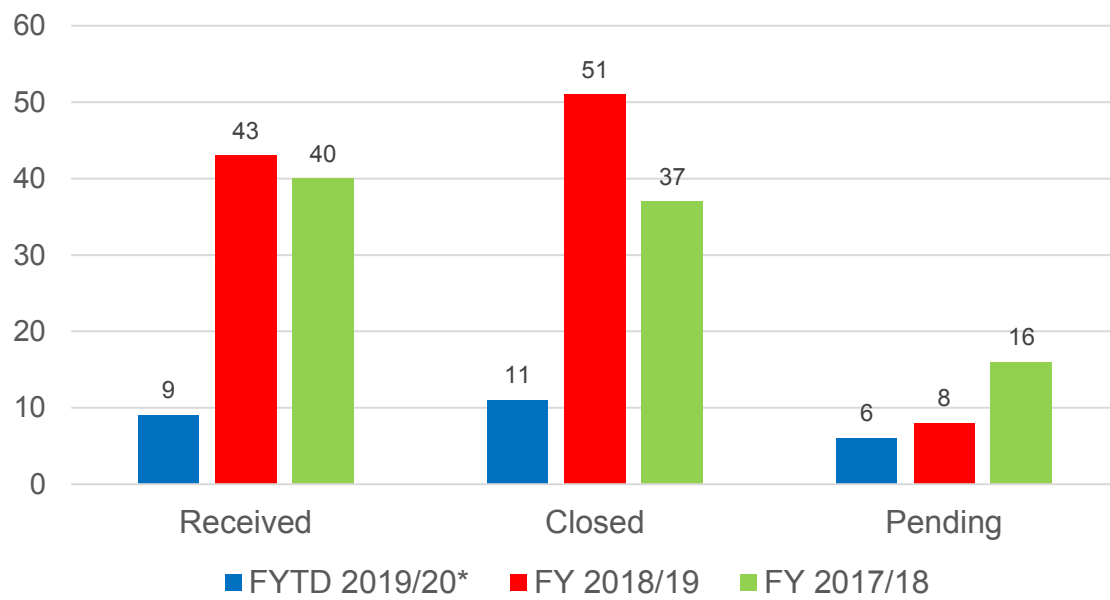
† Also included within "Pending Citations."

ENFORCEMENT PROGRAM REPORT

Types of Complaints Received FYTD 2019/20*

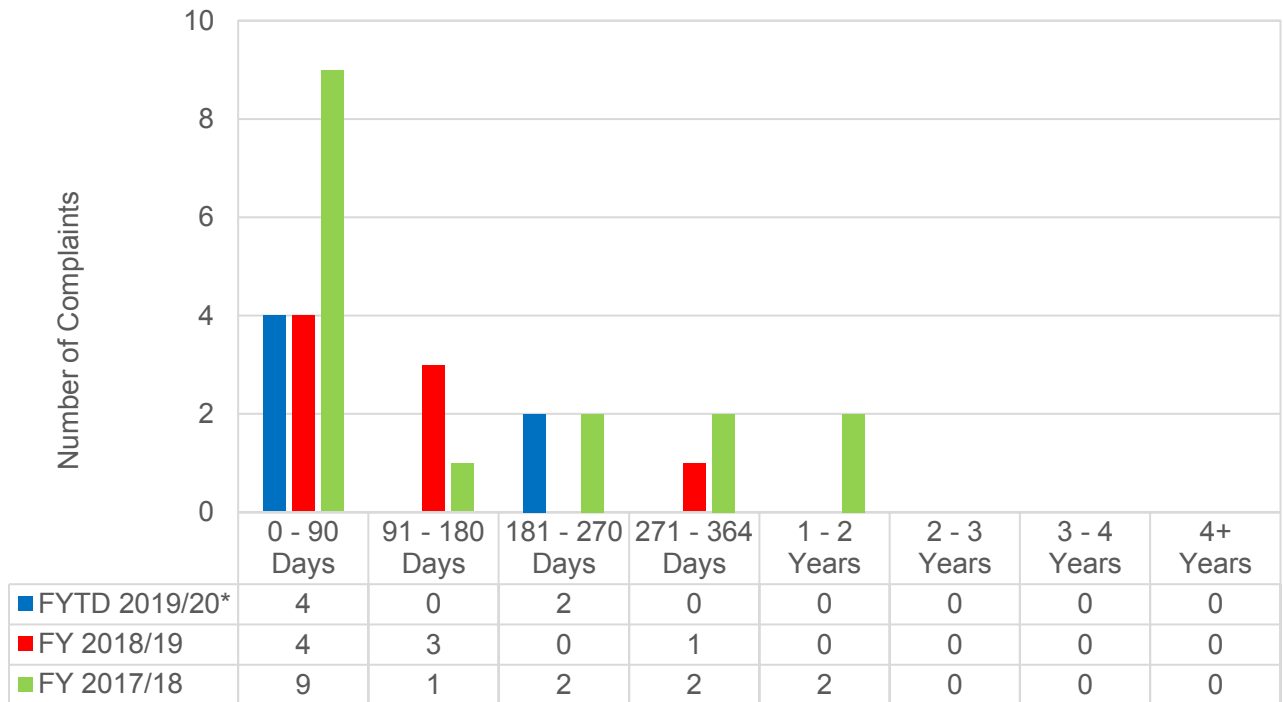


Complaints Received, Closed, and Pending by FY



*Fiscal Year to Date (FYTD) reflects data as of September 30, 2019.

Comparison of Age of Pending Complaints by FY



*FYTD reflects data as of September 30, 2019.

Closure of Complaints by FY

Type of Closure	FYTD 2019/20*	FY 2018/19	FY 2017/18
Cease/Desist Compliance	0	0	5
Citation Issued	1	3	0
Complaint Withdrawn	0	0	2
Insufficient Evidence	0	2	0
Letter of Advisement	7	17	8
No Jurisdiction	0	4	1
No Violation	3	24	19
Referred for Disciplinary Action	0	0	1
Other (i.e., Deceased, Error, etc.)	0	1	1

* FYTD reflects data as of September 30, 2019.

Disciplinary and Enforcement Actions by FY

Action	FYTD 2019/20*	FY 2018/19	FY 2017/18
Disciplinary Cases Initiated	0	0	1
Pending Disciplinary Cases	0	0	1
Final Disciplinary Orders	0	1	0
Final Citations	1	3	0
Administrative Fines Assessed	\$1,000	\$2,250	\$0

*FYTD reflects data as of September 30, 2019.

Most Common Violations by FY

The most common violations that resulted in enforcement action during the last three fiscal years are listed below.

Business and Professions Code (BPC) Section	FYTD 2019/20*	FY 2018/19	FY 2017/18
BPC § 5640 – Unlicensed Person Engaging in Practice - Sanctions	0 (0%)	1 (25%)	0 (0%)
BPC § 5675 – Felony Conviction - Disciplinary Action	0 (0%)	2 (50%)	0 (0%)
BPC § 5616 – Landscape Architecture Contract – Contents, Notice Requirements	1 (100%)	1 (25%)	0 (0%)

*FYTD reflects data as of September 30, 2019.

AGENDA ITEM F.2: ANNUAL ENFORCEMENT REPORT

Background Summary

The Landscape Architects Technical Committee (LATC) maintains an ongoing goal of reducing its average enforcement case completion timeline and seeking greater efficiencies in the handling of all enforcement cases. As part of the Department of Consumer Affairs' Consumer Protection Enforcement Initiative, the LATC's enforcement completion goal for cases not referred to the Attorney General's office is 270 days. At the end of Fiscal Year (FY) 18/19, the LATC had 8 pending enforcement cases. The average time to complete an internal investigation in FY 18/19 was 122 days.

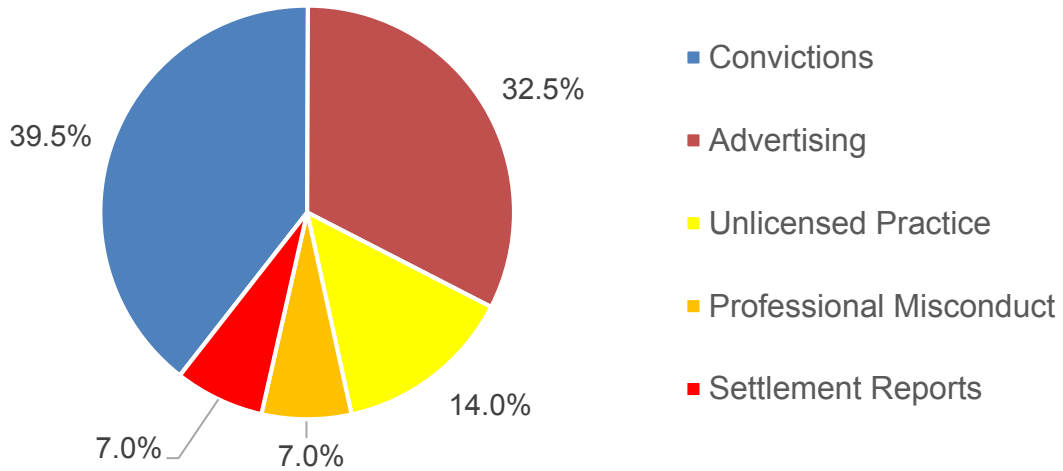
The attached Enforcement Program Report includes tables and graphs with the following information: 1) types of complaints received by the LATC during FY 18/19; 2) comparison of complaints received, closed, and pending by FY; 3) comparison of age of pending complaints by FY; 4) summary of closed complaints by FY; 5) summary of disciplinary and enforcement actions by FY; and 6) most common violations of the Landscape Architects Practice Act and LATC regulations that resulted in enforcement action during FYs 16/17-18/19.

Attachment

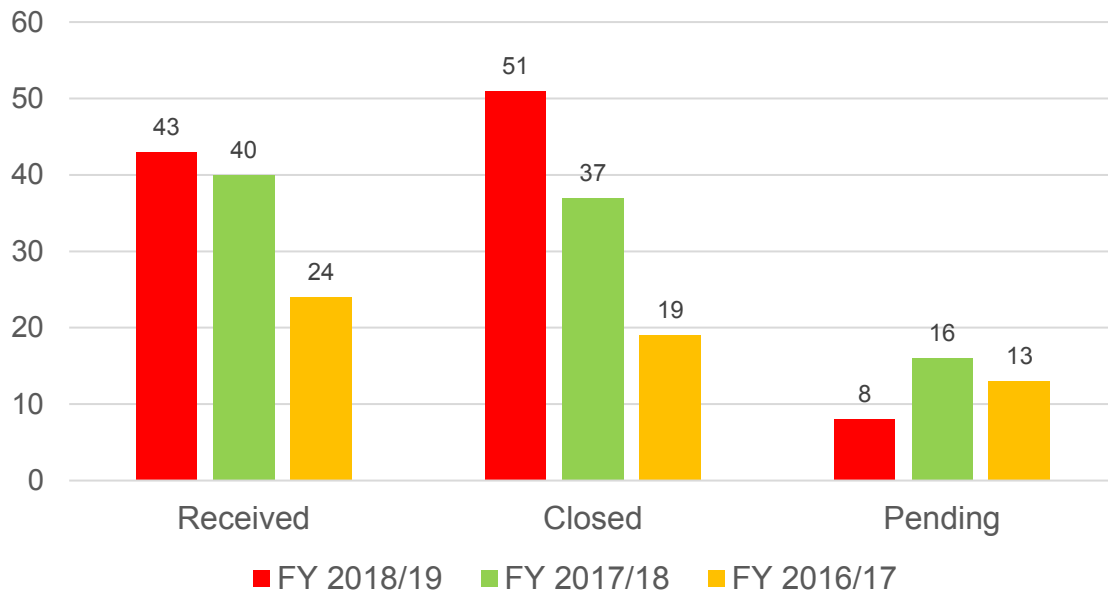
Enforcement Program Report

ENFORCEMENT PROGRAM REPORT

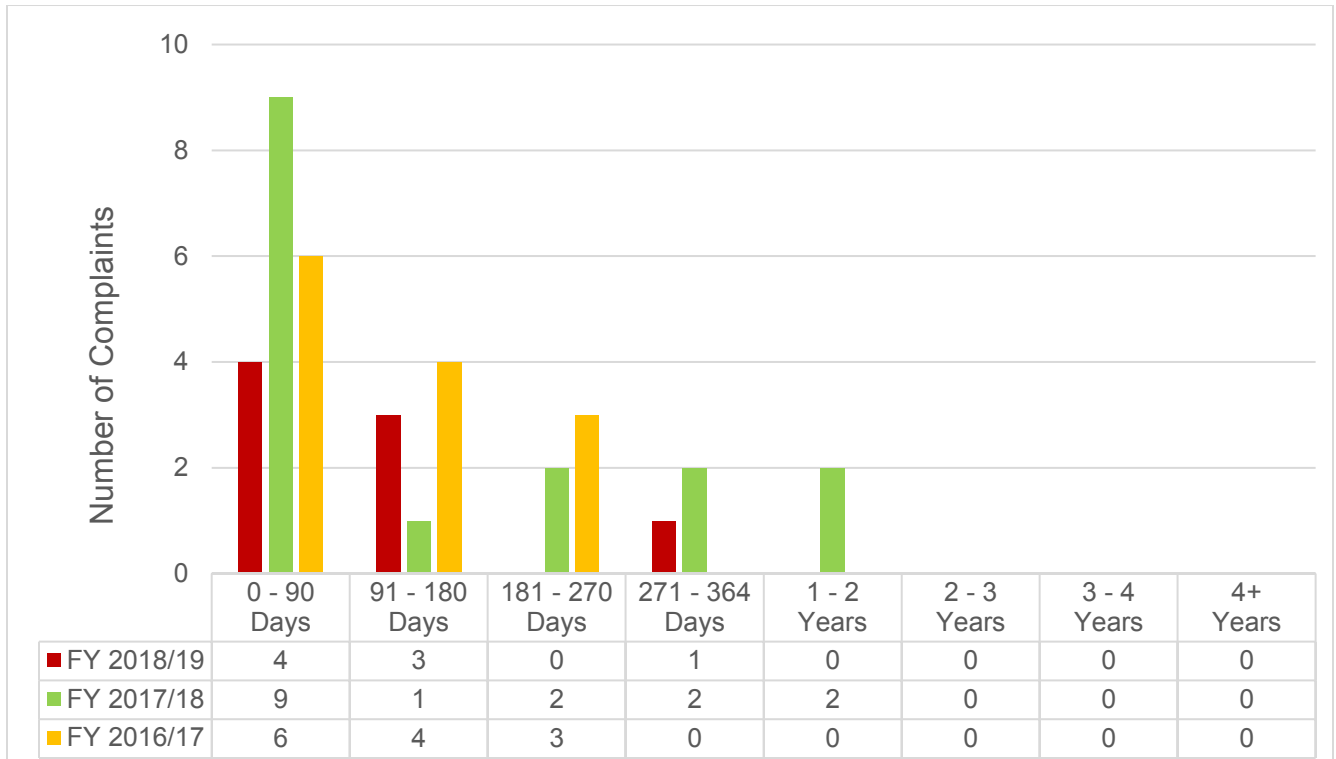
Types of Complaints Received Fiscal Year (FY) 2018/19



Complaints Received, Closed, and Pending by FY



Comparison of Age of Pending Complaints by FY



Closure of Complaints by FY

Type of Closure	FY 2018/19	FY 2017/18	FY 2016/17
Cease/Desist Compliance	0	5	3
Citation Issued	3	0	4
Complaint Withdrawn	0	2	0
Insufficient Evidence	2	0	1
Letter of Advisement	17	8	4
No Jurisdiction	4	1	1
No Violation	24	19	4
Referred for Disciplinary Action	0	1	1
Other (i.e., Deceased, Error, etc.)	1	1	1

Disciplinary and Enforcement Actions by FY

Action	FY 2018/19	FY 2017/18	FY 2016/17
Disciplinary Cases Initiated	0	1	1
Pending Disciplinary Cases	0	1	1
Final Disciplinary Orders	1	1	2
Final Citations	3	0	5
Administrative Fines Assessed	\$2,250	\$0	\$20,250

Most Common Violations by FY

The most common violations that resulted in enforcement action during the last three fiscal years are listed below.

Business and Professions Code (BPC) Section	FY 2018/19	FY 2017/18	FY 2016/17
BPC § 5616 – Landscape Architecture Contract - Contents, Notice Requirements	1 (25%)	0 (0%)	0 (0%)
BPC § 5640 – Unlicensed Person Engaging in Practice - Sanctions	2 (50%)	0 (0%)	4 (80%)
BPC § 5675 – Felony Conviction - Disciplinary Action	1 (25%)	0 (0%)	1 (20%)

AGENDA ITEM G: REVIEW AND DISCUSS 2019 LEGISLATION

Background Summary

An update to the 2019 legislative items listed below will be presented to the LATC.

Action Requested

None

Attachments

1. AB 476 (Rubio) Department of Consumer Affairs: Task Force: Foreign-Trained Professionals
2. AB 1076 (Ting) Criminal Records: Automatic Relief
3. AB 626 (Quirk-Silva) Conflicts of Interest
4. SB 601 (Morrell) State Agencies: Licenses: Fee Waiver
5. SB 608 (Glazer) Architects: Contracts

Assembly Bill No. 476

Passed the Assembly September 11, 2019

Chief Clerk of the Assembly

Passed the Senate September 10, 2019

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2019, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 110.5 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

AB 476, Blanca Rubio. Department of Consumer Affairs: task force: foreign-trained professionals.

Existing law provides for the licensure and regulation of various professions and vocations by boards within the Department of Consumer Affairs. Existing law establishes the Bagley-Keene Open Meeting Act, which requires state boards, commissions, and similar state-created multimember bodies to give public notice of meetings and conduct their meetings in public unless authorized to meet in closed session.

This bill, the California Opportunity Act of 2019, would require the Department of Consumer Affairs to create a task force, as specified, to study and write a report of its findings and recommendations regarding the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce, as specified. The bill would authorize the task force to hold hearings and invite testimony from experts and the public to gather information. The bill would require the task force to submit the report to the Legislature no later than July 1, 2022, as specified.

The bill also would require the task force to meet at least once each calendar quarter, as specified, and to hold its meetings in accordance with the Bagley-Keene Open Meeting Act. The bill would require each member of the task force to receive a per diem and reimbursement for expenses incurred, as specified, and would require the task force to solicit input from a variety of government agencies, stakeholders, and the public, including, among others, the Little Hoover Commission and the California Workforce Development Board.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known as the California Opportunity Act of 2019.

SEC. 2. Section 110.5 is added to the Business and Professions Code, to read:

110.5. (a) The Department of Consumer Affairs shall create a task force to study, and write the report described in subdivision (c) regarding, the licensing of foreign-trained professionals with the goal of integrating foreign-trained professionals into the state's workforce.

(b) The task force shall consist of the following 15 members:

(1) The Director of Consumer Affairs, or the director's designee, who shall serve as the chair of the task force.

(2) One member appointed by the Governor.

(3) One member appointed by the President pro Tempore of the Senate.

(4) One member appointed by the Speaker of the Assembly.

(5) One member appointed by the President of the University of California.

(6) One member appointed by the Chancellor of the California State University.

(7) One member appointed by the Chancellor of the California Community Colleges.

(8) Four members appointed by the Governor who are representatives of the private sector from diverse regions in the state.

(9) Four members appointed by the Governor who are representatives of nonprofit organizations that serve the immigrant community from diverse regions in the state.

(c) (1) The task force shall write a report of its findings and recommendations regarding the licensing of foreign-trained professionals, that include, but are not limited to, the following:

(A) Strategies to integrate foreign-trained professionals and methods of implementing those strategies, including those recommended by the Little Hoover Commission in its October 2016 report entitled *Jobs for Californians: Strategies to Ease Occupational Licensing Barriers* (Report #234).

(B) Identification of state and national licensing regulations that potentially pose unnecessary barriers to practice for foreign-trained

professionals, corresponding changes to state licensing requirements, and opportunities to advocate for corresponding changes to national licensing requirements.

(C) Identification of best practices learned from similar efforts to integrate foreign-trained professionals into the workforce in other states.

(2) The task force may include in the report guidelines for full licensure and conditional licensing of foreign-trained professionals.

(3) The task force may hold hearings and invite testimony from experts and the public to gather information.

(4) The Department of Consumer Affairs may enter into a contract with a third-party vendor to complete the report required pursuant to paragraph (1).

(d) The task force shall submit the report described in subdivision (c) to the Legislature no later than July 1, 2022, and in compliance with Section 9795 of the Government Code.

(e) The following shall also apply:

(1) The task force shall meet at least once each calendar quarter. The task force shall meet at least once in northern California, once in central California, and once in southern California to facilitate participation by the public.

(2) A majority of the appointed task force shall constitute a quorum. Task force meetings shall be held in accordance with the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code).

(3) (A) Each member shall receive a per diem of one hundred dollars (\$100) for each day actually spent in the discharge of official duties, and shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.

(B) Notwithstanding any other law, a public officer or employee shall not receive per diem salary compensation for serving on the task force on any day when the officer or employee also received compensation for their regular public employment.

(4) The task force shall solicit input from a variety of government agencies, stakeholders, and the public, including, but not limited to, the following:

(A) The Little Hoover Commission.

(B) The California Workforce Development Board.

(C) The Department of Industrial Relations.

- (D) In- and out-of-state licensing entities.
- (E) Professional associations.
- (F) Labor and workforce organizations.

Approved _____, 2019

Governor

Assembly Bill No. 1076

Passed the Assembly September 10, 2019

Chief Clerk of the Assembly

Passed the Senate September 5, 2019

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2019, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 480, 480.2, and 11345.2 of the Business and Professions Code, to amend Section 432.7 of the Labor Code, to amend Section 11105 of, and to add Sections 851.93 and 1203.425 to, the Penal Code, and to amend Section 13555 of the Vehicle Code, relating to criminal records.

LEGISLATIVE COUNSEL’S DIGEST

AB 1076, Ting. Criminal records: automatic relief.

Existing law authorizes a person who was arrested and has successfully completed a pre-filing diversion program, a person who has successfully completed a specified drug diversion program, a person who has successfully completed a specified deferred entry of judgment program, and a person who has suffered an arrest that did not result in a conviction, under certain conditions, to petition the court to seal the person’s arrest record. Under existing law, if a defendant successfully completes certain diversion programs, the arrest for the crime for which the defendant was diverted is deemed to have never occurred.

Existing law authorizes a defendant to petition to withdraw the defendant’s plea of guilty or nolo contendere and enter a plea of not guilty, if the defendant has fulfilled the conditions of probation, or if other specified circumstances are met, and the defendant is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense. If relief is granted, existing law requires the court to dismiss the accusation or information against the defendant and release the defendant from all penalties and disabilities resulting from the offense, with exceptions. Existing law also authorizes a defendant to file a similar petition if the defendant was convicted of a misdemeanor and not granted probation, was convicted of an infraction, or completed a sentence for certain felonies, and the defendant met specified conditions.

This bill would, commencing January 1, 2021, and subject to an appropriation in the annual Budget Act, require the Department of Justice, on a monthly basis, to review the records in the statewide criminal justice databases and to identify persons who are eligible

for relief by having their arrest records, or their criminal conviction records, withheld from disclosure, as specified. The bill would require the department to grant relief to an eligible person, without requiring a petition or motion. The bill would not limit petitions, motions, or orders for relief, as required or authorized by any other law.

The bill would require an update to the state summary criminal history information to document the relief granted. The bill would require the department, on a monthly basis, to electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which relief was granted. The bill would prohibit the court from disclosing information concerning an arrest or conviction granted relief, with exceptions.

The bill would authorize the prosecuting attorney or probation department, no later than 90 calendar days before the date of a person's eligibility for relief, to file a petition to prohibit the department from granting automatic relief for criminal conviction records as described above. If the court grants that petition, the bill would prohibit the department from granting relief, but the person would continue to be eligible for relief through other existing procedures, including petitions to the court.

The bill would require the Department of Justice to annually publish statistics regarding relief granted pursuant to the provisions of this bill, as specified.

The bill would require a court, at the time of sentencing, to advise each defendant of their right to conviction relief pursuant to the provisions of this bill, as specified.

The bill would make conforming changes.

This bill would incorporate additional changes to Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, proposed by AB 1521 to be operative only if this bill and AB 1521 are enacted and this bill is enacted last.

The people of the State of California do enact as follows:

SECTION 1. Section 480 of the Business and Professions Code, as amended by Section 3 of Chapter 995 of the Statutes of 2018, is amended to read:

480. (a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code.

(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit themselves or another, or substantially injure another.

(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that they have been convicted of a felony if they have obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that they have been convicted of a misdemeanor if they have met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 2. Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, is amended to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 1 (commencing with Section 5000) of Division 3.
- (ii) Chapter 6 (commencing with Section 6500) of Division 3.
- (iii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iv) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (v) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (vi) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of

applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) "Conviction" as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

(1) The State Athletic Commission.

(2) The Bureau for Private Postsecondary Education.

(3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 2.5. Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, is amended to read:

480. (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following conditions are met:

(1) The applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of

the business or profession for which the application is made, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application. However, the preceding seven-year limitation shall not apply in either of the following situations:

(A) The applicant was convicted of a serious felony, as defined in Section 1192.7 of the Penal Code or a crime for which registration is required pursuant to paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

(B) The applicant was convicted of a financial crime currently classified as a felony that is directly and adversely related to the fiduciary qualifications, functions, or duties of the business or profession for which the application is made, pursuant to regulations adopted by the board, and for which the applicant is seeking licensure under any of the following:

- (i) Chapter 6 (commencing with Section 6500) of Division 3.
- (ii) Chapter 9 (commencing with Section 7000) of Division 3.
- (iii) Chapter 11.3 (commencing with Section 7512) of Division 3.
- (iv) Licensure as a funeral director or cemetery manager under Chapter 12 (commencing with Section 7600) of Division 3.
- (v) Division 4 (commencing with Section 10000).

(2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code or a comparable dismissal or expungement.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis that the person has been

convicted of a crime, or on the basis of acts underlying a conviction for a crime, if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code, has been granted clemency or a pardon by a state or federal executive, or has made a showing of rehabilitation pursuant to Section 482.

(c) Notwithstanding any other provision of this code, a person shall not be denied a license on the basis of any conviction, or on the basis of the acts underlying the conviction, that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, or a comparable dismissal or expungement. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code shall provide proof of the dismissal if it is not reflected on the report furnished by the Department of Justice.

(d) Notwithstanding any other provision of this code, a board shall not deny a license on the basis of an arrest that resulted in a disposition other than a conviction, including an arrest that resulted in an infraction, citation, or a juvenile adjudication.

(e) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license. A board shall not deny a license based solely on an applicant's failure to disclose a fact that would not have been cause for denial of the license had it been disclosed.

(f) A board shall follow the following procedures in requesting or acting on an applicant's criminal history information:

(1) A board issuing a license pursuant to Chapter 3 (commencing with Section 5500), Chapter 3.5 (commencing with Section 5615), Chapter 10 (commencing with Section 7301), Chapter 20 (commencing with Section 9800), or Chapter 20.3 (commencing with Section 9880), of Division 3, or Chapter 3 (commencing with Section 19000) or Chapter 3.1 (commencing with Section 19225) of Division 8 may require applicants for licensure under those chapters to disclose criminal conviction history on an application for licensure.

(2) Except as provided in paragraph (1), a board shall not require an applicant for licensure to disclose any information or documentation regarding the applicant's criminal history. However, a board may request mitigating information from an applicant

regarding the applicant's criminal history for purposes of determining substantial relation or demonstrating evidence of rehabilitation, provided that the applicant is informed that disclosure is voluntary and that the applicant's decision not to disclose any information shall not be a factor in a board's decision to grant or deny an application for licensure.

(3) If a board decides to deny an application for licensure based solely or in part on the applicant's conviction history, the board shall notify the applicant in writing of all of the following:

(A) The denial or disqualification of licensure.

(B) Any existing procedure the board has for the applicant to challenge the decision or to request reconsideration.

(C) That the applicant has the right to appeal the board's decision.

(D) The processes for the applicant to request a copy of the applicant's complete conviction history and question the accuracy or completeness of the record pursuant to Sections 11122 to 11127 of the Penal Code.

(g) (1) For a minimum of three years, each board under this code shall retain application forms and other documents submitted by an applicant, any notice provided to an applicant, all other communications received from and provided to an applicant, and criminal history reports of an applicant.

(2) Each board under this code shall retain the number of applications received for each license and the number of applications requiring inquiries regarding criminal history. In addition, each licensing authority shall retain all of the following information:

(A) The number of applicants with a criminal record who received notice of denial or disqualification of licensure.

(B) The number of applicants with a criminal record who provided evidence of mitigation or rehabilitation.

(C) The number of applicants with a criminal record who appealed any denial or disqualification of licensure.

(D) The final disposition and demographic information, consisting of voluntarily provided information on race or gender, of any applicant described in subparagraph (A), (B), or (C).

(3) (A) Each board under this code shall annually make available to the public through the board's internet website and through a report submitted to the appropriate policy committees

of the Legislature deidentified information collected pursuant to this subdivision. Each board shall ensure confidentiality of the individual applicants.

(B) A report pursuant to subparagraph (A) shall be submitted in compliance with Section 9795 of the Government Code.

(h) “Conviction” as used in this section shall have the same meaning as defined in Section 7.5.

(i) This section does not in any way modify or otherwise affect the existing authority of the following entities in regard to licensure:

- (1) The State Athletic Commission.
- (2) The Bureau for Private Postsecondary Education.
- (3) The California Horse Racing Board.

(j) This section shall become operative on July 1, 2020.

SEC. 3. Section 480.2 of the Business and Professions Code is amended to read:

480.2. (a) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the grounds that the applicant has one of the following:

- (1) Been convicted of a crime.
- (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit themselves or another, or substantially injure another.
- (3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made.

(b) Notwithstanding any other provision of this code, a person shall not be denied a license solely on the basis that the person has been convicted of a felony if that person has obtained a certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code or that the person has been convicted of a misdemeanor if the person has met all applicable requirements of the criteria of rehabilitation developed by the Bureau for Private Postsecondary Education, the State

Athletic Commission, and the California Horse Racing Board to evaluate the rehabilitation of a person when considering the denial of a license under paragraph (1) of subdivision (f).

(c) Notwithstanding any other provisions of this code, a person shall not be denied a license by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code. An applicant who has a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof of the dismissal.

(d) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may deny a license regulated by it on the ground that the applicant knowingly made a false statement of fact that is required to be revealed in the application for the license.

(e) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to aid it, when considering the denial, suspension, or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

(f) (1) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall develop criteria to evaluate the rehabilitation of a person either when:

(A) Considering the denial of a license under this section.

(B) Considering suspension or revocation of a license under Section 490.

(2) The Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

(g) Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may take any of the following actions:

(1) Grant the license effective upon completion of all licensing requirements by the applicant.

(2) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(3) Deny the license.

(4) Take other action in relation to denying or granting the license as the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board, in its discretion, may deem proper.

(h) Notwithstanding any other law, in a proceeding conducted by the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the Bureau for Private Postsecondary Education, the State Athletic Commission, and the California Horse Racing Board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

(i) Notwithstanding Section 7.5, a conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the Bureau for Private Postsecondary Education, the State Athletic Commission, or the California Horse Racing Board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code.

(j) This section shall become operative on July 1, 2020.

SEC. 4. Section 11345.2 of the Business and Professions Code, as amended by Section 14 of Chapter 995 of the Statutes of 2018, is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. Notwithstanding subdivision (c) of Section 480, if the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.425 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date the individual has knowledge of that fact.

(c) This section shall become inoperative on July 1, 2020, and, as of January 1, 2021, is repealed.

SEC. 5. Section 11345.2 of the Business and Professions Code, as added by Section 15 of Chapter 995 of the Statutes of 2018, is amended to read:

11345.2. (a) An individual shall not act as a controlling person for a registrant if any of the following apply:

(1) The individual has entered a plea of guilty or no contest to, or been convicted of, a felony. If the individual's felony conviction has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 of the Penal Code, the bureau may allow the individual to act as a controlling person.

(2) The individual has had a license or certificate to act as an appraiser or to engage in activities related to the transfer of real property refused, denied, canceled, or revoked in this state or any other state.

(b) Any individual who acts as a controlling person of an appraisal management company and who enters a plea of guilty

or no contest to, or is convicted of, a felony, or who has a license or certificate as an appraiser refused, denied, canceled, or revoked in any other state shall report that fact or cause that fact to be reported to the office, in writing, within 10 days of the date the individual has knowledge of that fact.

(c) This section shall become operative on July 1, 2020.

SEC. 6. Section 432.7 of the Labor Code is amended to read:

432.7. (a) (1) An employer, whether a public agency or private individual or corporation, shall not ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.425, 1203.45, and 1210.1 of the Penal Code. An employer also shall not seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention that did not result in conviction, or any record regarding a referral to, and participation in, any pretrial or posttrial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law, including, but not limited to, Sections 1203.4, 1203.4a, 1203.425, 1203.45, and 1210.1 of the Penal Code. This section shall not prevent an employer from asking an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on their own recognizance pending trial.

(2) An employer, whether a public agency or private individual or corporation, shall not ask an applicant for employment to disclose, through any written form or verbally, information concerning or related to an arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of the juvenile court. An employer also shall not seek from any source whatsoever, or utilize, as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record concerning or related to an

arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while a person was subject to the process and jurisdiction of the juvenile court.

(3) For purposes of this section:

(A) “Conviction” includes a plea, verdict, or finding of guilt, regardless of whether a sentence is imposed by the court.

(B) “Conviction” does not include, and shall not be construed to include, any adjudication by a juvenile court or any other court order or action taken with respect to a person who is under the process and jurisdiction of the juvenile court.

(b) This section shall not prohibit the disclosure of the information authorized for release under Sections 13203 and 13300 of the Penal Code, to a government agency employing a peace officer. However, the employer shall not determine any condition of employment other than paid administrative leave based solely on an arrest report. The information contained in an arrest report may be used as the starting point for an independent, internal investigation of a peace officer in accordance with Chapter 9.7 (commencing with Section 3300) of Division 4 of Title 1 of the Government Code.

(c) If a person violates this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from that person actual damages or two hundred dollars (\$200), whichever is greater, plus costs, and reasonable attorney’s fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars (\$500), whichever is greater, plus costs, and reasonable attorney’s fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(d) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies that an applicant may have under any other law.

(e) Persons seeking employment or persons already employed as peace officers or persons seeking employment for positions in the Department of Justice or other criminal justice agencies as defined in Section 13101 of the Penal Code are not covered by this section.

(f) (1) Except as provided in paragraph (2), this section does not prohibit an employer at a health facility, as defined in Section

1250 of the Health and Safety Code, from asking an applicant for employment either of the following:

(A) With regard to an applicant for a position with regular access to patients, to disclose an arrest under any section specified in Section 290 of the Penal Code.

(B) With regard to an applicant for a position with access to drugs and medication, to disclose an arrest under any section specified in Section 11590 of the Health and Safety Code.

(2) (A) An employer specified in paragraph (1) shall not inquire into information concerning or related to an applicant's arrest, detention, processing, diversion, supervision, adjudication, or court disposition that occurred while the person was subject to the process and jurisdiction of juvenile court law, unless the information concerns an adjudication by the juvenile court in which the applicant has been found by the court to have committed a felony or misdemeanor offense specified in paragraph (1) that occurred within five years preceding the application for employment.

(B) Notwithstanding any other provision of this subdivision, an employer specified in paragraph (1) shall not inquire into information concerning or related to an applicant's juvenile offense history that has been sealed by the juvenile court.

(3) An employer seeking disclosure of offense history under paragraph (2) shall provide the applicant with a list describing the specific offenses under Section 11590 of the Health and Safety Code or Section 290 of the Penal Code for which disclosure is sought.

(g) (1) A peace officer or employee of a law enforcement agency with access to criminal or juvenile offender record information maintained by a local law enforcement criminal or juvenile justice agency shall not knowingly disclose, with intent to affect a person's employment, any information pertaining to an arrest or detention or proceeding that did not result in a conviction, including information pertaining to a referral to, and participation in, any pretrial or posttrial diversion program, to any person not authorized by law to receive that information.

(2) Any other person authorized by law to receive criminal or juvenile offender record information maintained by a local law enforcement criminal or juvenile justice agency shall not knowingly disclose any information received pertaining to an arrest or

detention or proceeding that did not result in a conviction, including information pertaining to a referral to, and participation in, any pretrial or posttrial diversion program, to any person not authorized by law to receive that information.

(3) Except for those specifically referred to in Section 1070 of the Evidence Code, a person who is not authorized by law to receive or possess criminal or juvenile justice records information maintained by a local law enforcement criminal or juvenile justice agency, pertaining to an arrest or other proceeding that did not result in a conviction, including information pertaining to a referral to, and participation in, any pretrial or posttrial diversion program, shall not knowingly receive or possess that information.

(h) “A person authorized by law to receive that information,” for purposes of this section, means any person or public agency authorized by a court, statute, or decisional law to receive information contained in criminal or juvenile offender records maintained by a local law enforcement criminal or juvenile justice agency, and includes, but is not limited to, those persons set forth in Section 11105 of the Penal Code, and any person employed by a law enforcement criminal or juvenile justice agency who is required by that employment to receive, analyze, or process criminal or juvenile offender record information.

(i) This section does not require the Department of Justice to remove entries relating to an arrest or detention not resulting in conviction from summary criminal history records forwarded to an employer pursuant to law.

(j) As used in this section, “pretrial or posttrial diversion program” means any program under Chapter 2.5 (commencing with Section 1000) or Chapter 2.7 (commencing with Section 1001) of Title 6 of Part 2 of the Penal Code, Section 13201 or 13352.5 of the Vehicle Code, Sections 626, 626.5, 654, or 725 of, or Article 20.5 (commencing with Section 790) of Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, or any other program expressly authorized and described by statute as a diversion program.

(k) (1) Subdivision (a) shall not apply to any city, city and county, county, or district, or any officer or official thereof, in screening a prospective concessionaire, or the affiliates and associates of a prospective concessionaire for purposes of consenting to, or approving of, the prospective concessionaire’s

application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest.

(2) For purposes of this subdivision the following terms apply:

(A) “Screening” means a written request for criminal or juvenile history information made to a local law enforcement agency.

(B) “Prospective concessionaire” means any individual, general or limited partnership, corporation, trust, association, or other entity that is applying for, or seeking to obtain, a public agency’s consent to, or approval of, the acquisition by that individual or entity of any beneficial ownership interest in any public agency’s concession, lease, or other property right whether directly or indirectly held. However, “prospective concessionaire” does not include any of the following:

(i) A lender acquiring an interest solely as security for a bona fide loan made in the ordinary course of the lender’s business and not made for the purpose of acquisition.

(ii) A lender upon foreclosure or assignment in lieu of foreclosure of the lender’s security.

(C) “Affiliate” means any individual or entity that controls, or is controlled by, the prospective concessionaire, or who is under common control with the prospective concessionaire.

(D) “Associate” means any individual or entity that shares a common business purpose with the prospective concessionaire with respect to the beneficial ownership interest that is subject to the consent or approval of the city, county, city and county, or district.

(E) “Control” means the possession, direct or indirect, of the power to direct, or cause the direction of, the management or policies of the controlled individual or entity.

(l) (1) Subdivision (a) does not prohibit a public agency, or any officer or official thereof, from denying consent to, or approval of, a prospective concessionaire’s application for, or acquisition of, any beneficial interest in a concession, lease, or other property interest based on the criminal history information of the prospective concessionaire or the affiliates or associates of the prospective concessionaire that show any criminal conviction for offenses involving moral turpitude. Criminal history information for purposes of this subdivision includes any criminal history information obtained pursuant to Section 11105 or 13300 of the Penal Code.

(2) In considering criminal history information, a public agency shall consider the crime for which the prospective concessionaire or the affiliates or associates of the prospective concessionaire was convicted only if that crime relates to the specific business that is proposed to be conducted by the prospective concessionaire.

(3) Any prospective concessionaire whose application for consent or approval to acquire a beneficial interest in a concession, lease, or other property interest is denied based on criminal history information shall be provided a written statement of the reason for the denial.

(4) (A) If the prospective concessionaire submits a written request to the public agency within 10 days of the date of the notice of denial, the public agency shall review its decision with regard to any corrected record or other evidence presented by the prospective concessionaire as to the accuracy or incompleteness of the criminal history information utilized by the public agency in making its original decision.

(B) The prospective concessionaire shall submit the copy or the corrected record of any other evidence to the public agency within 90 days of a request for review. The public agency shall render its decision within 20 days of the submission of evidence by the prospective concessionaire.

(m) (1) Paragraph (1) of subdivision (a) does not prohibit an employer, whether a public agency or private individual or corporation, from asking an applicant about, or seeking from any source information regarding, a particular conviction of the applicant if, pursuant to Section 1829 of Title 12 of the United States Code or any other federal law, federal regulation, or state law, any of the following apply:

(A) The employer is required by law to obtain information regarding the particular conviction of the applicant, regardless of whether that conviction has been expunged, judicially ordered sealed, statutorily eradicated, or judicially dismissed following probation.

(B) The applicant would be required to possess or use a firearm in the course of their employment.

(C) An individual with that particular conviction is prohibited by law from holding the position sought by the applicant, regardless of whether that conviction has been expunged, judicially ordered

sealed, statutorily eradicated, or judicially dismissed following probation.

(D) The employer is prohibited by law from hiring an applicant who has that particular conviction, regardless of whether that conviction has been expunged, judicially ordered sealed, statutorily eradicated, or judicially dismissed following probation.

(2) For purposes of this subdivision, “particular conviction” means a conviction for specific criminal conduct or a category of criminal offenses prescribed by any federal law, federal regulation, or state law that contains requirements, exclusions, or both, expressly based on that specific criminal conduct or category of criminal offenses.

(n) Nothing in this section shall prohibit an employer, whether a public agency or private individual or corporation, required by state, federal, or local law to conduct criminal background checks for employment purposes or to restrict employment based on criminal history from complying with those requirements, or to prohibit the employer from seeking or receiving an applicant’s criminal history report that has been obtained pursuant to procedures otherwise provided for under federal, state, or local law. For purposes of this subdivision, federal law shall include rules or regulations promulgated by a self-regulatory organization, as defined in Section 3(a)(26) of the Securities Exchange Act of 1934, pursuant to the authority in Section 19(b) of the Securities Exchange Act of 1934, as amended by 124 Stat. 1652 (Public Law 11-203).

SEC. 7. Section 851.93 is added to the Penal Code, to read:

851.93. (a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository, shall identify persons with records of arrest that meet the criteria set forth in paragraph (2) and are eligible for arrest record relief.

(2) A person is eligible for relief pursuant to this section, if the arrest occurred on or after January 1, 2021, and meets any of the following conditions:

(A) The arrest was for a misdemeanor offense and the charge was dismissed.

(B) The arrest was for a misdemeanor offense, there is no indication that criminal proceedings have been initiated, at least

one calendar year has elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges that arose, from that arrest.

(C) The arrest was for an offense that is punishable by imprisonment pursuant to paragraph (1) or (2) of subdivision (h) of Section 1170, there is no indication that criminal proceedings have been initiated, at least three calendar years have elapsed since the date of the arrest, and no conviction occurred, or the arrestee was acquitted of any charges arising, from that arrest.

(D) The person successfully completed any of the following, relating to that arrest:

(i) A prefiling diversion program, as defined in Section 851.87, administered by a prosecuting attorney in lieu of filing an accusatory pleading.

(ii) A drug diversion program administered by a superior court pursuant to Section 1000.5, or a deferred entry of judgment program pursuant to Section 1000 or 1000.8.

(iii) A pretrial diversion program, pursuant to Section 1000.4.

(iv) A diversion program, pursuant to Section 1001.9.

(v) Any diversion program described in Chapter 2.8 (commencing with Section 1001.20), Chapter 2.8A (commencing with Section 1001.35), Chapter 2.81 (commencing with Section 1001.40), Chapter 2.9 (commencing with Section 1001.50), Chapter 2.9A (commencing with Section 1001.60), Chapter 2.9B (commencing with Section 1001.70), Chapter 2.9C (commencing with Section 1001.80), Chapter 2.9D (commencing with Section 1001.81), or Chapter 2.92 (commencing with Section 1001.85), of Title 6.

(b) (1) The department shall grant relief to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's arrest record, a note stating "arrest relief granted," listing the date that the department granted relief, and this section. This note shall be included in all statewide criminal databases with a record of the arrest.

(3) Except as otherwise provided in subdivision (d), an arrest for which arrest relief has been granted is deemed not to have

occurred, and a person who has been granted arrest relief is released from any penalties and disabilities resulting from the arrest, and may answer any question relating to that arrest accordingly.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on February 1, 2021, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning an arrest that is granted relief pursuant to this section to any person or entity, in any format, except to the person whose arrest was granted relief or a criminal justice agency, as defined in Section 851.92.

(d) Relief granted pursuant to this section is subject to the following conditions:

(1) Arrest relief does not relieve a person of the obligation to disclose an arrest in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(3) This section does not limit the ability of a district attorney to prosecute, within the applicable statute of limitations, an offense for which arrest relief has been granted pursuant to this section.

(4) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control any firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the arrest would otherwise affect this authorization or susceptibility.

(5) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the arrest.

(6) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified

court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(e) This section shall not limit petitions, motions, or orders for arrest record relief, as required or authorized by any other law, including, but not limited to, Sections 851.87, 851.90, 851.91, 1000.4, and 1001.9.

(f) The department shall annually publish statistics for each county regarding the total number of arrests granted relief pursuant to this section and the percentage of arrests for which the state summary criminal history information does not include a disposition, on the OpenJustice Web portal, as defined in Section 13010.

(g) This section shall be operative commencing January 1, 2021, subject to an appropriation in the annual Budget Act.

SEC. 8. Section 1203.425 is added to the Penal Code, immediately following Section 1203.42, to read:

1203.425. (a) (1) On a monthly basis, the Department of Justice shall review the records in the statewide criminal justice databases, and based on information in the state summary criminal history repository and the Supervised Release File, shall identify persons with convictions that meet the criteria set forth in paragraph (2) and are eligible for automatic conviction record relief.

(2) A person is eligible for automatic conviction relief pursuant to this section if they meet all of the following conditions:

(A) The person is not required to register pursuant to the Sex Offender Registration Act.

(B) The person does not have an active record for local, state, or federal supervision in the Supervised Release File.

(C) Based upon the information available in the department's record, including disposition dates and sentencing terms, it does not appear that the person is currently serving a sentence for any offense and there is no indication of any pending criminal charges.

(D) Except as otherwise provided in clause (iii) of subparagraph (E), there is no indication that the conviction resulted in a sentence of incarceration in the state prison.

(E) The conviction occurred on or after January 1, 2021, and meets either of the following criteria:

(i) The defendant was sentenced to probation and, based upon the disposition date and the term of probation specified in the department's records, appears to have completed their term of probation without revocation.

(ii) The defendant was convicted of an infraction or misdemeanor, was not granted probation, and, based upon the disposition date and the term specified in the department's records, the defendant appears to have completed their sentence, and at least one calendar year has elapsed since the date of judgment.

(b) (1) Except as specified in subdivision (h), the department shall grant relief, including dismissal of a conviction, to a person identified pursuant to subdivision (a), without requiring a petition or motion by a party for that relief if the relevant information is present in the department's electronic records.

(2) The state summary criminal history information shall include, directly next to or below the entry or entries regarding the person's criminal record, a note stating "relief granted," listing the date that the department granted relief and this section. This note shall be included in all statewide criminal databases with a record of the conviction.

(3) Except as otherwise provided in subdivision (d) and in Section 13555 of the Vehicle Code, a person granted conviction relief pursuant to this section shall be released from all penalties and disabilities resulting from the offense of which the person has been convicted.

(c) On a monthly basis, the department shall electronically submit a notice to the superior court having jurisdiction over the criminal case, informing the court of all cases for which a complaint was filed in that jurisdiction and for which relief was granted pursuant to this section. Commencing on February 1, 2021, for any record retained by the court pursuant to Section 68152 of the Government Code, except as provided in subdivision (d), the court shall not disclose information concerning a conviction granted relief pursuant to this section or Section 1203.4, 1203.4a, 1203.41, or 1203.42, to any person or entity, in any format, except to the person whose conviction was granted relief or a criminal justice agency, as defined in Section 851.92.

(d) Relief granted pursuant to this section is subject to the following conditions:

(1) Relief granted pursuant to this section does not relieve a person of the obligation to disclose a criminal conviction in response to a direct question contained in a questionnaire or application for employment as a peace officer, as defined in Section 830.

(2) Relief granted pursuant to this section does not relieve a person of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office, or for contracting with the California State Lottery Commission.

(3) Relief granted pursuant to this section has no effect on the ability of a criminal justice agency, as defined in Section 851.92, to access and use records that are granted relief to the same extent that would have been permitted for a criminal justice agency had relief not been granted.

(4) Relief granted pursuant to this section does not limit the jurisdiction of the court over any subsequently filed motion to amend the record, petition or motion for postconviction relief, or collateral attack on a conviction for which relief has been granted pursuant to this section.

(5) Relief granted pursuant to this section does not affect a person's authorization to own, possess, or have in the person's custody or control any firearm, or the person's susceptibility to conviction under Chapter 2 (commencing with Section 29800) of Division 9 of Title 4 of Part 6, if the criminal conviction would otherwise affect this authorization or susceptibility.

(6) Relief granted pursuant to this section does not affect any prohibition from holding public office that would otherwise apply under law as a result of the criminal conviction.

(7) Relief granted pursuant to this section does not affect the authority to receive, or take adverse action based on, criminal history information, including the authority to receive certified court records received or evaluated pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or pursuant to any statutory or regulatory provisions that incorporate the criteria of those sections.

(8) Relief granted pursuant to this section does not make eligible a person who is otherwise ineligible to provide, or receive payment for providing, in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of

Division 9 of the Welfare and Institutions Code, or pursuant to Section 14132.95, 14132.952, or 14132.956 of the Welfare and Institutions Code.

(9) In any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if the relief had not been granted.

(e) This section shall not limit petitions, motions, or orders for relief in a criminal case, as required or authorized by any other law, including, but not limited to, Sections 1203.4 and 1204.4a.

(f) The department shall annually publish statistics for each county regarding the total number of convictions granted relief pursuant to this section and the total number of convictions prohibited from automatic relief pursuant to subdivision (h), on the OpenJustice Web portal, as defined in Section 13010.

(g) Subdivisions (a) to (f), inclusive, shall be operative commencing January 1, 2021, subject to an appropriation in the annual Budget Act.

(h) (1) The prosecuting attorney or probation department may, no later than 90 calendar days before the date of a person's eligibility for relief pursuant to this section, file a petition to prohibit the department from granting automatic relief pursuant to this section, based on a showing that granting such relief would pose a substantial threat to the public safety.

(2) The court shall give notice to the defendant and conduct a hearing on the petition within 45 days after the petition is filed.

(3) At a hearing on the petition pursuant to this subdivision, the defendant, the probation department, the prosecuting attorney, and the arresting agency, through the prosecuting attorney, may present evidence to the court. Notwithstanding Sections 1538.5 and 1539, the hearing may be heard and determined upon declarations, affidavits, police investigative reports, copies of state summary criminal history information and local summary criminal history information, or any other evidence submitted by the parties that is material, reliable, and relevant.

(4) The prosecutor or probation department has the initial burden of proof to show that granting conviction relief would pose a substantial threat to the public safety. In determining whether granting such relief would pose a substantial threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) Declarations or evidence regarding the offense for which a grant of relief is being contested.

(B) The defendant's record of arrests and convictions.

(5) If the court finds that the prosecutor or probation department has satisfied the burden of proof, the burden shifts to the defendant to show that the hardship of not obtaining relief outweighs the threat to the public safety of providing such relief. In determining whether the defendant's hardship outweighs the threat to the public safety, the court may consider any relevant factors including, but not limited to, either of the following:

(A) The hardship to the defendant that has been caused by the conviction and that would be caused if relief is not granted.

(B) Declarations or evidence regarding the defendant's good character.

(6) If the court grants a petition pursuant to this subdivision, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief pursuant to this section was denied, and the department shall not grant relief pursuant to this section.

(7) A person denied relief pursuant to this section may continue to be eligible for relief pursuant to Section 1203.4 or 1203.4a. If the court subsequently grants relief pursuant to one of those sections, the court shall furnish a disposition report to the Department of Justice pursuant to Section 13151, stating that relief was granted pursuant to the applicable section, and the department shall grant relief pursuant to that section.

(i) At the time of sentencing, the court shall advise a defendant, either orally or in writing, of the provisions of this section and of the defendant's right, if any, to petition for a certificate of rehabilitation and pardon.

SEC. 9. Section 11105 of the Penal Code is amended to read:

11105. (a) (1) The Department of Justice shall maintain state summary criminal history information.

(2) As used in this section:

(A) "State summary criminal history information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of a person, such as name, date of birth, physical description, fingerprints, photographs, dates of arrests, arresting agencies and booking

numbers, charges, dispositions, sentencing information, and similar data about the person.

(B) “State summary criminal history information” does not refer to records and data compiled by criminal justice agencies other than the Attorney General, nor does it refer to records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice.

(b) The Attorney General shall furnish state summary criminal history information to the following, if needed in the course of their duties, provided that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity, in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

- (1) The courts of the state.
- (2) Peace officers of the state, as defined in Section 830.1, subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section 830.3, subdivision (a) of Section 830.31, and subdivisions (a) and (b) of Section 830.5.
- (3) District attorneys of the state.
- (4) Prosecuting city attorneys or city prosecutors of a city within the state.
- (5) City attorneys pursuing civil gang injunctions pursuant to Section 186.22a, or drug abatement actions pursuant to Section 3479 or 3480 of the Civil Code, or Section 11571 of the Health and Safety Code.
- (6) Probation officers of the state.
- (7) Parole officers of the state.
- (8) A public defender or attorney of record when representing a person in proceedings upon a petition for a certificate of rehabilitation and pardon pursuant to Section 4852.08.
- (9) A public defender or attorney of record when representing a person in a criminal case or a juvenile delinquency proceeding, including all appeals and postconviction motions, or a parole, mandatory supervision pursuant to paragraph (5) of subdivision (h) of Section 1170, or postrelease community supervision revocation or revocation extension proceeding, if the information is requested in the course of representation.

(10) An agency, officer, or official of the state if the state summary criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The agency, officer, or official of the state authorized by this paragraph to receive state summary criminal history information may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(11) A city or county, city and county, district, or an officer or official thereof if access is needed in order to assist that agency, officer, or official in fulfilling employment, certification, or licensing duties, and if the access is specifically authorized by the city council, board of supervisors, or governing board of the city, county, or district if the state summary criminal history information is required to implement a statute, ordinance, or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct. The city or county, city and county, district, or the officer or official thereof authorized by this paragraph may also transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation.

(12) The subject of the state summary criminal history information under procedures established under Article 5 (commencing with Section 11120).

(13) A person or entity when access is expressly authorized by statute if the criminal history information is required to implement a statute or regulation that expressly refers to specific criminal conduct applicable to the subject person of the state summary criminal history information, and contains requirements or exclusions, or both, expressly based upon that specified criminal conduct.

(14) Health officers of a city, county, city and county, or district when in the performance of their official duties enforcing Section 120175 of the Health and Safety Code.

(15) A managing or supervising correctional officer of a county jail or other county correctional facility.

(16) A humane society, or society for the prevention of cruelty to animals, for the specific purpose of complying with Section 14502 of the Corporations Code for the appointment of humane officers.

(17) Local child support agencies established by Section 17304 of the Family Code. When a local child support agency closes a support enforcement case containing state summary criminal history information, the agency shall delete or purge from the file and destroy any documents or information concerning or arising from offenses for or of which the parent has been arrested, charged, or convicted, other than for offenses related to the parent's having failed to provide support for minor children, consistent with the requirements of Section 17531 of the Family Code.

(18) County child welfare agency personnel who have been delegated the authority of county probation officers to access state summary criminal history information pursuant to Section 272 of the Welfare and Institutions Code for the purposes specified in Section 16504.5 of the Welfare and Institutions Code. Information from criminal history records provided pursuant to this subdivision shall not be used for a purpose other than those specified in this section and Section 16504.5 of the Welfare and Institutions Code. When an agency obtains records both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving state summary criminal history information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code.

The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer pursuant to Section 14502 of the Corporations Code for the purposes of performing the officer's duties.

(25) A public agency described in subdivision (b) of Section 15975 of the Government Code, for the purpose of oversight and enforcement policies with respect to its contracted providers.

(26) (A) A state entity, or its designee, that receives federal tax information. A state entity or its designee that is authorized by this paragraph to receive state summary criminal history information also may transmit fingerprint images and related information to the Department of Justice to be transmitted to the Federal Bureau of Investigation for the purpose of the state entity or its designee obtaining federal level criminal offender record information from the Department of Justice. This information shall be used only for the purposes set forth in Section 1044 of the Government Code.

(B) For purposes of this paragraph, "federal tax information," "state entity" and "designee" are as defined in paragraphs (1), (2), and (3), respectively, of subdivision (f) of Section 1044 of the Government Code.

(c) The Attorney General may furnish state summary criminal history information and, when specifically authorized by this subdivision, federal level criminal history information upon a showing of a compelling need to any of the following, provided

that when information is furnished to assist an agency, officer, or official of state or local government, a public utility, or any other entity in fulfilling employment, certification, or licensing duties, Chapter 1321 of the Statutes of 1974 and Section 432.7 of the Labor Code shall apply:

(1) A public utility, as defined in Section 216 of the Public Utilities Code, that operates a nuclear energy facility when access is needed in order to assist in employing persons to work at the facility, provided that, if the Attorney General supplies the data, the Attorney General shall furnish a copy of the data to the person to whom the data relates.

(2) To a peace officer of the state other than those included in subdivision (b).

(3) To an illegal dumping enforcement officer as defined in subdivision (j) of Section 830.7.

(4) To a peace officer of another country.

(5) To public officers, other than peace officers, of the United States, other states, or possessions or territories of the United States, provided that access to records similar to state summary criminal history information is expressly authorized by a statute of the United States, other states, or possessions or territories of the United States if the information is needed for the performance of their official duties.

(6) To a person when disclosure is requested by a probation, parole, or peace officer with the consent of the subject of the state summary criminal history information and for purposes of furthering the rehabilitation of the subject.

(7) The courts of the United States, other states, or territories or possessions of the United States.

(8) Peace officers of the United States, other states, or territories or possessions of the United States.

(9) To an individual who is the subject of the record requested if needed in conjunction with an application to enter the United States or a foreign nation.

(10) (A) (i) A public utility, as defined in Section 216 of the Public Utilities Code, or a cable corporation as defined in subparagraph (B), if receipt of criminal history information is needed in order to assist in employing current or prospective employees, contract employees, or subcontract employees who, in the course of their employment, may be seeking entrance to

private residences or adjacent grounds. The information provided shall be limited to the record of convictions and arrests for which the person is released on bail or on their own recognizance pending trial.

(ii) If the Attorney General supplies the data pursuant to this paragraph, the Attorney General shall furnish a copy of the data to the current or prospective employee to whom the data relates.

(iii) State summary criminal history information is confidential and the receiving public utility or cable corporation shall not disclose its contents, other than for the purpose for which it was acquired. The state summary criminal history information in the possession of the public utility or cable corporation and all copies made from it shall be destroyed not more than 30 days after employment or promotion or transfer is denied or granted, except for those cases where a current or prospective employee is out on bail or on their own recognizance pending trial, in which case the state summary criminal history information and all copies shall be destroyed not more than 30 days after the case is resolved.

(iv) A violation of this paragraph is a misdemeanor, and shall give the current or prospective employee who is injured by the violation a cause of action against the public utility or cable corporation to recover damages proximately caused by the violations. A public utility's or cable corporation's request for state summary criminal history information for purposes of employing current or prospective employees who may be seeking entrance to private residences or adjacent grounds in the course of their employment shall be deemed a "compelling need" as required to be shown in this subdivision.

(v) This section shall not be construed as imposing a duty upon public utilities or cable corporations to request state summary criminal history information on current or prospective employees.

(B) For purposes of this paragraph, "cable corporation" means a corporation or firm that transmits or provides television, computer, or telephone services by cable, digital, fiber optic, satellite, or comparable technology to subscribers for a fee.

(C) Requests for federal level criminal history information received by the Department of Justice from entities authorized pursuant to subparagraph (A) shall be forwarded to the Federal Bureau of Investigation by the Department of Justice. Federal level criminal history information received or compiled by the

Department of Justice may then be disseminated to the entities referenced in subparagraph (A), as authorized by law.

(11) To a campus of the California State University or the University of California, or a four-year college or university accredited by a regional accreditation organization approved by the United States Department of Education, if needed in conjunction with an application for admission by a convicted felon to a special education program for convicted felons, including, but not limited to, university alternatives and halfway houses. Only conviction information shall be furnished. The college or university may require the convicted felon to be fingerprinted, and any inquiry to the department under this section shall include the convicted felon's fingerprints and any other information specified by the department.

(12) To a foreign government, if requested by the individual who is the subject of the record requested, if needed in conjunction with the individual's application to adopt a minor child who is a citizen of that foreign nation. Requests for information pursuant to this paragraph shall be in accordance with the process described in Sections 11122 to 11124, inclusive. The response shall be provided to the foreign government or its designee and to the individual who requested the information.

(d) Whenever an authorized request for state summary criminal history information pertains to a person whose fingerprints are on file with the Department of Justice and the department has no criminal history of that person, and the information is to be used for employment, licensing, or certification purposes, the fingerprint card accompanying the request for information, if any, may be stamped "no criminal record" and returned to the person or entity making the request.

(e) Whenever state summary criminal history information is furnished as the result of an application and is to be used for employment, licensing, or certification purposes, the Department of Justice may charge the person or entity making the request a fee that it determines to be sufficient to reimburse the department for the cost of furnishing the information. In addition, the Department of Justice may add a surcharge to the fee to fund maintenance and improvements to the systems from which the information is obtained. Notwithstanding any other law, a person or entity required to pay a fee to the department for information

received under this section may charge the applicant a fee sufficient to reimburse the person or entity for this expense. All moneys received by the department pursuant to this section, Sections 11105.3 and 26190, and former Section 13588 of the Education Code shall be deposited in a special account in the General Fund to be available for expenditure by the department to offset costs incurred pursuant to those sections and for maintenance and improvements to the systems from which the information is obtained upon appropriation by the Legislature.

(f) Whenever there is a conflict, the processing of criminal fingerprints and fingerprints of applicants for security guard or alarm agent registrations or firearms qualification permits submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4 of the Business and Professions Code shall take priority over the processing of other applicant fingerprints.

(g) It is not a violation of this section to disseminate statistical or research information obtained from a record, provided that the identity of the subject of the record is not disclosed.

(h) It is not a violation of this section to include information obtained from a record in (1) a transcript or record of a judicial or administrative proceeding or (2) any other public record if the inclusion of the information in the public record is authorized by a court, statute, or decisional law.

(i) Notwithstanding any other law, the Department of Justice or a state or local law enforcement agency may require the submission of fingerprints for the purpose of conducting state summary criminal history information checks that are authorized by law.

(j) The state summary criminal history information shall include any finding of mental incompetence pursuant to Chapter 6 (commencing with Section 1367) of Title 10 of Part 2 arising out of a complaint charging a felony offense specified in Section 290.

(k) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization and the information is to be used for peace officer employment or certification purposes. As used in this subdivision, a peace officer is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest or detention, except for an arrest or detention resulting in an exoneration, provided, however, that where the records of the Department of Justice do not contain a disposition for the arrest, the Department of Justice first makes a genuine effort to determine the disposition of the arrest.

(D) Every successful diversion.

(E) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(F) Sex offender registration status of the applicant.

(G) Sentencing information, if present in the department's records at the time of the response.

(I) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by a criminal justice agency or organization as defined in Section 13101, and the information is to be used for criminal justice employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the records of the Department of Justice do not contain a disposition or which did not result in a conviction, provided that the Department of Justice

first makes a genuine effort to determine the disposition of the arrest. However, information concerning an arrest shall not be disclosed if the records of the Department of Justice indicate or if the genuine effort reveals that the subject was exonerated, successfully completed a diversion or deferred entry of judgment program, or the arrest was deemed a detention, or the subject was granted relief pursuant to Section 851.91.

(D) Every date and agency name associated with all retained peace officer or nonsworn law enforcement agency employee preemployment criminal offender record information search requests.

(E) Sex offender registration status of the applicant.

(F) Sentencing information, if present in the department's records at the time of the response.

(m) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 1522, 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or a statute that incorporates the criteria of any of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction of an offense rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Every arrest for an offense for which the Department of Social Services is required by paragraph (1) of subdivision (a) of Section 1522 of the Health and Safety Code to determine if an applicant has been arrested. However, if the records of the Department of Justice do not contain a disposition for an arrest, the Department of Justice shall first make a genuine effort to determine the disposition of the arrest.

(D) Sex offender registration status of the applicant.

(E) Sentencing information, if present in the department's records at the time of the response.

(3) Notwithstanding the requirements of the sections referenced in paragraph (1) of this subdivision, the Department of Justice shall not disseminate information about an arrest subsequently deemed a detention or an arrest that resulted in the successful completion of a diversion program, exoneration, or a grant of relief pursuant to Section 851.91.

(n) (1) This subdivision shall apply whenever state or federal summary criminal history information, to be used for employment, licensing, or certification purposes, is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual pursuant to any of the following:

(A) Paragraph (10) of subdivision (c), when the information is to be used by a cable corporation.

(B) Section 11105.3 or 11105.4.

(C) Section 15660 of the Welfare and Institutions Code.

(D) A statute that incorporates the criteria of any of the statutory provisions listed in subparagraph (A), (B), or (C), or of this subdivision, by reference.

(2) With the exception of applications submitted by transportation companies authorized pursuant to Section 11105.3, and notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction, except a conviction for which relief has been granted pursuant to Section 1203.49, rendered against the applicant for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare and Institutions Code. However, with the exception of those offenses for which registration is required pursuant to Section 290, the Department of Justice shall not disseminate information pursuant to this subdivision unless the conviction occurred within 10 years of the date of the agency's request for information or the conviction is over 10 years old but the subject of the request was incarcerated within 10 years of the agency's request for information.

(B) Every arrest for a violation or attempted violation of an offense specified in subdivision (a) of Section 15660 of the Welfare

and Institutions Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(o) (1) This subdivision shall apply whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency or organization pursuant to Section 379 or 550 of the Financial Code, or a statute that incorporates the criteria of either of those sections or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant for a violation or attempted violation of an offense specified in Section 550 of the Financial Code, except a conviction for which relief has been granted pursuant to Section 1203.49.

(B) Every arrest for a violation or attempted violation of an offense specified in Section 550 of the Financial Code for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sentencing information, if present in the department's records at the time of the response.

(p) (1) This subdivision shall apply whenever state or federal criminal history information is furnished by the Department of Justice as the result of an application by an agency, organization, or individual not defined in subdivision (k), (l), (m), (n), or (o), or by a transportation company authorized pursuant to Section 11105.3, or a statute that incorporates the criteria of that section or this subdivision by reference, and the information is to be used for employment, licensing, or certification purposes.

(2) Notwithstanding any other law, whenever state summary criminal history information is initially furnished pursuant to

paragraph (1), the Department of Justice shall disseminate the following information:

(A) Every conviction rendered against the applicant, except a conviction for which relief has been granted pursuant to Section 1203.4, 1203.4a, 1203.41, 1203.42, 1203.425, or 1203.49.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on their own recognizance pending trial.

(C) Sex offender registration status of the applicant.

(D) Sentencing information, if present in the department's records at the time of the response.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.

(r) This section does not require the Department of Justice to cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

(t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

SEC. 10. Section 13555 of the Vehicle Code is amended to read:

13555. A termination of probation and dismissal of charges pursuant to Section 1203.4 of, or a dismissal of charges pursuant

to Section 1203.4a of, or relief granted pursuant to Section 1203.425 of, the Penal Code does not affect any revocation or suspension of the privilege of the person convicted to drive a motor vehicle under this chapter. Such person's prior conviction shall be considered a conviction for the purpose of revoking or suspending or otherwise limiting such privilege on the ground of two or more convictions.

SEC. 11. Section 2.5 of this bill incorporates amendments to Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, proposed by both this bill and Assembly Bill 1521. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2020, (2) each bill amends Section 480 of the Business and Professions Code, as added by Section 4 of Chapter 995 of the Statutes of 2018, and (3) this bill is enacted after Assembly Bill 1521, in which case Section 2 of this bill shall not become operative.

Approved _____, 2019

Governor

AMENDED IN ASSEMBLY MAY 13, 2019

AMENDED IN ASSEMBLY MARCH 21, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 626

Introduced by Assembly Member Quirk-Silva

February 15, 2019

An act to amend Section 1091.5 of the Government Code, relating to conflicts of interest.

LEGISLATIVE COUNSEL'S DIGEST

AB 626, as amended, Quirk-Silva. Conflicts of interest.

Existing law prohibits members of the Legislature, and state, county, district, judicial district, and city officers or employees, from being financially interested in a contract, as specified, made by them in their official capacity or by any body or board of which they are members, subject to specified exceptions. Existing law prohibits an officer or employee from being deemed to have an interest in a contract if the person's interest is one of certain types.

This bill would prohibit an officer or employee from being deemed interested in a contract, as described above, if the interest is that of an engineer, geologist, architect, *landscape architect*, land surveyor, or planner, performing specified services on a project, including preliminary design and preconstruction services, when proposing to perform services on a subsequent portion or phase of the ~~project~~. *project, if the work product for prior phases is publicly available. This exception to being deemed interested in a contract would not apply to a design-build contract for a public works project. The bill would provide that these provisions do not limit public agencies from establishing*

more restrictive conflict of interest requirements applicable to these services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1091.5 of the Government Code is
2 amended to read:

3 1091.5. (a) An officer or employee shall not be deemed to be
4 interested in a contract if their interest is any of the following:

5 (1) The ownership of less than 3 percent of the shares of a
6 corporation for profit, provided that the total annual income to
7 them from dividends, including the value of stock dividends, from
8 the corporation does not exceed 5 percent of their total annual
9 income, and any other payments made to them by the corporation
10 do not exceed 5 percent of their total annual income.

11 (2) That of an officer in being reimbursed for the officer’s actual
12 and necessary expenses incurred in the performance of official
13 duties.

14 (3) That of a recipient of public services generally provided by
15 the public body or board of which the recipient is a member, on
16 the same terms and conditions as if the recipient were not a member
17 of the body or board.

18 (4) That of a landlord or tenant of the contracting party if the
19 contracting party is the federal government or any federal
20 department or agency, this state or an adjoining state, any
21 department or agency of this state or an adjoining state, any county
22 or city of this state or an adjoining state, or any public corporation
23 or special, judicial, or other public district of this state or an
24 adjoining state unless the subject matter of the contract is the
25 property in which the officer or employee has the interest as
26 landlord or tenant in which event their interest shall be deemed a
27 remote interest within the meaning of, and subject to, the provisions
28 of Section 1091.

29 (5) That of a tenant in a public housing authority created
30 pursuant to Part 2 (commencing with Section 34200) of Division
31 24 of the Health and Safety Code in which the tenant serves as a
32 member of the board of commissioners of the authority or of a
33 community development commission created pursuant to Part 1.7

1 (commencing with Section 34100) of Division 24 of the Health
2 and Safety Code.

3 (6) That of a spouse of an officer or employee of a public agency
4 in their spouse’s employment or officeholding if their spouse’s
5 employment or officeholding has existed for at least one year prior
6 to their election or appointment.

7 (7) That of a nonsalaried member of a nonprofit corporation,
8 provided that this interest is disclosed to the body or board at the
9 time of the first consideration of the contract, and provided further
10 that this interest is noted in its official records.

11 (8) That of a noncompensated officer of a nonprofit, tax-exempt
12 corporation, which, as one of its primary purposes, supports the
13 functions of the body or board or to which the body or board has
14 a legal obligation to give particular consideration, and provided
15 further that this interest is noted in its official records.

16 For purposes of this paragraph, an officer is “noncompensated”
17 even though the officer receives reimbursement from the nonprofit,
18 tax-exempt corporation for necessary travel and other actual
19 expenses incurred in performing the duties of the office.

20 (9) That of a person receiving salary, per diem, or reimbursement
21 for expenses from a government entity, unless the contract directly
22 involves the department of the government entity that employs the
23 officer or employee, provided that the interest is disclosed to the
24 body or board at the time of consideration of the contract, and
25 provided further that the interest is noted in its official record.

26 (10) That of an attorney of the contracting party or that of an
27 owner, officer, employee, or agent of a firm which renders, or has
28 rendered, service to the contracting party in the capacity of
29 stockbroker, insurance agent, insurance broker, real estate agent,
30 or real estate broker, if these individuals have not received and
31 will not receive remuneration, consideration, or a commission as
32 a result of the contract and if these individuals have an ownership
33 interest of less than 10 percent in the law practice or firm, stock
34 brokerage firm, insurance firm, or real estate firm.

35 (11) Except as provided in subdivision (b), that of an officer or
36 employee of, or a person having less than a 10-percent ownership
37 interest in, a bank, bank holding company, or savings and loan
38 association with which a party to the contract has a relationship
39 of borrower, depositor, debtor, or creditor.

1 (12) That of (A) a bona fide nonprofit, tax-exempt corporation
2 having among its primary purposes the conservation, preservation,
3 or restoration of park and natural lands or historical resources for
4 public benefit, which corporation enters into an agreement with a
5 public agency to provide services related to park and natural lands
6 or historical resources and which services are found by the public
7 agency, prior to entering into the agreement or as part of the
8 agreement, to be necessary to the public interest to plan for,
9 acquire, protect, conserve, improve, or restore park and natural
10 lands or historical resources for public purposes and (B) any officer,
11 director, or employee acting pursuant to the agreement on behalf
12 of the nonprofit corporation. For purposes of this paragraph,
13 “agreement” includes contracts and grants, and “park,” “natural
14 lands,” and “historical resources” shall have the meanings set forth
15 in subdivisions (d), (g), and (i) of Section 5902 of the Public
16 Resources Code. Services to be provided to the public agency may
17 include those studies and related services, acquisitions of property
18 and property interests, and any activities related to those studies
19 and acquisitions necessary for the conservation, preservation,
20 improvement, or restoration of park and natural lands or historical
21 resources.

22 (13) That of an officer, employee, or member of the Board of
23 Directors of the California Housing Finance Agency with respect
24 to a loan product or programs if the officer, employee, or member
25 participated in the planning, discussions, development, or approval
26 of the loan product or program and both of the following two
27 conditions exist:

28 (A) The loan product or program is or may be originated by any
29 lender approved by the agency.

30 (B) The loan product or program is generally available to
31 qualifying borrowers on terms and conditions that are substantially
32 the same for all qualifying borrowers at the time the loan is made.

33 (14) That of a party to a contract for public services entered into
34 by a special district that requires a person to be a landowner or a
35 representative of a landowner to serve on the board of which the
36 officer or employee is a member, on the same terms and conditions
37 as if they were not a member of the body or board. For purposes
38 of this paragraph, “public services” includes the powers and
39 purposes generally provided pursuant to provisions of the Water

1 Code relating to irrigation districts, California water districts, water
2 storage districts, or reclamation districts.

3 (15) (A) That of an engineer, geologist, architect, *landscape*
4 *architect*, land surveyor, or planner in performing *its services*,
5 *including, but not limited to, master planning, capital improvement*
6 *planning, entitlement, environmental, assessments, feasibility*
7 *studies, conceptual analysis, surveying, preliminary design*
8 *services, ~~preconstruction services, preconstruction~~, or assisting*
9 *with plans, specifications, or project planning services on any*
10 *portion or phase of a project when proposing to perform services*
11 *on any subsequent portion or phase of the ~~project.~~ project, if the*
12 *work product for prior phases is publicly available.*

13 (B) *This exception shall not apply to a design-build contract*
14 *for a public works project.*

15 (C) *This exception does not limit the authority of a public agency*
16 *to establish more restrictive conflict of interest requirements*
17 *applicable to these services.*

18 (b) An officer or employee shall not be deemed to be interested
19 in a contract made pursuant to competitive bidding under a
20 procedure established by law if their sole interest is that of an
21 officer, director, or employee of a bank or savings and loan
22 association with which a party to the contract has the relationship
23 of borrower or depositor, debtor or creditor.

Senate Bill No. 601

Passed the Senate September 4, 2019

Secretary of the Senate

Passed the Assembly August 30, 2019

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2019, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 11009.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 601, Morrell. State agencies: licenses: fee waiver.

Existing law requires various licenses to be obtained by a person before engaging in certain professions or vocations or business activities, including licensure as a healing arts professional by various boards within the Department of Consumer Affairs.

This bill would authorize any state agency that issues any business license to establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency, as defined, to submit an application for reduction or waiver of fees required by the agency to obtain a license, renew or activate a license, or replace a physical license for display.

The people of the State of California do enact as follows:

SECTION 1. Section 11009.5 is added to the Government Code, to read:

11009.5. (a) For purposes of this section:

(1) "Displaced" means a condition in which the person or business is unable to return to the address of record or other address associated with the license before experiencing economic hardship.

(2) "Economic hardship" means the inability to pay living or business expenses, unless otherwise defined by a state agency pursuant to subdivision (c).

(3) "Emergency" means an emergency as defined in Section 8558 or a declared federal emergency.

(4) "License" includes, but is not limited to, a certificate, registration, or other required document to engage in business.

(b) Notwithstanding any other law, a state agency that issues any business license may establish a process for a person or business that has been displaced or is experiencing economic hardship as a result of an emergency to submit an application, that the agency may grant, for a reduction or waiver of any fees required

by the agency to obtain a license, renew or activate a license, or replace a physical license for display.

(c) A fee or waiver process established pursuant to subdivision (b) shall specify, at a minimum, all of the following:

(1) The methodology used by the agency for determining whether a person, as a result of an emergency, has been displaced or is experiencing economic hardship.

(2) The procedure for applying for a reduction or fee waiver.

(3) That the application shall be made within one year of the date on which the emergency was proclaimed or declared.

Approved _____, 2019

Governor

Senate Bill No. 608

CHAPTER 376

An act to amend Sections 144, 5510, 5517, 5520, 5536, 5536.22, 5552.5, 5600.05, 5616, 5620, 5621, and 5622, of, and to add Sections 5526.5, 5552.1, and 5620.2 to, the Business and Professions Code, relating to professions and vocations.

[Approved by Governor September 27, 2019. Filed with
Secretary of State September 27, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

SB 608, Glazer. Architects and landscape architects.

(1) Existing law regulating professions and vocations requires certain designated agencies, within the purview of the Department of Consumer Affairs, to require applicants to furnish their fingerprints for purposes of conducting criminal history record checks.

This bill would, beginning on January 1, 2021, add the California Architects Board and the Landscape Architects Technical Committee to the list of designated agencies subject to these provisions. The bill would also provide that beginning on January 1, 2021, the California Architects Board has the authority to obtain and review criminal offender record information to determine whether an applicant is subject to denial of a license. The bill would require, as a condition of the application for a license or reinstatement thereof, that each applicant furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history check and undergoing a state and federal level criminal offender record information search. The bill would require an applicant to certify under penalty of perjury that the applicant's fingerprints have been furnished to the Department of Justice in compliance with this provision and to pay the reasonable regulatory costs for furnishing the fingerprints and conducting the searches. By expanding the crime of perjury, the bill would impose a state-mandated local program.

(2) Existing law, the Architects Practice Act, establishes the California Architects Board consisting of 10 members and sets forth its powers and duties over the licensure and regulation of architects. The act permits the board to appoint a person who is exempt from civil service as its executive officer to exercise duties delegated to the officer by the board. Existing law transfers duties previously within the jurisdiction of the California State Board of Landscape Architects to the California Architects Board. Existing law also creates a Landscape Architects Technical Committee within the jurisdiction of the board and authorizes the committee to assist the board in examining candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential

violations of the act. Existing law repeals these provisions on January 1, 2020.

This bill would extend the operation of these provisions until January 1, 2024. The bill would also confer specified powers of the board to its executive officer, or, in the executive officer's absence, to the acting executive officer. These powers would include receiving and filing accusations, issuing notices of hearings, and conducting various other duties in connection with the board's administrative hearing duties. The bill would additionally delegate to the executive officer the board's power to evaluate and determine qualifications and approve applicants for examination and determine eligibility for applicants for reciprocity licenses to waive the written examination.

This bill would also make nonsubstantive changes to those provisions related to the renaming of the "State Board of Architectural Examiners" to the "California Architects Board."

(3) Existing law authorizes boards within the Department of Consumer Affairs, to establish, by regulation, a system for issuing a citation to a licensee in accordance with certain provisions. Under existing law, the system is required to contain, among other elements, information provided to the licensee that if they desire a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 days of the date of issuance of the citation or assessment.

This bill would authorize a cited person subject to the Architects Practice Act, in addition to requesting an administrative hearing as described above, to request an informal conference to review the acts charged in the citation, in accordance with certain procedural requirements and timeframes.

(4) Under existing law, an architect is required to use a written contract when contracting to provide professional services, as specified. Existing law requires that the contract include, among other things, a description of services to be provided and a description of the procedure to be used to accommodate additional services.

This bill would require the written contract to also include a description of the project, a description of the procedure that will be used to accommodate additional services and contract changes, the project address, a statement identifying the ownership and use of instruments of service prepared by the architect, and a statement notifying the client that the architect is licensed and regulated by the board located at a specified address. The bill would provide that the written contract requirement does not apply to professional services rendered to a public agency when using that agency's written contract.

(5) Existing law requires a landscape architect to use a written contract when contracting to provide professional services. Existing law requires that the contract include, among other things, a description of services to be provided, a description of the procedure to be used to accommodate additional services, and a notice that landscape architects are licensed by the State of California.

This bill would require the written contract to also include a description of the project for which the client is seeking services, a description of the procedure that the landscape architect and the client will use to accommodate contract changes, a statement identifying the ownership and use of instruments of service prepared, and a statement notifying the client that the landscape architect is licensed by the Landscape Architects Technical Committee located at a specified address. The bill would revise and recast related provisions governing written contracts for landscape architects. The bill would provide that the written contract requirement does not apply to professional services rendered to a public agency when using that agency's written contract.

(6) Existing law makes it a misdemeanor for a person to advertise or represent that they are a "registered building designer" or registered or otherwise licensed by the state as a building designer.

This bill would delete the above misdemeanor penalty provision prohibiting a person from advertising or representing that they are a "registered building designer" or registered or otherwise licensed by the state as a building designer.

(7) Existing law requires a person licensed to practice architecture to complete, as a condition of license renewal, a specified amount of coursework regarding disability access requirements that depends on the date of renewal. Existing law requires a licensee to comply with specified recordkeeping requirements to that effect.

This bill would revise and recast those requirements to, among other changes, require a licensee to complete 5 hours of coursework that meets certain requirements, and would require the board to promulgate regulations to establish qualifications for courses and course providers by January 1, 2023. The bill would also make a licensee who provides false or misleading information as it relates to completion of coursework requirements subject to an administrative citation or disciplinary action by the board and would make specified changes to the recordkeeping requirements.

(8) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 144 of the Business and Professions Code is amended to read:

144. (a) Notwithstanding any other law, an agency designated in subdivision (b) shall require an applicant to furnish to the agency a full set of fingerprints for purposes of conducting criminal history record checks. Any agency designated in subdivision (b) may obtain and receive, at its discretion, criminal history information from the Department of Justice and the United States Federal Bureau of Investigation.

(b) Subdivision (a) applies to the following:

- (1) California Board of Accountancy.
- (2) State Athletic Commission.
- (3) Board of Behavioral Sciences.
- (4) Court Reporters Board of California.
- (5) State Board of Guide Dogs for the Blind.
- (6) California State Board of Pharmacy.
- (7) Board of Registered Nursing.
- (8) Veterinary Medical Board.
- (9) Board of Vocational Nursing and Psychiatric Technicians.
- (10) Respiratory Care Board of California.
- (11) Physical Therapy Board of California.
- (12) Physician Assistant Committee of the Medical Board of California.
- (13) Speech-Language Pathology and Audiology and Hearing Aid Dispensers Board.
- (14) Medical Board of California.
- (15) State Board of Optometry.
- (16) Acupuncture Board.
- (17) Cemetery and Funeral Bureau.
- (18) Bureau of Security and Investigative Services.
- (19) Division of Investigation.
- (20) Board of Psychology.
- (21) California Board of Occupational Therapy.
- (22) Structural Pest Control Board.
- (23) Contractors' State License Board.
- (24) Naturopathic Medicine Committee.
- (25) Professional Fiduciaries Bureau.
- (26) Board for Professional Engineers, Land Surveyors, and Geologists.
- (27) Bureau of Cannabis Control.
- (28) California Board of Podiatric Medicine.
- (29) Osteopathic Medical Board of California.
- (30) California Architects Board, beginning January 1, 2021.
- (31) Landscape Architects Technical Committee, beginning January 1, 2021.

(c) For purposes of paragraph (26) of subdivision (b), the term "applicant" shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

SEC. 2. Section 5510 of the Business and Professions Code is amended to read:

5510. There is in the Department of Consumer Affairs a California Architects Board which consists of 10 members.

Any reference in law to the California Board of Architectural Examiners shall mean the California Architects Board.

This section shall remain in effect only until January 1, 2024, and as of that date is repealed. Notwithstanding any other law, the repeal of this section renders the board subject to review by the appropriate policy committees of the Legislature.

SEC. 3. Section 5517 of the Business and Professions Code is amended to read:

5517. The board may appoint a person exempt from civil service who shall be designated as an executive officer and who shall exercise the powers and perform the duties delegated by the board and vested in the executive officer by this chapter.

This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 5520 of the Business and Professions Code is amended to read:

5520. The board shall adopt a seal for its own use. The seal used shall have the words, "California Architects Board" inscribed thereon.

The executive officer shall have the care and custody of the seal.

SEC. 5. Section 5526.5 is added to the Business and Professions Code, to read:

5526.5. (a) In addition to requesting an administrative hearing as provided for in paragraph (4) of subdivision (b) of Section 125.9, the cited person may request an informal conference to review the acts shared in the citation. The cited person shall make the request for an informal conference in writing, within 30 days of the date of issuance of the citation, to the executive officer.

(b) The executive officer or their designee shall hold, within 60 days from the receipt of the request, an informal conference with the cited person. The executive officer or their designee may extend the 60-day period for good cause.

(c) Following the informal conference, the executive officer or their designee may affirm, modify, or dismiss the citation, including any fine that is levied, order of abatement, or order of correction issued. The executive officer or their designee shall state in writing the reasons for the action and transmit a copy of those findings to the cited person within 30 days after the informal conference.

(d) If the citation, including any fine that is levied or order of abatement or correction, is affirmed or modified following the informal conference, the respondent may make a request in writing to the executive officer within 30 days of the affirmed or modified citation, for a formal hearing, which shall be conducted as provided for in paragraph (4) of subdivision (b) of Section 125.9.

(e) A cited person shall not request an informal conference for a citation which has been affirmed or modified following an informal conference.

SEC. 6. Section 5536 of the Business and Professions Code is amended to read:

5536. (a) It is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100) nor more than five thousand dollars (\$5,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment, for any person who is not licensed to practice architecture under this chapter to practice architecture in this state, to use any term confusingly similar to the word architect, to use the stamp of a licensed architect, as provided in Section 5536.1, or to advertise or put out any sign, card, or other device that might indicate to the public that the person is an architect, is qualified to engage in the practice of architecture, or is an architectural designer.

(b) It is a misdemeanor, punishable as specified in subdivision (a), for any person who is not licensed to practice architecture under this chapter to affix a stamp or seal that bears the legend "State of California" or words or symbols that represent or imply that the person is so licensed by the state to prepare plans, specifications, or instruments of service.

SEC. 7. Section 5536.22 of the Business and Professions Code is amended to read:

5536.22. (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 the client's 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.
 - (4) The name, address, and license number of the architect, the name and address of the client, and the project address.
 - (5) A description of the procedure that the architect and the client will use to accommodate additional services and 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.
 - (6) A description of the procedure to be used by either party to terminate the contract.
 - (7) A statement identifying the ownership and use of instruments of service prepared by the architect.
 - (8) A statement in at least 12-point type that reads: "Architects are licensed and regulated by the California Architects Board located at 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).

(5) Professional services rendered by an architect to a public agency when using that public agency's written contract.

SEC. 8. Section 5552.1 is added to the Business and Professions Code, to read:

5552.1. (a) Pursuant to Section 144, beginning January 1, 2021, the board has the authority to obtain and receive criminal history information. The information obtained as a result of the fingerprinting shall be used in accordance with Section 11105 of the Penal Code and to determine whether the applicant is subject to denial of a license pursuant to Division 1.5 (commencing with Section 475) or Sections 5560 and 5577.

(b) As a condition of application for a license, each applicant shall furnish to the Department of Justice a full set of fingerprints for the purpose of conducting a criminal history record check and to undergo a state and federal level criminal offender record information search conducted through the Department of Justice.

(c) The board shall request from the Department of Justice subsequent arrest notification service, pursuant to Section 11105 of the Penal Code.

(d) The applicant shall pay for the reasonable regulatory costs for furnishing the fingerprints and conducting the searches.

(e) The applicant shall certify, under penalty of perjury, when applying for a license whether the applicant's fingerprints have been furnished to the Department of Justice in compliance with this section.

(f) Failure to comply with the requirements of this section renders the application for a license incomplete, and the application shall not be considered until the applicant demonstrates compliance with all of the requirements of this section.

(g) Notwithstanding any other law, the results of any criminal offender record information request by either state or federal law enforcement authorities shall not be released by the board except in accordance with state and federal requirements.

(h) This section shall apply to all applicants subject to this chapter and subdivision (i).

(i) As used in this section, the term “applicant” shall be limited to an initial applicant who has never been registered or licensed by the board or to an applicant for a new licensure or registration category.

(j) As a condition of petitioning the board for reinstatement of a revoked or surrendered license, an applicant shall comply with subdivision (a).

SEC. 9. Section 5552.5 of the Business and Professions Code is amended to read:

5552.5. The board may, by regulation, implement an architectural education and training experience or internship program.

SEC. 10. Section 5600.05 of the Business and Professions Code is amended to read:

5600.05. (a) (1) As a condition of license renewal, a licensee shall complete five hours of coursework pursuant to paragraph (2).

(2) Coursework regarding disability access requirements shall include information and practical guidance concerning requirements imposed by the federal Americans with Disabilities Act of 1990 (Public Law 101-336; 42 U.S.C. Sec. 12101 et seq.), state laws that govern access to public facilities, and federal and state regulations adopted pursuant to those laws. Coursework provided pursuant to this paragraph shall be presented by trainers or educators with knowledge and expertise in these requirements. The board shall promulgate regulations to establish qualifications for courses and course providers by January 1, 2023.

(b) The board may audit the records of a licensee to verify the completion of the coursework requirements of subdivision (a). A licensee shall maintain records of completion of the required coursework for two years from the date of license renewal, containing the following information: course title, subjects covered, name of provider and trainer or educator, date of completion, number of hours completed, and a statement about the trainer’s or educator’s knowledge and experience background. A licensee shall make those records available to the board for auditing upon request. A licensee who provides false or misleading information as it relates specifically to the requirements of this subdivision shall be subject to an administrative citation, which may include an administrative fine pursuant to Section 125.9, or to disciplinary action by the board.

(c) The board shall audit at least 3 percent of the license renewals received each year to verify the completion of the continuing education requirements of this subdivision.

(d) A continuing education provider may submit evidence of coursework to the board directly.

SEC. 11. Section 5616 of the Business and Professions Code is amended to read:

5616. (a) A landscape architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by the landscape architect and the client, or their representatives, prior to the landscape 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:

- (1) A description of the project for which the client is seeking services.
 - (2) A description of the services to be provided by the landscape architect to the client.
 - (3) A description of any basis of compensation applicable to the contract, including the total price that is required to complete the contract, and the method of payment agreed upon by both parties.
 - (4) A statement in at least 12-point type that reads:
“Landscape architects are licensed by the Landscape Architects Technical Committee located at 2420 Del Paso Road, Suite 105, Sacramento, CA 95834.”
 - (5) The name, address, and license number of the landscape architect, the name and address of the client, and project address.
 - (6) A description of the procedure that the landscape architect and client will use to accommodate additional services.
 - (7) A description of the procedure to be used by either party to terminate the contract.
 - (8) A description of the procedure that the landscape 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, total price, and method of payment.
 - (9) A statement identifying the ownership and use of instruments of service prepared by the landscape architect.
- (b) This section shall not apply to any of the following:
- (1) Professional services rendered by a landscape 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 landscape architect’s services are of the same general kind that the landscape architect has previously rendered to, and received payment for from, the same client.
 - (3) If the client states in writing after full disclosure of this section that a written contract is not required.
 - (4) Professional services rendered by a landscape architect to any of the following:
 - (A) A landscape architect licensed under this chapter.
 - (B) An architect licensed under Chapter 3 (commencing with Section 5500).
 - (C) A professional engineer licensed under Chapter 7 (commencing with Section 6700).
 - (D) A contractor licensed under Chapter 9 (commencing with Section 7000).
 - (E) A geologist or geophysicist licensed under Chapter 12.5 (commencing with Section 7800).
 - (F) A professional land surveyor licensed under Chapter 15 (commencing with Section 8700).

(G) A manufacturing, mining, public utility, research and development, or other industrial corporation, if the services are provided in connection with, or incidental to, the products, systems, or services of that corporation or its affiliates.

(H) A public agency when using that public agency's written contract.

(c) As used in this section, "written contract" includes a contract that is in electronic form.

SEC. 12. Section 5620 of the Business and Professions Code is amended to read:

5620. The duties, powers, purposes, responsibilities, and jurisdiction of the California State Board of Landscape Architects that were succeeded to and vested with the Department of Consumer Affairs in accordance with Chapter 908 of the Statutes of 1994 are hereby transferred to the California Architects Board. The Legislature finds that the purpose for the transfer of power is to promote and enhance the efficiency of state government and that assumption of the powers and duties by the California Architects Board shall not be viewed or construed as a precedent for the establishment of state regulation over a profession or vocation that was not previously regulated by a board, as defined in Section 477.

(a) There is in the Department of Consumer Affairs a California Architects Board as defined in Article 2 (commencing with Section 5510) of Chapter 3 of Division 3.

Whenever in this chapter "board" is used, it refers to the California Architects Board.

(b) Except as provided herein, the board may delegate its authority under this chapter to the Landscape Architects Technical Committee.

(c) After review of proposed regulations, the board may direct the examining committee to notice and conduct hearings to adopt, amend, or repeal regulations pursuant to Section 5630, provided that the board itself shall take final action to adopt, amend, or repeal those regulations.

(d) The board shall not delegate its authority to discipline a landscape architect or to take action against a person who has violated this chapter.

(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 13. Section 5620.2 is added to the Business and Professions Code, to read:

5620.2. (a) The following powers conferred by law upon the board are hereby delegated to and conferred upon the executive officer, or in their absence from the office, to the acting executive officer, as provided below:

(1) Receive and file accusations.

(2) Issue notices of hearings, statements to respondents, and statements of issues.

(3) Receive and file notices of defense.

(4) Determine the time and place of hearings under Section 11508 of the Government Code.

(5) Issue subpoenas and subpoenas duces tecum.

(6) Set calendar cases for hearing and perform other functions necessary to the businesslike dispatch of the board in connection with proceedings under Sections 11500 to 11528, inclusive, of the Government Code, before hearing those proceedings.

(7) Approve settlement agreements for the revocation or surrender of a license.

(8) Certification and delivery or mailing of copies of decisions under Section 11518 of the Government Code.

(b) In addition to the powers described in subdivision (a), the following powers are also delegated to and conferred upon the executive officer, as provided below:

(1) Evaluate and determine qualifications and approve applicants for examination under Section 5650.

(2) Determine which applicants for reciprocity licenses are entitled to waiver of the written examination under Section 5651.

SEC. 14. Section 5621 of the Business and Professions Code is amended to read:

5621. (a) There is hereby created within the jurisdiction of the board, a Landscape Architects Technical Committee, hereinafter referred to in this chapter as the landscape architects committee.

(b) The landscape architects committee shall consist of five members who shall be licensed to practice landscape architecture in this state. The Governor shall appoint three of the members. The Senate Committee on Rules and the Speaker of the Assembly shall appoint one member each.

(c) The initial members to be appointed by the Governor are as follows: one member for a term of one year; one member for a term of two years; and one member for a term of three years. The Senate Committee on Rules and the Speaker of the Assembly shall initially each appoint one member for a term of four years. Thereafter, appointments shall be made for four-year terms, expiring on June 1 of the fourth year and until the appointment and qualification of the member's successor or until one year shall have elapsed, whichever first occurs. Vacancies shall be filled for the unexpired term.

(d) No person shall serve as a member of the landscape architects committee for more than two consecutive terms.

(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 15. Section 5622 of the Business and Professions Code is amended to read:

5622. (a) The landscape architects committee may assist the board in the examination of candidates for a landscape architect's license and, after investigation, evaluate and make recommendations regarding potential violations of this chapter.

(b) The landscape architects committee may investigate, assist, and make recommendations to the board regarding the regulation of landscape architects in this state.

(c) The landscape architects committee may perform duties and functions that have been delegated to it by the board pursuant to Section 5620.

(d) The landscape architects committee may send a representative to all meetings of the full board to report on the committee’s activities.

(e) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 16. The Legislature finds and declares that Section 8 of this act, which adds Section 5552.1 to the Business and Professions Code, imposes a limitation on the public’s right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect the privacy and personal information of applicants, it is necessary that applicant record information be kept confidential.

SEC. 17. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

AGENDA ITEM H.1: PRESENTATION BY DCA, BUDGET OFFICE REGARDING LATC ANNUAL UPDATE

Background Summary

Paul McDermott, Budget Analyst with the Department of Consumer Affairs Budget Office, will provide an overview of the LATC's budget and fund condition.

Action Requested

To review and discuss the LATC's budget for Fiscal Year 2018/19.

Attachments

1. LATC Overview Revenues and Expenditures
2. LATC Fiscal Year 2018/2019 Expenditure Projection
3. LATC Fund Condition



Landscape Architects Technical Committee (LATC)

Authorized Positions:
LATC: 5.0

Vacancies: (as of July 1, 2019)
LATC: 0

Revenues:

	<u>Estimated Revenues</u>	<u>Projected YE \$</u>
<u>LATC:</u>		
FY 2018-19:	\$558,000	\$558,704*
<i>*projected figures</i>		

Expenditures:

	<u>Appropriation \$</u>	<u>Projected YE \$</u>	<u>%</u>	<u>Reverted Savings:</u>
<u>LATC:</u>				
FY 2018-19:	\$1,059,000	\$1,031,096*	97%*	\$28,904*
<i>*projected figures</i>				

Fund Condition Statement: FY 2018-19

- LATC's fund is scheduled to have **\$1,262** in reserves equating to **13.4** operating months.

Prepared 10.1.2019

LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE - 0757
BUDGET REPORT
FY 2018-19 EXPENDITURE PROJECTION
FISCAL MONTH 12

FY 2018-19					
OBJECT DESCRIPTION	Governor's Budget 2018-19	CURRENT YEAR EXPENDITURES 6/30/2019	PERCENT SPENT	PROJECTIONS TO YEAR END	UNENCUMBERED BALANCE
PERSONNEL SERVICES					
Salary & Wages (Staff)	292,000	290,357	99%	290,357	1,643
Committee Members (911)	3,000	2,100	70%	2,100	900
Staff Benefits	177,000	171,800	97%	171,800	5,200
TOTALS, PERSONNEL SVC	472,000	464,257	98%	464,257	7,743
OPERATING EXPENSE AND EQUIPMENT					
General Expense	14,000	13,250	95%	13,250	750
Fingerprint Reports	0	0	0%	0	0
Printing	7,800	4,200	54%	4,200	3,600
Communication	5,000	4,600	92%	4,600	400
Postage	8,000	4,600	58%	4,600	3,400
Travel In State	14,000	9,550	68%	9,550	4,450
Training	1,000	950	95%	950	50
Facilities Operations	53,200	53,177	100%	53,177	23
C & P Services - Interdept.	1,000	110	11%	110	890
DEPARTMENTAL SERVICES:					0
Office of Information Services	69,000	69,000	100%	69,000	0
Administration Pro Rata	86,000	86,000	100%	86,000	0
Interagency Services	30,000	30,000	100%	30,000	0
DOI-ProRata Internal	2,000	2,000	100%	2,000	0
Communications Division	4,000	4,000	100%	4,000	0
Program Policy Review Division Pro Rata	5,000	5,000	100%	5,000	0
INTERAGENCY SERVICES:					
Consolidated Data Center (OTECH)	1,000	44	4%	44	956
DP Maintenance & Supply (IT)	5,000	4,953	99%	4,953	47
EXAM EXPENSES:					
Exam Contracts** O	35,000	34,456	98%	34,456	544
C/P Svcs-External Exam Administrative P	8,000	7,526	94%	7,526	475
C/P Svcs-External Expert Examiners	79,500	78,235	98%	78,235	1,265
C/P Svcs-External Subject Matter	96,500	95,250	0%	95,250	1,250
ENFORCEMENT:					
Attorney General	51,000	50,773	100%	50,773	227
Office Admin. Hearings	1,000	950	95%	950	50
LATC Consultant Contracts*	4,000	3,315	0%	3,315	685
Evidence/Witness Fees	5,000	4,528	91%	4,528	472
Major Equipment	2,000	374	0%	374	1,626
TOTALS, OE&E	588,000	566,839	96%	566,839	21,161
TOTAL EXPENSE	1,060,000	1,031,096	97%	1,031,096	28,904
Sched. Reimb. - External/Private					
Sched. Reimb. - Fingerprints	(1,000)			(1,000)	0
NET APPROPRIATION	1,059,000	1,031,096	97%	1,030,096	28,904
SURPLUS/(DEFICIT):					2.7%

**0757 - Landscape Architects Technical Committee
Analysis of Fund Condition**

Prepared: 10.14.2019

2019-20 Budget Act	Budget Act				
	PY 2018-19	CY 2019-20	BY 2020-21	BY + 1 2021-22	BY + 2 2022-23
BEGINNING BALANCE	\$ 1,822	\$ 1,262	\$ 1,057	\$ 805	\$ 520
Prior Year Adjustment	\$ -	\$ -	\$ -	\$ -	\$ -
Adjusted Beginning Balance	\$ 1,822	\$ 1,262	\$ 1,057	\$ 805	\$ 520
REVENUES AND TRANSFERS					
Revenues:					
4121200 Delinquent fees	\$ 8	\$ 16	\$ 16	\$ 16	\$ 16
4127400 Renewal fees	\$ 393	\$ 720	\$ 720	\$ 720	\$ 720
4129200 Other regulatory fees (1256)	\$ 2	\$ 7	\$ 7	\$ 7	\$ 7
4129400 Other regulatory licenses and permits (1257)	\$ 127	\$ 162	\$ 162	\$ 162	\$ 162
4163000 Income from surplus money investments (1503)	\$ 27	\$ 16	\$ 1	\$ -	\$ -
4171400 Escheat of unclaimed checks and warrants (1610)	\$ 1	\$ -	\$ -	\$ -	\$ -
4172500 Miscellaneous revenues (1614)	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues	\$ 558	\$ 921	\$ 906	\$ 905	\$ 905
	\$ -	\$ -	\$ -	\$ -	\$ -
Totals, Revenues and Transfers	\$ 558	\$ 921	\$ 906	\$ 905	\$ 905
Totals, Resources	\$ 2,380	\$ 2,183	\$ 1,963	\$ 1,710	\$ 1,425
EXPENDITURES					
Disbursements:					
1111 Program Expenditures (State Operations)	\$ 1,059	\$ 1,051	\$ 1,083	\$ 1,115	\$ 1,148
8880 Financial Information System for California (State Operations)	\$ -	\$ -	\$ -	\$ -	\$ -
9892 Supplemental Pension Payments (State Operations)	\$ 8	\$ 16	\$ 16	\$ 16	\$ 16
9900 Statewide General Administrative Expenditures (Pro Rata)	\$ 51	\$ 59	\$ 59	\$ 59	\$ 59
Total Disbursements	\$ 1,118	\$ 1,126	\$ 1,158	\$ 1,190	\$ 1,223
FUND BALANCE					
Reserve for economic uncertainties	\$ 1,262	\$ 1,057	\$ 805	\$ 520	\$ 202
Months in Reserve	13.4	11.0	8.1	5.1	1.9

NOTES:

- A. ASSUMES WORKLOAD AND REVENUE PROJECTIONS ARE REALIZED FOR BY + 1 AND ON-GOING
 B. ASSUMES APPROPRIATION GROWTH OF 3% PER YEAR IN BY + 1 AND ON-GOING
 C. ASSUMES INTEREST RATE OF 1.5%

AGENDA ITEM H.2: REVIEW AND POSSIBLE ACTION ON POTENTIAL INITIAL LANDSCAPE LICENSE FEE DECREASE

Background Summary

During the February 8, 2019 LATC meeting, a member of the public inquired whether the initial license fee could be reduced. During the May 29, 2019 LATC meeting, the Committee was presented with an analysis of California's initial license fees compared with other comparable jurisdictions in CLARB Region 5 as well as other jurisdictions with more than 1,000 licensees. One of the observations made during the discussion was that because the LATC's budget is fixed, then other fees may need to increase to make up the difference. After discussion of the initial license fee, it was determined that further information was required from Budget Office Staff to determine whether a reduction in the initial license fee is feasible. At today's meeting, a presentation by Budget staff will be given outlining the feasibility of reducing the initial license fee.

Action Requested

The Committee is asked to discuss the matter and take possible action.

AGENDA ITEM I.1: PRESENTATION BY DCA, OFFICE OF PROFESSIONAL EXAMINATION SERVICES (OPES) REGARDING OCCUPATIONAL ANALYSIS AND LINKAGE STUDY TO UPDATE CALIFORNIA SUPPLEMENTAL EXAMINATION

Background Summary

The 2019-2021 Strategic Plan contains an objective to conduct an Occupational Analysis (OA) to update the California Supplemental Examination (CSE) to be more reflective of current standards.

The Department of Consumer Affairs' (DCA) OPES is charged with providing professional psychometric services to boards and bureaus, which include all aspects of the examination validation process (i.e., OAs, examination development, test scoring and statistical analyses, and national examination reviews). The most recent OA used in development of the CSE was conducted in 2014 and Business and Professions Code (BPC) section 139 requires that an OA be conducted every five to seven years. The primary purpose of the upcoming OA is to define current landscape architectural practice in California based on a survey of the critical tasks, skills, and knowledge pertinent to an individual safely practicing. The findings of the OA will be used to define the content of the CSE and form the basis for determining "minimum acceptable competence."

BPC section 139 also requires boards and bureaus that use both national and state exams to conduct a psychometric process review of the national examination and a linkage study. This will evaluate and compare the knowledge, skills, and abilities tested for on the Landscape Architect Registration Examination (LARE) with those of the CSE to avoid duplication. The review of the LARE and linkage study will be conducted after the OA has been completed and the CSE Test Plan has been drafted. This project is anticipated to be completed within fiscal year 2020-21 and the related linkage study contract will be provided for the LATC's review at a future meeting.

At today's meeting, an overview of the OA process will be presented by a member of OPES. Major project events, timeline and responsibilities will be discussed.

Action Requested

None

Attachments

1. OPES Occupational Analysis Bulletin
2. OPES Intra-Agency Contract Agreement Bulletin

OCCUPATIONAL ANALYSIS



Purpose	An occupational analysis (or job analysis) defines a profession in terms of the actual tasks that new licensees must be able to perform safely and competently at the time of licensure. In order to develop a licensing examination that is fair, job-related, and legally defensible, it must be based solidly upon what licensees actually do on the job. The occupational analysis should be reviewed routinely every five to seven years to verify that it accurately describes current practice.
Process	Typically, the process begins by selecting and interviewing a sample of licensees who accurately represent the geographic, ethnic, gender, experience, and practice specialty mix of the profession. During the interview, they identify the tasks that they perform within major categories of their profession and the knowledge required to perform those tasks. A committee of subject matter experts meets to finalize the task and knowledge statements, and develop a questionnaire. The questionnaire is sent to a representative sample of licensed practitioners. The data are analyzed, and the results are used to update the description of practice and/or develop a content outline.
Content Outline	The content outline specifies the tasks and knowledge that a newly licensed practitioner is expected to master by the time of licensure, and identifies the relative weight or percentage of each major subject area to be assessed in an examination. The content outline is used to develop questions for and validate new examinations.
Content Validation Strategy	In order for an examination to be valid, it must be empirically linked to the content outline of a recent occupational analysis. The Office of Professional Examination Services recommends that occupational analyses be validated no less than every five to seven years.
Legal Standards and Guidelines	A number of statutes, standards, and professional guidelines set criteria for the licensing process in California. These include the Standards for Educational and Psychological Testing, the Federal Uniform Guidelines for Employee Selection Procedures, the Civil Rights Act of 1991, California Government Code section 12944 of the California Fair Employment and Housing Act, Business and Professions Code section 139, and the Americans with Disabilities Act of 1990, as amended.
Contact	To learn more about these and other examination-related services, please contact the Office of Professional Examination Services at (916) 575-7240.

INTRA-AGENCY CONTRACT AGREEMENT



Purpose

The Office of Professional Examination Services (OPES) provides professional examination services to the boards, bureaus, and committees of the Department of Consumer Affairs on a fee-for-service basis through Intra-Agency Contract Agreements (IAC).

Process

The process is initiated by contacting the OPES Chief or supervisors to schedule a meeting to discuss specific licensure examination needs and expectations. An IAC is developed prospectively by mutual agreement between OPES and the board, bureau, or committee. It defines the activities, roles, and responsibilities of each party to the agreement, and a summary outline of the processes and benchmarks. The Department of Consumer Affairs' Contracts Unit reviews and encumbers the projected costs, and OPES invoices the board, bureau, or committee on a quarterly basis for the actual cost of OPES staff hours.

Services

See other titles in this Informational Series for descriptions and details of OPES' services. The following services are provided through an IAC. Costs include test validation staff (\$60 per hour); editing (\$56 per hour); and support staff (\$43 per hour).

- Occupational analyses
- Audit of national examination programs
- Test plan development
- Examination development
- Examination administration
- One-time, nonroutine projects

Certain activities are provided without additional charge to the board, bureau, or committee, and include:

- Test scoring and item analysis
- Examination program analysis
- Consultation and oversight
- Psychometric expertise
- Administrative support
- Computer-based testing (CBT) support

Contact

To learn more about these and other examination-related services, please contact the Office of Professional Examination Services at (916) 575-7240.

AGENDA ITEM I.2: REVIEW AND POSSIBLE ACTION TO APPROVE FISCAL YEAR 2019-20 INTRA-DEPARTMENTAL CONTRACT WITH OPES FOR OCCUPATIONAL ANALYSIS

Background Summary

The 2019-2021 Strategic Plan contains an objective to conduct an Occupational Analysis (OA) to update the California Supplemental Examination to be more reflective of current standards.

Attached for the LATC's consideration is a new contract with OPES to conduct an OA for fiscal year (FY) 2019-20. It is expected, under the proposed contract, that the OA will be completed by June 2020.

Action Requested

Review and take possible action on the attached contract with OPES to conduct an OA for FY 2019-20.

Attachment

Intra-Departmental Contract with OPES for FY 2019-20

INTRA-DEPARTMENTAL CONTRACT

CONTRACT NUMBER

AMENDMENT NUMBER

IAC #75733

1. This Contract is entered into between the Board/Bureau/Divisions named below
- REQUESTING BOARD/BUREAU/DIVISION'S NAME
California Architects Board/Landscape Architects Technical Committee (Committee)
- PROVIDING BOARD/BUREAU/DIVISION'S NAME
Office of Professional Examination Services (OPES)
2. The term of this Contract is: **July 1, 2019 through June 30, 2020**
3. The maximum amount of this Contract is: **\$61,240**
4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Contract:

**Landscape Architect
Occupational Analysis**

Exhibit A – Scope of Work	1 Page
• Attachment I - Project Plan	2 Pages
• Attachment II - Roles and Responsibilities	3 Pages
Exhibit B – Budget Detail and Payment Provision	1 Page
• Attachment I - Cost Sheet - Global Costs	2 Pages
Exhibit C – General Terms and Conditions	1 Page
Exhibit D – Special Terms and Conditions	1 Page

IN WITNESS WHEREOF, this Contract has been executed by the parties hereto.

DEPARTMENT OF CONSUMER AFFAIRS		Department of Consumer Affairs Contracts Unit Use Only
REQUESTING BOARD/BUREAU/DIVISION'S NAME California Architects Board/Landscape Architects Technical Committee		
BY (Authorized Signature)	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING Laura Zuniga, Executive Officer		
ADDRESS 2420 Del Paso Road, Suite 105 Sacramento, CA 95834		
BUDGET OFFICER'S SIGNATURE		
DEPARTMENT OF CONSUMER AFFAIRS		
PROVIDING BOARD/BUREAU/DIVISION'S NAME Office of Professional Examination Services		
BY (Authorized Signature)	DATE SIGNED	
PRINTED NAME AND TITLE OF PERSON SIGNING Heidi Lincer, Chief		
ADDRESS 2420 Del Paso Road, Suite 265 Sacramento, CA 95834		
BUDGET OFFICER'S SIGNATURE		

EXHIBIT A

SCOPE OF WORK

1. The Office of Professional Examination Services (OPES) agrees to provide the following services:
Identify critical competencies of Landscape Architects and develop a description of practice.
2. The Landscape Architects Technical Committee (Committee) agrees to provide the following services:
See attached: I. Project Plan
II. Roles and Responsibilities
3. The project representatives during the term of this agreement will be:

Requesting Committee:

Name: Laura Zuniga
Phone: (916) 575-7222
Fax: (916) 575-7285

Office of Professional Examination Services:

Name: Heidi Lincer
Phone: (916) 575-7240
Fax: (916) 419-1697

Direct all agreement inquiries to:

**Department of Consumer Affairs
Contracts Unit:**

Address: 1625 North Market Blvd. Suite S-103
Sacramento, CA 95834
Phone: (916) 574-7277
Fax: (916) 574-8658

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75733
PROJECT PLAN
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECT
OCCUPATIONAL ANALYSIS
FISCAL YEAR 2019-20

Project Objectives:	<i>Identify critical competencies of Landscape Architects and develop a description of practice.</i>
Completion Date:	June 30, 2020
Committee Contact:	Kourtney Nation (916) 575-7237
OPES Contact:	Brian Knox (916) 575 7273

MAJOR PROJECT EVENTS	TARGET DATE	RESPONSIBILITY
1. Review Background Information > Review past occupational analyses > Review changes in Law and Practice > Identify emerging trends and considerations > Communicate upcoming occupational analysis to licensees > Collect licensee email addresses	November-2019 November-2019 November-2019 November-2019 November-2019	OPES OPES/COMMITTEE OPES/COMMITTEE COMMITTEE COMMITTEE
2. Develop Job Content and Structure > Recruit SMEs for interviews > Provide list of SMEs to OPES > Schedule and conduct interviews > Transcribe interview information > Develop preliminary list of task and knowledge statements	November-2019 November-2019 November-2019 December-2019 December-2019	COMMITTEE COMMITTEE OPES OPES OPES
3. Review Task and Knowledge Statements > Recruit SMEs for 2-day workshop > Provide list of SMEs to OPES > Conduct 2-day workshop with SMEs > Revise task and knowledge statements	December-2019 January 3, 2020 January 10-11, 2020 January-2020	COMMITTEE COMMITTEE OPES/SMEs OPES
4. Review Task and Knowledge Statements > Recruit SMEs for 2-day workshop > Provide list of SMEs to OPES > Conduct 2-day workshop with SMEs > Revise task and knowledge statements	January-2020 January 24, 2020 January 31-Feb 1, 2020 February-2020	COMMITTEE COMMITTEE OPES/SMEs COMMITTEE
5. Construct and Distribute Pilot Questionnaire > Develop demographic items and rating scales > Committee review of occupational analysis pilot survey > Prepare Web-based questionnaire for pilot study > Prepare text of emails/letters for pilot study and final distribution (presurvey, survey, follow-up) of questionnaire > Prepare announcement of occupational analysis in newsletter or other media > Email questionnaire for pilot study to selected participants > Download pilot questionnaire data files for analysis	February-2020 February-2020 February-2020 February-2020 February-2020 March-2020 March-2020	OPES/COMMITTEE OPES/COMMITTEE OPES COMMITTEE COMMITTEE OPES/COMMITTEE OPES

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75733

PROJECT PLAN

LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

LANDSCAPE ARCHITECT

OCCUPATIONAL ANALYSIS

FISCAL YEAR 2019-20

Project Objectives:	<i>Identify critical competencies of Landscape Architects and develop a description of practice.</i>
Completion Date:	June 30, 2020
Committee Contact:	Kourtney Nation (916) 575-7237
OPES Contact:	Brian Knox (916) 575 7273

MAJOR PROJECT EVENTS	TARGET DATE	RESPONSIBILITY
6. Construct and Distribute Final Questionnaire <ul style="list-style-type: none"> > Prepare draft of final questionnaire > Determine sampling plan > Provide master file of email addresses > Prepare final Web-based questionnaire > Assemble and email questionnaire invitations to participants > Send follow-up survey emails two weeks after distribution of survey 	March-2020 March-2020 March-2020 March-2020 March-2020 March-2020	OPES OPES OPES OPES OPES OPES/COMMITTEE
7. Data Analysis <ul style="list-style-type: none"> > Download final questionnaire data files > Convert and merge data files for analysis > Analyze demographics, task and knowledge ratings > Develop preliminary description of practice 	April-2020 April-2020 April-2020 April-2020	OPES OPES OPES OPES
8. Review Results of Occupational Analysis <ul style="list-style-type: none"> > Recruit SMEs for 2-day workshops > Provide list of SMEs to OPES > Conduct 2-day workshop with SMEs > Develop description of practice 	April-2020 April 17, 2020 April 24-25, 2020 April-2020	COMMITTEE COMMITTEE OPES/SMEs OPES
9. Prepare Validation Report <ul style="list-style-type: none"> > Prepare draft of validation report > Prepare, print and submit final validation report 	May-2020 June-2020	OPES OPES

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75733
ROLES AND RESPONSIBILITIES
for
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECT
OCCUPATIONAL ANALYSIS
FISCAL YEAR 2019-20

INTRODUCTION

The Office of Professional Examination Services (OPES) of the Department of Consumer Affairs (DCA) provides psychometric consulting in examination development and occupational analysis to DCA's regulatory entities through Intra-Agency Contract (IAC) agreements.

The occupational analysis (OA) describes the practice of Landscape Architecture in terms of the tasks performed on the job and the knowledge required to perform those tasks. The OA results are used as part of the process to ensure the legal defensibility of a licensing examination program.

The OA requires a total of approximately 40 licensed architects to serve as expert consultants known as subject matter experts (SMEs).

During the information-gathering phase of the project, approximately 10 SMEs will participate in telephone interviews to identify job tasks and essential knowledge. Interviews will be conducted as long as new information is being generated.

Workshops will be held to evaluate and refine the task and knowledge statements. For each workshop, a minimum of 6 SMEs, with a goal of 8-10 SMEs, are needed. Some of the SMEs may participate in both workshops and interviews.

A survey based on the interview information will be developed and sent to proportionate sample of individuals licensed as Landscape Architects throughout California.

ROLE OF THE COMMITTEE

The primary role of the Committee is to recruit a representative sample of SMEs to participate in the OA interviews and workshops. The Committee should also inform SMEs about the nature of their participation and the OPES security requirements.

The selection of SMEs critically affects the quality and defensibility of a licensure examination program. The SMEs selected to participate in an OA workshop should:

- reflect Landscape Architects in terms of geographic location, practice specialty area, ethnicity, and gender;
- be currently working in the field and have up-to-date skills; and
- maintain a license in good standing that is not retired nor inactive.

Additionally, approximately half of all SMEs in each workshop should have received their license within the past 5 years to ensure that an entry-level perspective is maintained. It is essential that a Committee representative consult with OPES before beginning SME recruitment.

Due to potential conflict of interest, undue influence, security considerations, or all of the above, board members, committee members, and instructors shall not serve as SMEs for, nor participate in, any aspect of licensure examination development or administration, pursuant to DCA Policy OPES 18-01.

In addition, the Committee has the responsibility to acquire any reference materials to be used by the SMEs in the development of the OA.

The nature of the work performed by the Office of Professional Examination Services (OPES) can result in unanticipated changes. For example, work may be completed ahead of or behind schedule. Flexibility on the part of both parties is essential to the success of the contract.

ROLE OF THE OFFICE OF PROFESSIONAL EXAMINATION SERVICES

The primary role of OPES is to conduct the OA. OPES will use a content validation strategy and thereby link the job task and knowledge statements directly to critical content areas of practice.

The OA begins with telephone interviews of SMEs who represent different aspects of the profession. During the interviews, SMEs identify categories of work and the job tasks performed in each category. SMEs are also asked to identify the knowledge necessary to perform each job task. OPES transcribes the information from the interviews and develops a preliminary list of task and knowledge statements.

Two panels of SMEs evaluate the task and knowledge statements. OPES then develops a questionnaire based on the task and knowledge statements. The questionnaire asks SMEs to provide demographic information and to rate each task and knowledge statement against job-related criteria.

OPES analyzes the demographic characteristics and questionnaire ratings of all respondents. One panel of SMEs evaluate the results of the analysis and develop a description of practice.

Following each workshop, OPES and Committee staff will review the performance of each SME to determine those who should be invited back. The Committee agrees to recruit SMEs so as to build a competent pool of representative, productive participants.

SECURITY

OPES has implemented various controls to ensure the integrity, security, and appropriate level of confidentiality of licensure examination programs. These controls include prohibiting certain items, such as electronic devices and items that could potentially conceal recording devices, in all workshops.

SMEs are required to:

- provide valid photo identification;
- allow for electronic devices to be secured in the reception area during workshops; and
- sign one or more agreements accepting responsibility for maintaining strict confidentiality of licensure examination material and information to which they have access.

Any person who fails to comply with OPES' security requirements will not be allowed to participate in licensure examination workshops. In addition, any person who subverts or attempts to subvert a licensure examination will face serious consequences, which may include loss of licensure, criminal charges per Business and Professions Code section 123, or both.

OPES will notify the Committee of any SME whose conduct during a workshop violates policy or whose presence is disruptive. OPES reserves the right to immediately dismiss any SME whose presence poses a security risk. OPES will take steps to manage disruptive behavior; however, if such behavior persists or prevents other SMEs from completing their tasks, or both, OPES may dismiss the person from the workshop.

SUMMARY OF EVENTS

- Committee and OPES recruit a representative group of SMEs for interviews. The Committee initiates the processes by informing the SMEs that staff from OPES will call them to schedule interviews.
- OPES schedules and interviews SMEs and transcribes the information into a preliminary list of job task and knowledge statements.
- Committee recruits two panels of SMEs to evaluate the list of task and knowledge statements. During the meeting, the panel works with OPES staff to evaluate the list in terms of technical accuracy, overall clarity, and consistency. New task and knowledge statements are developed as needed.
- OPES develops a web-based survey questionnaire to obtain demographic data and ratings of the task and knowledge statements. The demographic data, such as years of experience and number of hours worked per week, will assist in the interpretation of the ratings.
- OPES assists the Committee with distributing invitations to complete the web-based survey to all landscape architects with California addresses.
- OPES analyzes the information from the questionnaire. Committee recruits one panel of SMEs to review the results of the questionnaire and develop a description of practice.
- OPES prepares a report of findings and submits it to the Committee.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Invoicing and Payment

- A. For services satisfactorily rendered and upon receipt and approval of the invoices, the Landscape Architects Technical Committee (Committee) agrees to compensate the Office of Professional Examination Services (OPES) for services rendered and expenditures incurred.
- B. Invoices shall include the agreement number and shall be submitted on a quarterly basis for the cost of services completed as identified in Exhibit B, Attachment I; any related travel expenses will be billed as actuals. Signed/approved invoices from the Committee will be due to OPES fifteen (15) working days from the date of invoice billings. OPES will then submit the approved invoices to the Department of Consumer Affairs for processing and payment. Invoices will be submitted to:

California Architects Board/Landscape Architects Technical Committee
2420 Del Paso Road, Suite 105
Sacramento, CA 95834
- C. The Committee will reimburse OPES for the partial performance (e.g. workshop preparation, rescheduling) of any services provided by OPES if the Committee does not demonstrate in good faith their roles/responsibilities as defined by Attachment II – Roles and Responsibilities.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to OPES or to furnish any other considerations under this Agreement and OPES shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to OPES to reflect the reduced amount.

3. Payment

- A. Costs for this Agreement shall be computed in accordance with State Administrative Manual Sections 8752 and 8752.1.
- B. Nothing herein contained shall preclude advance payments pursuant to Article 1, Chapter 3, Part 1, Division 3, Title 2 of the Government Code of the State of California.

4. Cost

- A. Costs for this Agreement shall be subject to any collective bargaining agreements negotiated in Fiscal Year 2005/2006 or thereafter.

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75733
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECT
OCCUPATIONAL ANALYSIS
FISCAL YEAR 2019-20

1. Review Background Information	\$ 3,456
2. Develop Job Content and Structure	\$ 10,248
3. Review Task and Knowledge Statements	\$ 5,856
4. Review Task and Knowledge Statements	\$ 5,856
5. Construct and Launch Pilot Questionnaire	\$ 8,480
6. Construct and Launch Final Questionnaire	\$ 4,608
7. Data Analysis	\$ 5,760
8. Review Results of Occupational Analysis	\$ 4,744
9. Prepare Validation Report	\$ 6,752
 Administrative Support	 \$ 5,480
 TOTAL	 \$61,240

Index/PCA/Object Code 6000/60000/427.10

INTRA-AGENCY CONTRACT AGREEMENT (IAC) #75733
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE
LANDSCAPE ARCHITECT
OCCUPATIONAL ANALYSIS COSTS
FISCAL YEAR 2019-20

	Test Validation Staff				Editor		Support Staff		Totals	GRAND TOTAL
	\$72		OT @ \$102		\$67		\$52			
	Hours	Cost	Hours	Cost	Hours	Cost	Hours	Cost		
1. Review Background Information										\$ 3,456
Review past Occupational Analysis	8	\$ 576							\$ 576	
Review changes in law and practice	24	\$1,728							\$ 1,728	
Identify emerging trends and considerations	16	\$1,152							\$ 1,152	
2. Develop Job Content and Structure										\$10,248
Schedule and conduct 10 interviews	48	\$3,456							\$ 3,456	
Transcribe interview information	32	\$2,304							\$ 2,304	
Develop preliminary list of task and knowledge statements	40	\$2,880			24	\$1,608			\$ 4,488	
3. Review Task and Knowledge Statements										\$ 5,856
Prepare for 2-day workshop	16	\$1,152					2	\$ 104	\$ 1,256	
Conduct workshop	8	\$ 576	12	\$1,224					\$ 1,800	
Revise task and knowledge statements	24	\$1,728			16	\$1,072			\$ 2,800	
4. Review Task and Knowledge Statements										\$ 5,856
Prepare for 2-day workshop	16	\$1,152					2	\$ 104	\$ 1,256	
Conduct workshop	8	\$ 576	12	\$1,224					\$ 1,800	
Revise task and knowledge statements	24	\$1,728			16	\$1,072			\$ 2,800	
5. Construct and Distribute Pilot Questionnaire										\$ 8,480
Develop demographic items and rating scales	12	\$ 864							\$ 864	
Prepare draft of pilot questionnaire	24	\$1,728			24	\$1,608			\$ 3,336	
Prepare final pilot questionnaire	12	\$ 864			8	\$ 536			\$ 1,400	
Configure on-line survey instrument	24	\$1,728							\$ 1,728	
Conduct pilot online survey	16	\$1,152							\$ 1,152	
6. Construct and Distribute Final Questionnaire										\$ 4,608
Determine notification/sampling plan	24	\$1,728							\$ 1,728	
Review online pilot survey results	16	\$1,152							\$ 1,152	
Reconfigure survey for final launch	8	\$ 576							\$ 576	
Conduct final online survey	16	\$1,152							\$ 1,152	
7. Data Analysis										\$ 5,760
Download data files	8	\$ 576							\$ 576	
Convert and merge data files for final analysis	32	\$2,304							\$ 2,304	
Analyze demographics, task and knowledge statements	24	\$1,728							\$ 1,728	
Develop description of practice	16	\$1,152							\$ 1,152	
8. Review Results of Occupational Analysis										\$ 4,744
Prepare for 2-day workshop	16	\$1,152					2	\$ 104	\$ 1,256	
Conduct workshop	8	\$ 576	12	\$1,224					\$ 1,800	
Develop description of practice/examination outline	16	\$1,152			8	\$ 536			\$ 1,688	
9. Prepare Validation Report										\$ 6,752
Prepare draft of report	40	\$2,880			24	\$1,608			\$ 4,488	
Prepare, print and submit final validation report	24	\$1,728			8	\$ 536			\$ 2,264	
Administrative Support										\$ 5,480
Technical oversight (40 hours @ \$76/hour)									\$ 3,040	
Cost oversight (40 hours @ \$61/hour)									\$ 2,440	
TOTAL	600	\$43,200	36	\$3,672	128	\$8,576	6	\$312	\$61,240	\$61,240

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **Approval:**

This Contract is not valid until signed by both parties.

2. **Payment:**

Costs for this Contract shall be computed in accordance with State Administrative Manual Section 8752 and 8752.1.

EXHIBIT D

SPECIAL TERMS AND CONDITIONS

1. **Mutual Cooperation**

The Office of Professional Examination Services (OPES) is entering into a partnership where mutual cooperation is the overriding principle.

2. **Evaluation**

OPES and the Landscape Architects Technical Committee (Committee) reserve the right to evaluate progress, make midcourse corrections as needed, and to negotiate changes to the agreement as necessary to ensure a high quality examination program. This may affect the cost of the analysis.

3. **Examination Criteria**

The primary responsibility of OPES is to develop examinations that are psychometrically sound, legally defensible and job-related.

4. **Good Faith Agreement**

In good faith, OPES believes the project steps accurately describe the work to be performed and that the costs are reasonable. This agreement will remain in effect until the work is completed.

AGENDA ITEM J: DISCUSS AND POSSIBLE ACTION ON LATC MEMBER ADMINISTRATIVE MANUAL

In 2018, the Board and LATC updated their respective Member Administrative Manuals which were required attachments to their respective Sunset Review Reports submitted to the Legislature on December 1, 2018. The updates made to the LATC Manual were modeled after the Board's.

At its June 2019 meeting, the Board approved additional amendments to the Manual some of which were recommended by its Executive Committee and Legal Counsel.

Attached for the LATC's review is a copy of the LATC's Manual with amendments shown by strikethrough and underline modeled after the Board's most recent changes. At this meeting, the Committee is asked to review and take possible action on the updates to the LATC Manual.

Attachment

Landscape Architects Technical Committee Member Administrative Manual (Proposed Amendments 11/8/2019)

Landscape Architects Technical Committee Member Administrative Manual

Approved by Board 9/12/18
[\(Proposed Amendments 11/8/19\)](#)

Table of Contents

Chapter 1 -- Introduction

Overview.....	1
Delegated Authority	2
Mission.....	2
Vision.....	3
Values	3
General Rules of Conduct.....	3
Abbreviations	4

Chapter 2 -- LATC Meeting Procedures

Bagley-Keene Open Meeting Act	4
Public Comment	4
Closed Session.....	5
Frequency of Meetings	5
Meeting Location.....	5
Committee Member Attendance at LATC and Board Meetings	5
Member Participation	6
Teleconference Meetings.....	6
Special Meetings	6
Emergency Meetings.....	7
Quorum	7

Agenda Items	7
Notice of Meetings to be Sent to Individuals	7
Notice of Meetings to be Posted on the Internet	7
Record of Meetings	8
Voting on Motions	8
Audio/Visual Recording	8

Chapter 3 -- Travel & Salary Policies/Procedures

Travel Approval.....	9
Travel Arrangements.....	9
Out-of-State Travel	9
Travel Reimbursement	9
Salary Per Diem.....	10

Chapter 4 -- Other Policies/Procedures

LATC Member Disciplinary Actions.....	12
Removal of LATC Members	12
Resignation of LATC Members	12
Officers of the LATC	12
Election of Officers	12
Officer Vacancies	13
Task Force or Subcommittee Appointments	13
Attendance at Task Force or Subcommittee Meetings.....	13
Board and LATC Staff	13
Program Manager Evaluation	14
LATC Administration	14
LATC Budget.....	14

Conflict of Interest 14

Financial Disclosure 15

Incompatible Activities..... 16

Ex Parte Communications 17

Communications with Other Organizations/Individuals 18

Legislation 19

Contact with Candidates..... 19

Gifts from Candidates 19

Request for Records Access..... 19

Business Cards 19

Letterhead 19

Chapter 5 -- Training

LATC Member Orientation.....20

Ethics.....20

Sexual Harassment Prevention.....20

Defensive Driver.....20

Appendix

A. LATC Committee Member Position Description.....21

B. DCA Incompatible Work Activities (OHR 14-01)23

Chapter 1

Introduction

Overview

The California Board of Architectural Examiners was created by the California Legislature in 1901 to safeguard the public's health, safety, and welfare. It was renamed the California Architects Board (Board) in 2000. It is one of the boards, bureaus, commissions, and committees within the Department of Consumer Affairs (DCA), part of the Business, Consumer Services and Housing Agency under the aegis of the Governor. The Department is responsible for consumer protection and representation through the regulation of licensed professions and the provision of consumer services. While the DCA provides administrative oversight and support services, the Board has policy autonomy and sets its own policies, procedures, and regulations.

The Board is presently composed of 10 members that, by law, 5 are public members, and 5 are architects. The five architect members are all appointed by the Governor. Three of the public members are also gubernatorial appointees; while one public member is appointed by the Assembly Speaker and the other is appointed by the Senate Rules Committee. Board members may serve up to two four-year terms. Board members fill non-salaried positions but are paid \$100 per day for each meeting day or day spent in the discharge of official duties (see section entitled "Salary Per Diem") and are reimbursed travel expenses.

The Landscape Architects Technical Committee (LATC) was statutorily established under the jurisdiction of the Board pursuant to the enactment of Assembly Bill 1546 (Chapter 475, statutes of 1997), which became effective January 1, 1998. It replaces the former Board of Landscape Architects, which was abolished through the enactment of Senate Bill 2036 (Chapter 908, statutes of 1994) on July 1, 1997.

The LATC consists of five technical experts who are licensed to practice landscape architecture in this state. Under the provisions of section 5621(b) of the Business and Professions (B&P) Code, the Governor

has the authority to appoint three of the members. The remaining two members are appointed by the Senate Committee on Rules and the Speaker of the Assembly. Like the Board members, Committee members fill non-salaried positions but are paid \$100 per day for each meeting day and are reimbursed travel expenses. [The Committee members serve at the pleasure of the Governor and the Legislature, and shall conduct their business in an open manner, so that the public that they serve shall be both informed and involved, consistent with the provisions of the Bagley-Keene Open Meeting Act and all other state laws applicable to similar boards within the State of California.](#)

The LATC's purpose is to act in an advisory capacity to the Board on examinations, regulations, and other matters pertaining to the practice of landscape architecture in California.

This Committee Member Administrative Manual is provided to members as a reference of important laws, regulations, DCA policies, and Board policies to guide the actions of the members and ensure effectiveness and efficiency.

Delegated Authority

(B&P Code Sections 5620 & 5622)

B&P Code sections 5620 and 5622 set forth the duties of the Board and the LATC. On May 14, 1998, the Board unanimously voted to empower the LATC, to the fullest extent authorized by law, to exercise all duties, powers, purposes, responsibilities and jurisdiction relative to administration of the LATC as set forth in Chapter 3.5 of Division 3 of the B&P Code (commencing with section 5615), with the following exceptions:

The Committee shall:

- Make recommendations concerning proposed regulatory or statutory changes and submit them to the Board for review and final approval.
- Make recommendations concerning budget augmentations and submit them to the Board for review and final approval.
- Develop a Strategic Plan for the LATC and submit it to the Board for review and final approval.

- Make recommendations involving disciplining a landscape architect or taking action against a person who has violated this chapter to the Board for review and final approval.

Mission

The LATC regulates the practice of landscape architecture through the enforcement of the Landscape Architects Practice Act to protect consumers, and the public health, safety, and welfare while safeguarding the environment.

Vision

The LATC will champion for consumer protection and a safer built environment for the people of California

Values

Consumer Protection
Innovation
Communication
Integrity
Leadership

General Rules of Conduct

All Committee members shall act in accordance with their oath of office, and shall conduct themselves in a courteous, professional and ethical manner at all times. ~~The Committee members serve at the pleasure of the Governor and the Legislature, and shall conduct their business in an open manner, so that the public that they serve shall be both informed and involved, consistent with the provisions of the Bagley Keene Open Meeting Act and all other governmental and civil codes applicable to similar boards within the State of California.~~

- Members shall not act or speak on the Board's or LATC's behalf without proper authorization from the Board president or LATC chair.
- Members shall maintain the confidentiality of confidential documents and information.
- Members shall commit the time to prepare for LATC responsibilities.
- Members shall recognize the equal role and responsibilities of all LATC members.
- Members shall act fairly, be nonpartisan, impartial, and unbiased in their role of protecting the

public.

- Members shall treat all applicants and licensees in a fair and impartial manner.
- Members' actions shall serve to uphold the principle that the LATC's primary mission is to protect the public.
- Members shall not use their positions on the LATC for personal, ~~familial~~, or financial gain.

Abbreviations

ASLA	American Society of Landscape
B&P	Business and Professions Code
CLARB	Council of Landscape Architectural Registration Boards
DCA	Department of Consumer Affairs
EO	Executive Officer
Gov.	Government Code
LARE	Landscape Architect Registration Examination
SAM	State Administrative Manual

Chapter 2

LATC Meeting Procedures

Bagley-Keene Open Meeting Act

(Gov. Code Section 11120 et seq.)

All meetings are open for public attendance and subject to all provisions of the Bagley-Keene Open Meeting Act. This act governs meetings of the state regulatory boards and meetings of committees of those boards where the committee consists of more than two members. It specifies meeting notice and agenda requirements and prohibits discussing or taking action on matters not included in the agenda.

Public Comment

(Gov. Code Section 11125.7)

Public comment must be allowed on open session agenda items before or during discussion of each item and before a vote.

The LATC may accept public comment on an item not on the agenda, provided that the LATC takes no action or does not discuss the item at the same meeting. The LATC may refer the item to the next Strategic Planning session and/or place the matter on the agenda of a future meeting. The LATC cannot prohibit public criticism of the LATC's

policies or services. The LATC chair may set reasonable time limitations [for public comment](#).

Due to the need for the LATC to maintain fairness and neutrality when performing its adjudicative function, the LATC shall not receive any substantive information from a member of the public regarding matters that are currently under or subject to investigation, or involve a pending or criminal administrative action.

Closed Session

(Gov. Code Sections 11126, 11126.1)

Any general discussion of exams shall be held in public. The LATC may meet in closed session to discuss examinations where a public discussion would compromise the integrity of the examination.

If the agenda contains matters that are appropriate for closed session, the agenda shall cite the particular statutory section and subdivision authorizing the closed session.

No members of the public are allowed to remain in the meeting room for closed sessions. At least one staff member must be present at all closed sessions to record topics discussed and decisions made.

Closed session must be specifically noticed on the agenda (including the topic and legal authority). Before going into closed session, the LATC chair should announce in open session the general nature of the item(s) to be discussed.

Frequency of Meetings

(B&P Code Section 101.7)

The LATC shall meet at least two times each calendar year for the purpose of transacting such business as may lawfully come before it and may meet more often as it determines necessary.

Meeting Location

(Gov. Code Sections 11123.1 & 11131; B&P Code Section 101.7)

The LATC is required to hold its meetings at locations that are easily accessible to the public and individuals with disabilities in compliance the Americans with Disabilities Act (ADA). The LATC will hold meetings in different locations throughout the state and is required to hold at least one meeting in Northern California and one meeting in Southern California.

Committee Member Attendance at LATC and Board Meetings

(Board/LATC Policy)

Members shall attend each meeting of the LATC. If a member is unable to attend he/she must contact the LATC chair or vice chair and ask to be excused from the meeting for a specific reason. Should a member miss two consecutive meetings, the Board president or LATC chair may notify the Director of the DCA.

The Board and LATC maintain an ongoing practice of providing regular updates regarding key issues at each other's respective meetings to sustain understanding of each entity's priorities. The LATC may send a representative to Board meetings as deemed appropriate by the chair or vice chair.

Member Participation

(Board/LATC Policy)

The LATC chair may ascertain from members whose level of participation is below standard whether or not the member is no longer able to continue serving as an active member of the LATC. In such a case, the chair may recommend to the Board that the member resign. If such resignation is not forthcoming within a reasonable time, the Board, by resolution, may request the appointing authority to have the member replaced. However, the member shall be given the opportunity to present to the Board his/her arguments against the resolution prior to such a resolution being adopted by the Board.

Teleconference Meetings

(Gov. Code Section 11123)

Special rules for notice of teleconference meetings are as follows:

- Same 10-day notice requirement as in-person meetings.
- Notice and agenda must include teleconference locations.
- Every teleconference location must be open to the public and at least one LATC member must be physically present at every noticed location. LATC members must attend the meeting at a publicly noticed location.
- Additional locations may be listed on the notice that allow the public to observe or address the LATC by electronic means without an LATC member present.

Special Meetings

(Gov. Code Section 11125.4)

A special meeting may be called at any time by the LATC chair or in his or her absence the vice chair or by a majority of the members of the LATC and held with 48 hours' notice in specified situations (e.g., consideration of proposed legislation). At the commencement of any special meeting, the LATC must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting would cause a "substantial hardship on the LATC or that immediate action is required to protect the public interest." The finding shall be adopted by two-thirds vote of the LATC if less than two-thirds members present, a unanimous vote of those members present.

Emergency Meetings

(Gov. Code Section 11125.5)

An emergency meeting may be held after finding by a majority of the LATC at a prior meeting or at the emergency meeting that an emergency situation exists due to work stoppage or crippling disaster. [A quorum is required for the LATC to meet in the event of emergency, such as a work stoppage or crippling disaster.] Emergency meetings require a one-hour notice.

Quorum

Three of the members of the LATC constitute a quorum of the LATC for the transaction of business. The concurrence of three members of the LATC present at a meeting duly held at which a quorum is present shall be necessary to constitute an act or decision of the LATC.

Agenda Items

(Board/LATC Policy)

The LATC chair, with the assistance of the LATC program manager, shall prepare the agenda and tentative meeting timeframe. Any LATC member may submit items for an LATC meeting agenda to the program manager 20 days prior to the meeting.

Notice of Meetings to be Sent to Individuals

(Gov. Code Section 11120 et seq.; B&P Code Section

According to the Bagley-Keene Open Meeting Act, meeting notices (including agendas for LATC meetings) shall be sent to persons on the LATC's mailing or email list at least 10 calendar days in advance. The notice shall include a staff person's

101.7) name, work address, and work telephone number who can provide further information prior to the meeting.

Notice of Meetings to be Posted on the Internet

(Gov. Code Section 11125)

Unless the meeting meets the requirements for a special or emergency meeting under the Bagley-Keene Open Meeting Act, notice shall be given and made available on the Internet at least 10 calendar days in advance of the meeting, and shall include the name, address, and telephone number of a staff person who can provide further information prior to the meeting but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the Internet address where notices required by the Bagley-Keene Open Meeting Act are made available.

Record of Meetings

(Board/LATC Policy; B&P Section 5626; Gov. Code Sections 11123(c), 11126.1)

The minutes are a summary, not a transcript, of each LATC meeting. They shall be prepared by LATC staff and submitted for review by LATC members before the next LATC meeting. The minutes must contain a record of how each member present voted for each item on which a vote was taken. LATC minutes shall be approved at the next scheduled meeting of the LATC. When approved, the minutes shall serve as the official record of the meeting.

Voting on Motions

(B&P Code Section 5524; Gov. Code Sections 11120, 11122, 11123, 87100 et seq.; 68 Ops.Cal.Atty.Gen. 65, 69-70)

As a general rule, all votes must be taken publicly. However, votes taken on closed session matters are not required to be taken publicly. Secret ballots and proxy votes are prohibited. A majority of the committee vote is determined by the votes actually cast. Abstentions are recorded, but not counted, unless a law provides otherwise.

Options for LATC members:

- 1) Support / in Favor / Yes / Aye
- 2) Oppose / No / Nay
- 3) Abstain (not counted as a vote)
- 4) Recused (not counted as a vote)

Audio/Visual Recording

The meeting may be audio/video recorded and/or

(Board/LATC Policy)

broadcast live via the Internet. Recordings shall be disposed of upon LATC approval of the minutes. If a webcast of the meeting is intended, it shall be indicated on the agenda notice.

Chapter 3

Travel & Salary Policies/Procedures

Travel Approval

*(DCA Memorandum
96-01)*

LATC members shall have LATC chair approval for all travel except for regularly scheduled LATC, Board and subcommittee meetings to which the LATC member is assigned.

Travel Arrangements

(Board/LATC Policy)

LATC members are encouraged to coordinate with the LATC staff for any LATC-related travel arrangements, including air or train transportation, car rental, and lodging accommodations through Cal Travel Store's online booking tool, Concur.

LATC members must also utilize the most economic source of transportation available. For example, if the hotel provides a shuttle from the airport to the hotel it is not fiscally responsible to rent a car or take a taxi. Reimbursement may be reduced or denied if the most economical sources are not used.

All LATC-related travel must be booked using Cal Travel Store's self-service reservation system, Concur, if an LATC member seeks reimbursement.

In advance of LATC and Board meetings, the LATC staff will provide members information detailing the name and address of the chosen hotel where state rates are available if an overnight stay is required.

Out-of-State Travel

*(SAM Section 700 et seq. &
[Gov. Code Section
11139.8, subs. \(b\)\(1\), \(2\)](#))*

For out-of-state travel, LATC members will be reimbursed actual lodging expenses, supported by vouchers, and will be reimbursed for meal and supplemental expenses. Out-of-state travel for all persons representing the state of California is controlled and must be approved by the Governor's Office. [The Committee is prohibited from requiring or approving a travel request for any of its employees, officers, or members to travel to a state that, after June 26, 2015, has enacted a law that 1\) has the effect of voiding or repealing existing state or local protections against discrimination on the basis of sexual orientation, gender identity, or gender expression; 2\) authorizes or requires discrimination against same-sex couples or their families or on the basis of sexual orientation,](#)

[gender identity, or gender expression; or 3\) creates an exemption to antidiscrimination laws in order to permit discrimination against same-sex couples or their families or on the basis of sexual orientation, gender identity, or gender expression. The Attorney General maintains on its website \(\[oag.ca.gov/ab1887\]\(http://oag.ca.gov/ab1887\)\) a current list of states subject to California's ban on state-funded and state-sponsored travel.](#)

Travel Reimbursement

(SAM Section 700 et seq. & DCA Memorandum 96-01)

Rules governing reimbursement of travel expenses for LATC members are the same as for management level state staff. LATC members must submit the originals of all receipts, with the exception of meals, and, when applicable, a copy of the airline itinerary and hotel receipt showing the balance paid, to the LATC staff. All expenses shall be claimed on the appropriate travel expense claim forms. The staff maintain these forms and complete them as needed. The staff complete travel expense reimbursements in CalATERS Global and maintain copies of these reports and submitted receipts. It is advisable for LATC members to submit their travel expense forms immediately after returning from a trip and not later than two weeks following the trip.

In order for the expenses to be reimbursed, LATC members shall follow the procedures contained in DCA Departmental Memoranda that are periodically disseminated by the Director and are provided to LATC members on at least an annual basis by the staff.

Salary Per Diem

(B&P Code Section 103)

Each member of a board, commission or committee created in various chapters of Division 3 (commencing with section 5000) is eligible to receive a per diem of \$100 for each day actually spent in the discharge of official duties, unless on any day served, the member also received compensation for their regular public employment. Reimbursement of travel and other related expenses for LATC members is also regulated by section 103.

In relevant part, this section provides for the payment of salary per diem for LATC members “for

each day actually spent in the discharge of official duties,” and provides that the LATC member **“shall be reimbursed for traveling and other expenses necessarily incurred in the performance of official duties.”**

(Board/LATC Policy)

Accordingly, the following general guidelines shall be adhered to in the payment of salary per diem or reimbursement for travel:

No salary per diem or reimbursement for travel-related expenses shall be paid to LATC members except for attendance in official Board or committee meetings, unless a substantial official service is performed by the LATC member. Attendance at gatherings, events, hearings, conferences, or meetings other than official Board or committee meetings in which a substantial official service is performed shall be approved in advance by the LATC chair. The LATC program manager shall be notified of the event and approval shall be obtained from the LATC chair prior to LATC member's attendance.

The term “day actually spent in the discharge of official duties” shall mean such time as is expended from the commencement of a Board or committee meeting to the conclusion of that meeting. Where it is necessary for a LATC member to leave early from a meeting, the LATC chair shall determine if the member has provided a substantial service during the meeting and, if so, shall authorize payment of salary per diem and reimbursement for travel-related expenses.

For LATC specified work, LATC members will be compensated for actual time spent performing work authorized by the LATC chair. That work includes, but is not limited to, authorized attendance at other gatherings, events, meetings, hearings, or conferences; CLARB committee work; and travel time on non-meeting days (out-of-state). That work does not include preparation time for LATC or subcommittee meetings. LATC members cannot claim salary per diem for time spent traveling to and from a Board or committee meeting.

Chapter 4

Other Policies/Procedures

LATC Member Disciplinary Actions

(Board/LATC Policy; Gov. Code Section 11125.4)

An LATC member may be censured by the Board if, after a hearing before the Board, the Board determines that the member has acted in an inappropriate manner.

The Board president shall preside over the hearing unless the censure involves the president's own actions, in which case the Board vice president shall preside. In accordance with the Bagley-Keene Open Meeting Act, the censure hearing shall be conducted in open session.

Removal of LATC Members

(B&P Code Sections 106 & 106.5)

The Governor has the power to remove from office at any time any member of any board appointed by him/her for continued neglect of duties required by law or for incompetence or unprofessional or dishonorable conduct. The Governor may also remove from office a member of a board or other licensing entity in DCA who directly or indirectly discloses examination questions to an applicant for examination for licensure.

Resignation of LATC Members

(Gov. Code Section 1750)

In the event that it becomes necessary for an LATC member to resign, a letter shall be sent to the appropriate appointing authority (Governor, Senate Rules Committee, or Speaker of the Assembly) with the effective date of the resignation. Written notification is required by state law. A copy of this letter shall also be sent to the director of DCA, the Board president, LATC chair, and the EO.

Officers of the LATC

(Board/LATC Policy)

The LATC shall elect from its members a chair and a vice chair to hold office for one year or until their successors are duly elected and qualified.

Election of Officers

(Board/LATC Policy)

The LATC shall elect the officers at the last meeting of the calendar year. Officers shall serve a term of one year. All officers may be elected on one motion or ballot as a slate of officers unless more than one LATC member is running per office. An officer may be re-elected and serve for more than one term.

Officer Vacancies*(Board/LATC Policy)*

If an office becomes vacant during the year, an election shall be held at the next meeting. If the office of the chair becomes vacant, the vice chair shall assume the office of the chair. Elected officers shall then serve the remainder of the term.

Task Force or Subcommittee Appointments*(Board/LATC Policy)*

The LATC chair shall establish task force groups or special subcommittees as he or she deems necessary. The composition of the task forces or special subcommittees and the appointment of the members shall be determined by the LATC chair in consultation with the vice chair and LATC program manager. When task forces or special subcommittees include the appointment of non-LATC members, all impacted parties should be considered.

Attendance at Task Force or Subcommittee Meetings

(Board/LATC Policy; Gov. Code Section 11122.5(c)(6))

If an LATC member wishes to attend a meeting of a task force or special subcommittee in an official capacity of which he/she is not a member, that LATC member shall obtain permission from the LATC chair to attend and shall notify the task force or subcommittee chair and LATC program manager. LATC members who are not members of the task force or subcommittee that is meeting cannot vote during the task force or subcommittee meeting and may attend only as observers. If there is a quorum of the LATC at a task force or subcommittee meeting, LATC members who are not members of the task force or subcommittee must sit in the audience and cannot participate in task force or subcommittee deliberations.

Task forces and subcommittees operate at the direction of the LATC to fulfill specific goals in the Strategic Plan. Task force and subcommittee chairs shall lead actions toward such goals without undue influence on the part of LATC officers or members.

Board and LATC Staff*(DCA Reference Manual)*

Employees of the Board and LATC, with the exception of the EO, are civil service employees. Their employment, pay, benefits, discipline, termination, and conditions of employment are governed by civil service laws, regulations, and collective bargaining labor agreements. Because

of this complexity, it is most appropriate that the LATC delegate all authority and responsibility for management of the civil service staff to the LATC program manager. LATC members shall not intervene or become involved in specific day-to-day personnel transactions or matters.

**Program Manager
Evaluation**

(Board/LATC Policy)

LATC members shall provide input regarding the performance of the LATC program manager on an annual basis. The LATC chair shall disseminate a performance appraisal form to all LATC members who shall complete the form and return it to the chair who will, in turn, submit it to the EO.

LATC Administration

(DCA Reference Manual)

LATC members should be concerned primarily with formulating decisions on LATC policies rather than decisions concerning the means for carrying out a specific course of action. It is inappropriate for LATC members to become involved in the details of program delivery. Strategies for the day-to-day management of programs and staff shall be the responsibility of the LATC program manager and EO.

Consistent with the budget and Strategic Plan, requests by individual LATC members that are not directly associated with the LATC's goals or have an impact on staff workload, as determined by the chair and program manager, may be declined. In the event the request is by the chair, the vice chair shall review the request.

LATC Budget

(Board/LATC Policy)

The vice chair shall serve as the LATC's budget liaison with staff and shall assist staff in the monitoring and reporting of the budget to the LATC. Staff will conduct an annual budget briefing with the LATC with the assistance of the LATC vice chair. The EO, LATC program manager, or his/her designee will attend and testify at legislative budget hearings and shall communicate all budget issues to the Administration and Legislature.

Conflict of Interest

(Gov. Code Section 87100)

No LATC member may make, participate in making, or in any way attempt to use his or her official position to influence a governmental decision in which he or she knows or has reason to

know he or she has a financial interest. Any LATC member who has a financial interest shall disqualify himself/herself from making or attempting to use his/her official position to influence the decision. Any LATC member who feels he or she is entering into a situation where there is a potential for a conflict of interest should immediately consult the LATC program manager or the LATC's legal counsel. The question of whether or not a member has a financial interest that would present a legal conflict of interest is complex and must be decided on a case-by-case review of the particular facts involved. For more information on disqualifying yourself because of a possible conflict of interest, please refer to the Fair Political Practice Committee's manual on their website: fppc.ca.gov.

Financial Disclosure

(Gov. Code Section 87302(b))

The Conflict of Interest Code also requires LATC members to file annual financial disclosure statements by submitting a Form 700 – Statement of Economic Interest. New LATC members are required to file a disclosure statement within 30 days after assuming office. Annual financial statements must be filed no later than April 1 of each calendar year.

A “leaving of office statement” must be filed within 30 days after an affected LATC member leaves office.

LATC members are not required to disclose all of their financial interests. Gov. Code section 87302 (b) explains when an item is reportable:

An investment, interest in real property, or income shall be made reportable by the Conflict of Interest Code if the business entity in which the investment is held, the interest in real property, or the income or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of his or her position.

Refer to the Fair Political Practices Commission's website fppc.ca.gov to determine what investments, interests in property, or income must be reported by a member. Questions concerning

particular financial situations and related requirements should be directed to DCA's Legal Affairs Division.

Incompatible Activities

(Gov. Code Section 19990)

Following is a summary of the employment, activities, or enterprises that might result in or create the appearance of being inconsistent, incompatible, or in conflict with the duties of state officers:

- Using the prestige or influence of a state office or employment for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using state time, facilities, equipment, or supplies for the officer's or employee's private gain or advantage, or the private gain or advantage of another.
- Using confidential information acquired by the virtue of state employment for the officer's or employee's private gain or advantage or advantage of another.
- Receiving or accepting money, or any other consideration, from anyone other than the state for the performance of an act which the officer or employee would be required or expected to render in the regular course or hours of his or her state employment or as a part of his or her duties as a state officer or employee.
- Performance of an act other than in his or her capacity as a state officer or employee knowing that such an act may later be subject, directly or indirectly, to the control, inspection, review, audit, or enforcement by such officer or employee of the agency by which he or she is employed. (This would not preclude a member of the LATC from performing normal functions of his or her occupation.)
- Receiving or accepting, directly or indirectly, any gift, including money, any service, gratuity, favor, entertainment, hospitality, loan, or any other thing of value from anyone who is seeking to do business of any kind with the state or whose activities are regulated or controlled in any way

by the state, under circumstances from which it reasonably could be inferred that the gift was intended to influence him or her in his or her official duties or was intended as a reward for any official action on his or her part.

The aforementioned limitations do not attempt to specify every possible limitation on member or employee activity that might be determined and prescribed under the authority of Gov. Code section 19990. DCA's Incompatible Work Activities OHR 10-01 is included in Appendix C.

Ex Parte Communications

*(Gov. Code Section
11430.10 et seq.)*

The Government Code contains provisions prohibiting ex parte communications. An "ex parte" communication is a communication to the decision-maker made by one party to an enforcement action without participation by the other party. While there are specified exceptions to the general prohibition, the key provision is found in subdivision (a) of section 11430.10, which states:

"While the proceeding is pending, there shall be no communication, direct or indirect, regarding any issue in the proceeding to the presiding officer from an employee or representative of an agency that is a party or from an interested person outside the agency, without notice and an opportunity for all parties to participate in the communication."

Board members adjudicate disciplinary matters involving the practice of architecture and landscape architecture and are prohibited from an ex parte communication with Board enforcement staff individuals involved in disciplinary proceedings while those matters are pending. In addition, Committee members shall not participate in any ex parte communication with Board members, enforcement staff, or individuals involved in pending disciplinary proceedings.

Occasionally an applicant who is being formally denied licensure, or a licensee against whom disciplinary action is being taken, will attempt to

directly contact Board or Committee members.

If the communication is written, the person should read only far enough to determine the nature of the communication. Once he or she realizes it is from a person against whom an action is pending, they should reseal the documents and send them to the EO.

If a Committee member receives a telephone call from an applicant or licensee against whom an action is pending, he or she should immediately tell the person that discussion about the matter is not permitted, he or she will be required to recuse him or herself from any participation in the matter, and continued discussion is of no benefit to the applicant or licensee.

If a Committee member believes that he or she has received an unlawful ex parte communication, he or she should contact the Board's assigned Legal Affairs Division counsel.

Communications with Other Organizations/ Individuals

(Board/LATC Policy)

All communications relating to any LATC action or policy to any individual or organization including CLARB, ASLA, or a representative of the media shall be made only by the LATC chair, his/her designee, or the LATC program manager. Any LATC member who is contacted by any of the above should immediately inform the LATC chair or LATC program manager of the contact. All correspondence shall be issued on the LATC's standard letterhead and will be created and disseminated by the LATC office.

LATC members shall not act on behalf of the LATC without approval and consensus, including but not limited to meeting or interacting with other professional organizations, governmental entities, educational institutions, landscape architectural associations, intern associations, etc. All actions on behalf of the LATC shall be documented and communicated to the LATC program manager. The LATC program manager will then convey such information to the LATC via the monthly report or by other means, as determined necessary.

Legislation

In the event time constraints preclude Board and

(Board/LATC Policy)

LATC action, the Board delegates to the EO the authority to take action on legislation that would change the Landscape Architects Practice Act, impact a previously established Board or LATC policy, or affect the public's health, safety, or welfare. Prior to taking a position on legislation, the EO shall consult with the LATC chair and Board president. The LATC shall be notified of such action as soon as possible.

Contact with Candidates

(Board/LATC Policy)

LATC members shall not intervene on behalf of a candidate for any reason. They should forward all contacts or inquiries to the LATC program manager.

Gifts from Candidates

(Board/LATC Policy)

Gifts of any kind to LATC members or the staff from candidates for licensure with the LATC shall not be permitted.

Request for Records Access

(Board/LATC Policy)

No LATC member may access a licensee or candidate file without the program manager's knowledge and approval of the conditions of access. Records or copies of records shall not be removed from the LATC's office.

Business Cards

(Board/LATC Policy)

Business cards will be provided to each LATC member upon request with the LATC's name, address, telephone, fax number, and website address. A LATC member's business address, telephone, and fax number, and e-mail address may be listed on the card at the member's request.

Letterhead

(Board/LATC Policy)

Only correspondence that is transmitted directly by the LATC office may be printed or written on LATC letterhead stationery. Any correspondence from a LATC member requiring the use of LATC stationery or the LATC's logo should be transmitted to the LATC office for finalization and distribution.

Chapter 5

Training

Once a LATC member is appointed, the LATC staff will send an email containing a list of all the

required trainings, their due dates, and instructions about their completion. LATC members should send the certificate of completion or signature page to the LATC staff who maintain LATC members' records. For additional information, LATC members may refer to DCA's online Board Member Resource Center which may be found at: dca.boardmembers.ca.gov

LATC Member Orientation

(B&P Code Section 453)

Newly appointed and reappointed LATC members must attend a Board Member orientation training course offered by DCA within one year of assuming office. The orientation covers information regarding required training, in addition to other topics that will ensure a member's success, including an overview of DCA.

Ethics

(Gov. Code Section 11146 et seq.)

State appointees and employees in exempt positions are required to take an ethics orientation within the first six months of their appointment and every two years thereafter. To comply with that directive, LATC members may take the interactive course provided by the Office of the Attorney General, which can be found at oag.ca.gov/ethics.

Sexual Harassment Prevention

(Gov. Code Section 12950.1)

LATC members are required to undergo sexual harassment prevention training and education once every two years, in odd years. Staff will coordinate the training with DCA.

Defensive Driver

(SAM Section 0751)

All state employees, which includes Board and committee members, who drive a vehicle (state vehicle, vehicles rented by the state, or personal vehicles for state business) on official state business must complete the Department of General Services (DGS) approved defensive driver training (DDT) within the first six months of their appointment and every four years thereafter.

APPENDIX A**Landscape Architects Technical Committee (LATC)
Committee Member Position Description**

The LATC exists to regulate the practice of landscape architecture in the interest and for the protection of the public health, safety, and welfare. The LATC is comprised of five landscape architects. Each member of the LATC is responsible first and foremost for public protection.

The LATC manages its responsibilities by delegating to subcommittees and task forces as needed and its staff, thereby enabling the LATC to more effectively fulfill its mission. The LATC employs a program manager to exercise the powers and perform the duties delegated by the LATC. The program manager manages the LATC's staff (currently five positions). With direction from the LATC and the Strategic Plan, the LATC staff implement the LATC's examination, licensing, enforcement, and administration programs.

As a whole, the LATC's responsibilities include the following:

- Assist the Board in the examination of candidates for landscape architecture licensure and, after investigation, evaluate and make recommendations regarding potential violations of the Landscape Architects Practice Act.
- Investigate, assist, and make recommendations to the Board regarding the regulation of landscape architects in this state.
- Perform duties and functions that have been delegated to it by the Board pursuant to B&P Code section 5620.
- Send a representative to all meetings of the full Board to report on the LATC's activities.

Individual LATC member responsibilities include:

- Attendance at LATC meetings. (The LATC regularly meets quarterly, but may meet more often if necessary. Meetings are generally one-day and are scheduled in locations throughout California. Overnight travel may be necessary. Every two years, the LATC meeting includes a Strategic Planning session.)
- Participation on LATC subcommittees and task forces. (Time commitment for committees and task forces vary.)
- LATC members are also expected to invest the time to review the "recommended reading" necessary to participate effectively in LATC business. Such readings include the LATC Member Administrative Manual, Sunset Review Report, Board and committee packets, recent studies and reports, and related material.
- Acting as a representative of the LATC to communicate information to the professional and educational communities.
- Possible participation in the Council of Landscape Architectural Registration Boards (CLARB) meetings. (CLARB meets once per year. Meetings are

usually three days, and up to two days travel time may be required, depending on meeting location.)

- Possible participation as a CLARB officer or director. (The LATC has a goal of exercising more influence on CLARB by encouraging its members to participate at officer levels of the organization.)

APPENDIX B

DCA Incompatible Work Activities (OHR 14-01)

AGENDA ITEM K: REVIEW AND DISCUSS REQUIREMENTS OF LANDSCAPE ARCHITECTS FOR THE QUALIFIED STORMWATER POLLUTION PREVENTION PLAN DEVELOPER (QSD) CERTIFICATION

Background Summary

The Landscape Architects Technical Committee (LATC) received correspondence from a licensee inquiring whether LATC has a program similar to the program offered to professionals licensed by the Board of Professional Engineers, Land Surveyors and Geologists (BPELSG) to become QSD certified. LATC staff researched the QSD training program and its necessity.

The State Water Resources Control Board's (State Water Board) National Pollutant Discharge Elimination System General Permit for Storm Water Discharges Associated with Construction Land Disturbance (Construction General Permit) includes training and certification requirements for individuals developing and implementing Storm Water Pollution Prevention Plans (SWPPP). The Construction General Permit requires that a QSD possess one of the eight underlying professional licenses or certifications (Professional Civil Engineer, Professional Geologist or Engineering Geologist, Landscape Architect, Professional Hydrologist, Certified Professional in Erosion and Sediment Control, Certified Inspector of Sediment and Erosion Control, Certified Erosion, Sediment and Storm Water Inspector, or Certified Professional in Storm Water Quality) and have attended a State Water Board-sponsored or approved QSD training program. The State Water Board-sponsored QSD training program is an informal training and was developed, and is implemented, by the State Water Board and is only offered to professionals licensed by BPELSG who then self-certify upon reviewing the provided training materials. This informal training does not require an exam due to the State Water Board determining that the professionals licensed by BPELSG already having prior training and knowledge of QSD requirements. All other qualified professionals must complete a State Water Board-approved QSD training program and successfully pass an exam upon completion of the training to ensure they possess the proper knowledge to become certified. The State Water Board-approved QSD training program is administered by a Qualified SWPPP Practitioner (QSP).

The California Stormwater Quality Association (CASQA) has been approved by the State Water Board to provide QSP training and with input and oversight the CASQA has trained over a hundred Trainers of Record (QSPs) who have then trained thousands of QSDs. The training consists of Construction General Permit requirements review and technical guidance to assure all SWPPPs are in compliance with the Construction General Permit. Professionals completing the QSD training program through CASQA must also successfully pass the QSD Exam in order to become certified. Once certified, professionals register at the Water Programs at the Sacramento State website. As of September 17, 2019, there are 87 licensed landscape architects currently QSD certified.

Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation for construction projects encompassing one acre or more. Additional activity subject to this permit is construction activity associated with Linear Underground/Overhead Projects including, but not limited to, those activities necessary for the installation of underground and overhead linear facilities, underground utility mark-out, potholing, concrete and asphalt cutting and removal, trenching, excavation, boring and drilling, and concrete and/or pavement repair or replacement. Construction activity not subject to this permit include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

For additional information, attached are documents regarding QSD qualification, frequently asked questions regarding QSD qualification, and frequently asked questions regarding the Construction General Permit that requires a QSD certified professional.

Action Requested

Review and discuss the Qualified Storm Water Pollution Prevention Plans Developer training program as it pertains to landscape architects.

Attachments

1. Qualified Storm Water Pollution Prevention Plans Practitioner or Developer (QSP/QSD) Qualification
2. QSP/QSD Qualification Frequently Asked Questions
3. Construction General Permit Frequently Asked Questions



California Stormwater
Quality Association



Email or Username

Password

[Forgot Password?](#)

[Missing an Email?](#)

[Create an Account](#)

LOG IN

QSP / QSD Qualification

Thank you for your interest in becoming a Construction General Permit Qualified SWPPP Practitioner (QSP) and/or Qualified SWPPP Developer (QSD).

QSP and QSD qualifications are good for two years, after which you must renew your qualification. Your name, QSP or QSD certificate number and expiration date, and underlying registration/certification type and number will be posted for public reference on the [QSD and QSP Lookup Tool \(https://www.owp.csus.edu/qsd-lookup.php\)](https://www.owp.csus.edu/qsd-lookup.php). You can choose to make your contact information available as well. You are responsible for keeping your contact information current. If you change jobs, move to a new address, or change your email address, be sure to update your listing.

Qualified California Construction General Permit Trainers of Record

View the list of qualified California CGP Trainers of Record (CGP ToRs) (8-14-2019)
(https://www.casqa.org/sites/default/files/downloads/cgp_tors_8-14-19.pdf)

Steps To Qualification

Renew Qualifications:

Learn more (<https://www.casqa.org/resources/qspqsd-certification/qualification-renewal>)

New Qualifications:

Important note: Unless noted otherwise below, if the steps are not completed in order, the individual will not receive credit for the step.

1. Take a QSP / QSD training course.

To become a qualified QSP and/or QSD, you must take a training course offered by a qualified California Construction General Permit Trainer of Record (CGP-ToR). Your Trainer of Record will create an Office of Water Program's (OWP) online account for you when you have completed training.

View dates and locations of upcoming QSP and QSD training courses (<https://www.casqa.org/resources/qsp-qsd-qualification/qspqsd-training-course-calendar>)

2. Register to take the QSP and/or QSD exam.

Register at the Water Programs at Sacramento State (OWP) website (<https://www.owp.csus.edu/join.php>) and pay the \$125 fee (good for 2 years). This also provides you with access to your online account.

3. Provide information on underlying certification/registration.

The Construction General Permit requires an underlying certification or registration as a prerequisite to becoming a QSP or QSD. Enter your other certification or registration (type and #) in your OWP online account. You must enter a completed underlying certificate. In-training status does not qualify (ie: CESSWI-IT).

View the chart of accepted prerequisite certifications/registrations

(http://www.waterboards.ca.gov/water_issues/programs/stormwater/const_permit_faqs.shtml#18) on the Storm Water Program / General Construction - Frequently Asked Questions page of the State Water Resources Control Board website (question #18).

Notes:

- Step 4 may be taken before step 3.
- Regardless of the time taken to obtain your underlying certificate, your completion of the training course and your QSP and/or QSD exam scores will not expire.

4. Take and pass the QSP and/or QSD exam.

- To become a QSP, you must take the timed 2-hour QSP exam and pass with a score of better than 70%.
- To become a QSD, you must take the QSP and QSD exams (you have an additional hour) and pass each exam with a score of better than 70%.
- Upon passing, your QSP or QSD certificate will be sent to the email address you provide during registration.

Additional Qualification Option for QSDs Only

In July 2013 the State Water Board launched a new, second option for individuals with specified licenses to become or renew as a QSD. For information visit the [California Board of Professional Engineers, Land Surveyors and Geologists \(CBPELSG\) Licensed QSD Training Program](#)

(http://www.waterboards.ca.gov/water_issues/programs/stormwater/training.shtml). The basic differences in the two options for qualifying or renewing as a QSD are shown in this [comparison table](#).

(https://www.casqa.org/sites/default/files/downloads/qsd_qualification_options_comparison-1.pdf)

Questions?

View answers to some frequently asked questions about QSP / QSD Qualification

(<https://www.casqa.org/resources/qspqsd-certification/qspqsd-qualification-faq>)

QSP / QSD Qualification

[QSP/QSD Training Course Calendar \(/resources/qsp-qsd-qualification/qspqsd-training-course-calendar\)](/resources/qsp-qsd-qualification/qspqsd-training-course-calendar)

[Qualification Renewal \(/resources/qspqsd-certification/qualification-renewal\)](/resources/qspqsd-certification/qualification-renewal)

[Qualification FAQ \(/resources/qspqsd-certification/qspqsd-qualification-faq\)](/resources/qspqsd-certification/qspqsd-qualification-faq)

[Construction General Permit Trainer of Record \(/resources/qsp-qsd-qualification/construction-general-permit-trainer-record\)](/resources/qsp-qsd-qualification/construction-general-permit-trainer-record)

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California Stormwater
Quality Association



Qualification FAQ

Retaking The Exam

1. If I don't pass the exam, will I be able to retake the exam immediately? Are there a set number of times I can retake the exam?

You will be able to retake your exam immediately. Only one retake will be possible. If you do not pass the exam a second time, you will be required to retake training for the exam you did not pass before you can retake your exam again.

Taking the Online Exam(s)

2. Is there a time limit to the online exam; how does it work?

Yes, the online testing is timed. The computer automatically stops the test when the allotted time is up.

3. What controls have been put in place to discourage and punish cheating on the online exams?

a) Virtually no two exams will be the same. As opposed to the paper version of the exam(s), of which there were a limited number of versions, each subject to theft; online testing allows us to generate thousands of versions — virtually no two exams will be alike so serial cheating will be virtually impossible.

b) We can examine and identify suspicious patterns. The online system greatly facilitates our ability to identify abuses by analyzing metrics on the exams and examinees' information. We did not have this ability with the paper test.

c) Before proceeding to take an exam, examinees must agree to an affidavit statement regarding the identity of the exam taker stating that no assistance was received from any persons, and that only specifically allowed aids were used to take the exam. The affidavit statement subjects examinees to punishment to the greatest extent allowable by law for falsification of their affidavit and there is sufficient legal case history to support that punishment.

Examinees will be required to agree to the following affidavit statement: "I hereby certify under penalty of law that I personally will complete the exam on my own and without assistance from any persons, and that the only aids I will

use in taking the exam will be the California Construction General Permit and a non-programmable calculator. I acknowledge that falsification of this affidavit will result in punishment to the greatest extent allowable by law."

4. When a person is taking the exam is it possible for them to go back to a previous page and review and/or change their answers?

Yes.

Registration, Fees, Payment

5. We have several employees that need to get registered. Can I register all of them at one time?

No. Each individual exam taker must create their own individual login and submit their registration.

6. I need to use the same email address for all of our employees but the system is not letting me. What can I do?

The system will only allow one registrant per email address, therefore you must use individual email addresses for each registrant. Consider employees' using their personal email addresses.

7. What forms of payment will the online system accept for examination / registration?

Online examination / registration will require payment with a credit card ONLY (VISA, MasterCard, American Express, Discover). Mail-in registration using checks or cash is not available.

8. When I register with OWP (Office of Water Programs) does that make me a CASQA member?

No. A CASQA membership is a yearly paid membership. Please visit our [CASQA membership page](https://www.casqa.org/membership) (<https://www.casqa.org/membership>) for more information about the benefits, discounts, and levels of membership available.

Miscellaneous

9. Does meeting QSD qualification requirements satisfy meeting QSP qualification requirements?

Yes.

10. What is the minimum NICET level to satisfy the prerequisite QSD registration?

The State Water Board has stated that a Level 3 NICET is required.

QSP / QSD Qualification

[QSP/QSD Training Course Calendar \(/resources/qsp-qsd-qualification/qspqsd-training-course-calendar\)](/resources/qsp-qsd-qualification/qspqsd-training-course-calendar)

[Qualification Renewal \(/resources/qspqsd-certification/qualification-renewal\)](/resources/qspqsd-certification/qualification-renewal)

[Qualification FAQ \(/resources/qspqsd-certification/qspqsd-qualification-faq\)](/resources/qspqsd-certification/qspqsd-qualification-faq)

[Construction General Permit Trainer of Record \(/resources/qsp-qsd-qualification/construction-general-permit-trainer-record\)](/resources/qsp-qsd-qualification/construction-general-permit-trainer-record)

Home → Water Issues → Programs → Stormwater

Storm Water Program

ORDER 2009-0009-DWQ

CONSTRUCTION GENERAL PERMIT

EFFECTIVE JULY 1, 2010

Disclaimer: Nothing herein constitutes official agency interpretation of State Water Resources Control Board Order 2009-0009-DWQ. The actual provisions of Order 2009-0009-DWQ should be consulted, as they will govern in all circumstances. The information contained in this FAQ is for general guidance purposes only, and the State Water Board does not assume any legal liability or responsibility for the accuracy, completeness, or usefulness of this information.

Construction General Permit ♦ Technical Bulletins

- [Issue # 1 \(2012\)](#)
- [Issue # 2 \(2014\)](#)
- [Issue # 3 \(2016\)](#)
- [Issue #4 \(2018\)](#)

Construction General Permit - Frequently Asked Questions

List of Acronyms:

Legally Responsible Person (LRP)
 Notice of Intent (NOI)
 Permit Registration Documents (PRDs)
 Qualified SWPPP Developer (QSD)
 Qualified SWPPP Practitioner (QSP)
 Rain Event Action Plan (REAP)
 Storm Water Pollution Prevention Plan (SWPPP)

1. [How do I know if I need this permit?](#)
2. [Are there other permits I should be aware of when applying for the Construction General Permit?](#)
3. [Who should apply for the Construction General Permit?](#)
4. [What are the fees associated with the Construction General Permit?](#)
5. [Who do I contact for questions regarding an invoice?](#)
6. [How do I apply for coverage?](#)
7. [How do I submit a NOI for a project that crosses regional board boundaries?](#)
8. [How do I get my WDID number after I submit my PRDs to SMARTS?](#)
9. [How can I find out the status of my permit?](#)
10. [Can I terminate or sell a portion of my project?](#)
11. [What if I sell the property prior to completing the construction?](#)
12. [Does a QSP or QSD need to maintain the certifications listed in Section VII of the Construction General Permit?](#)
13. [Can we hire one QSP to train all of our company's superintendents?](#)
14. [Can a QSD or QSP be an independent contractor?](#)
15. [Is the QSD and/or QSP responsible for project compliance, or the project owner?](#)
16. [How can I become a QSD/\(QSP\)?](#)
17. [How much will it cost to take the State Sponsored QSD/QSP Training course?](#)
18. [Where can I get information on QSD/QSP pre-requisite programs to see if I am eligible?](#)
19. [What is the role of the local municipality in reviewing/enforcing the SWPPP?](#)
20. [Who is responsible for preparing and implementing the REAP? Do you have to be a QSP?](#)
21. [When do I need to develop a REAP?](#)
22. [Where can I get copies of inspection forms?](#)
23. [What is a Sediment Sensitive Watershed, and how is it determined?](#)
24. [Where can I obtain guidance for pH and turbidity sampling?](#)
25. [What is the meaning and use of the term "direct discharge"?](#)
26. [Does my project need to do the post-construction requirements in the Construction General Permit or the standards in the local municipal storm water permit?](#)
27. [Do all projects need to submit an Annual Report?](#)

28. Do I need to revise my risk re-calculation if my project extends past the original construction end date specified?
29. Is effluent monitoring required at my site?
30. When is a pre-storm event visual inspection required?
31. Assuming my project lasts at least one year, do I need to implement erosion and sediment controls year round, even though a small percentage of my RUSLE Rainfall-Runoff Erosivity Factor (R factor) occurs during the summer months?
32. How should "total area to be disturbed" on the NOI form be calculated for linear construction activity?
33. Since linear construction activities can transverse or enter into different Regional Boards jurisdictions, how many NOIs must be submitted?
34. Attachment A requires that photographs of the site taken before, during, and after storm events are taken during inspections and submitted through the State Water Board's SMARTS website every three rain events. Are photographs required every rain event or every third rain event for linear construction activities?
35. Do the visual inspection requirements in Attachment A, section M(3)(a)(iv)(2) and (3) apply to Linear Underground/Overhead - Risk Type 1 projects in rural (undeveloped/unpaved) settings?

1. How do I know if I need coverage under the Construction General Permit?

Construction activity resulting in a land disturbance of one acre or more, or less than one acre but part of a larger common plan of development or sale must obtain the General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities (Construction General Permit). Construction activity subject to this permit includes clearing, grading and disturbances to the ground such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility.

Storm water discharges in the [Lake Tahoe Hydrologic Unit](#) are regulated by a separate construction permit(s) adopted by the California Regional Water Quality Control Board, and may not seek coverage under the State Water Resources Control Board's General Permit. Storm water discharges associated with construction activity on Tribal lands will be regulated by the U.S. Environmental Protection Agency.

2. Are there other permits I should be aware of when applying for the Construction General Permit?

There may be other permits or requirements in addition to the Construction General Permit. For example, you may also need a streambed alteration agreement from the [Department of Fish and Wildlife](#), a Water Quality Certification (Clean Water Act Section 401) as administered by the State and Regional Water Quality Control Boards, and/or Clean Water Act Section 404 permit administered by the U. S. Army Corp. of Engineers. Contact the appropriate Regional Water Quality Control Board to determine if other permits are required for your construction activity.

3. Who should apply for the Construction General Permit?

The Legally Responsible Person (LRP). The LRP will typically be the project proponent. The categories of persons or entities that are eligible to serve as the LRP are set forth below. For any construction or land disturbance project where multiple persons or entities are eligible to serve as the LRP, those persons or entities shall select a single LRP. In exceptional circumstances, a person or entity that qualifies as the LRP may provide written authorization to another person or entity to serve as the LRP. In such a circumstance, the person or entity that provides the authorization retains all responsibility for compliance with the General Permit. Except as provided in category 2(d), a contractor who does not satisfy the requirements of any of the categories below is not qualified to be an LRP.

The following persons or entities may serve as an LRP:

- a. A person, company, agency, or other entity that possesses a real property interest (including, but not limited to, fee simple ownership, easement, leasehold, or other rights of way) in the land upon which the construction or land disturbance activities will occur for the regulated site.
- b. In addition to the above, the following persons or entities may also serve as an LRP:
 - i. For linear underground/overhead projects, the utility company, municipality, or other public or private company or agency that owns or operates the linear utility project (LUP);
 - ii. For land controlled by an estate or similar entity, the person who has day-to-day control over the land (including, but not limited to, a bankruptcy trustee, receiver, or conservator);
 - iii. For pollution investigation and remediation projects, any potentially responsible party that has received permission to conduct the project from the holder of a real property interest in the land; or d. For U.S. Army Corp of Engineers projects, the U.S. Army Corps of Engineers may provide written authorization to its bonded contractor to serve as the LRP, provided, however, that the U.S. Army Corps of Engineers is also responsible for compliance with the general permit, as authorized by the Clean Water Act or the Federal Facilities Compliance Act.

4. What are the fees associated with the Construction General Permit?

The annual fees are based on total disturbed area of the construction project in acres. [The Storm Water fee schedule can be viewed here.](#) You will continue to receive an annual invoice until your project is complete and a Notice of Termination is electronically submitted via SMARTS and approved by each Regional Water Quality Control Board that your project resides in.

5. Who do I contact for questions regarding an invoice?

If you have questions regarding outstanding invoices or payments please contact our Fee Unit at (916) 341-5247 or FeeBranch@waterboards.ca.gov.

6. How do I apply for coverage?

The LRP must electronically submit Permit Registration Documents (PRDs) prior to commencement of construction activities in the Storm Water Multi- Application Report Tracking System (SMARTS). PRDs consist of the NOI, Risk Assessment, Post-Construction Calculations, a Site Map, the SWPPP, a signed certification statement by the LRP, and the first annual fee.

7. How do I submit a permit application for a project that crosses regional board boundaries?

If a single project traverses more than one Regional Water Quality Control Board (Regional Water Board) jurisdiction, a complete Notice of Intent package (Notice of Intent, site map, and fee) and Notice of Termination (upon completion of each section), must be filed for each Regional Water Board area. NOI documents are submitted into SMARTS.

8. **How do I get my WDID number after I submit my PRDs to SMARTS?**
PRDs consist of the Notice of Intent, Risk Assessment, Post-Construction Calculations, a Site Map, the SWPPP, a signed certification statement by the LRP, and the first annual fee. Once these components have been submitted to the SMARTs, a WDID number will automatically be emailed to the LRP.
9. **How can I find out the status of my permit?**
Anyone can access the State Water Board [Storm Water Program Database](#) (SMARTS) to obtain the status of a permit by either logging into SMARTS or by using the SMARTS public search tool.
10. **Can I terminate or sell a portion of my project while permitted under the Construction General Permit?**
Yes, the Construction General Permit allows a discharger to terminate portions of a construction project if those portions have been sold to another owner. The permit is not transferable, so the responsibility to obtain permit coverage, update the Storm Water Pollution Prevention Plan (SWPPP), and comply with permit requirements becomes that of the new owner. The seller must notify the new owner about his/her responsibilities concerning the permit, and must notify the State Water Board by submitting the new owner's name, address, and phone number on the Notice of Termination (NOT) form for the termination to be processed. The seller must also disclose the state of construction, primarily if construction activity is ongoing, or if the post-construction requirements are completed. See Construction General Permit, Section II.C Revising Permit Coverage for Change of Acreage or New Ownership for more clarification.
11. **What if I sell the property prior to completing the construction?**
The new owner must submit new PRDs. For ongoing construction activity involving a change of ownership, the new owner must review the existing Storm Water Pollution Prevention Plan (SWPPP), determine if it is appropriate for the construction activity being undertaken. If it is not in compliance, then the SWPPP must be amended, or a new SWPPP developed.
12. **Does a QSP or QSD need to maintain the certifications listed in Section VII of the Construction General Permit?**
Yes. The Construction General Permit requires a QSP or QSD to have one of the certifications listed in Section VII to maintain standing as a QSP or QSD.
13. **Can we hire one QSP to train all of our company's superintendents?**
Yes, one QSP can train all company superintendents. However, the Regional Water Board inspectors may ask to meet and/or conduct an inspection with the QSP responsible for a particular project/site, and that individual should be accessible. The QSP is responsible for the implementation of BMPs and training construction site employees on the SWPPP implementation on each construction project, not the trained superintendents.
14. **Can a QSD or QSP be an independent contractor?**
Yes.
15. **Is the QSD and/or QSP responsible for project compliance, or the project owner?**
The LRP is always ultimately responsible for project compliance. This individual must certify the PRDs and will be the recipient of any Notices of Violations (NOVs), Administrative Civil Liabilities (ACLs), or other penalties accrued through enforcement for the project.
16. **How can I become a QSD/QSP?**
Section VII of the Construction General Permit lists required certifications that an individual must have to become a QSD and/or QSP. In addition to meeting one of the listed pre-qualifications, an individual must have attended a State Water Board sponsored or approved QSD/QSP training course. Get [information on this training course](#).
17. **How much will it cost to take the State Sponsored QSD/QSP Training course?**
Costs will vary. Since private training vendors who have been selected/approved to work as "trainers of record" and "specialized trainer" (through a structured Request for Qualifications process) will offer their own training courses. Each course will be required to be a certain length (i.e., minimum training hours for each required module; likely 2-3 days per designation) and follow prescribed standards, but training courses will vary in specific content/approach and are expected to vary in cost.

18. **Where can I get information on QSD/QSP pre-requisite programs to see if I am eligible?**

Pre-Requisite QSD/QSP / Certifications Registrations	Type	Website
California Registered Professional Civil Engineer	QSD/QSP	www.pels.ca.gov
California Registered Professional Geologist or Engineering Geologist	QSD/QSP	www.geology.ca.gov
California Registered Landscape Architect	QSD/QSP	www.larc.ca.gov
Professional Hydrologist registered through the American Institute of Hydrology	QSD/QSP	www.aihydrology.org
Certified Professional in Erosion and Sediment Control (CPESC) registered through Enviro Cert International Inc.	QSD/QSP	www.envirocertintl.org
Certified Professional in Storm Water Quality (CPSWQ) registered through Enviro Cert International Inc.	QSD/QSP	www.envirocertintl.org

Pre-Requisite QSD/QSP / Certifications Registrations	Type	Website
Professional in Erosion and Sediment Control registered through the National Institute for Certification in Engineering Technologies – Level 3 (NICET)	QSD/QSP	www.nicet.org
Certified erosion, sediment and storm water inspector through Enviro Cert International Inc. (CESSWI)	QSP	www.envirocertintl.org
Certified Inspector of Sediment and Erosion Control registered through Certified Inspector of Sediment and Erosion Control Inc. (CISEC)	QSP	www.cisecinc.org

19. What is the role of the local municipality in reviewing/enforcing the SWPPP?

The local municipal storm water programs and the Construction General Permit requirements intentionally have some overlap/redundancy. However, the local municipality has no authority to enforce the Construction General Permit requirements; this is done by the State and Regional Water Boards. Typically, the local agency is responsible for ensuring compliance with local storm water ordinance which prohibits sediment and other pollutants from entering the municipal separate storm sewer system, and with a local grading ordinance which typically requires an erosion and sediment control plan (typically a sheet in the construction plan set) for projects with a grading permit. In some cases, the local municipality may have a condition in its MS4 storm water permit requiring the agency to check that certain items are included in the SWPPP. This does not constitute approval of the SWPPP and the review is typically conducted prior to issuing a grading permit.

20. Who is responsible for preparing and implementing the REAP? Do you have to be a QSP?

The project QSP must develop and be in responsible charge of implementing the REAP. A new REAP must be prepared/revised specific to each forecasted rain event (any likely precipitation event forecast of 50% or greater probability). However, some of the REAPs for an individual project might look similar for each construction phase.

21. When do I need to develop a REAP?

A REAP must be developed 48 hours prior to any likely precipitation event (NOAA – 50 percent or greater probability of producing precipitation). This is determined by:

- a. Visit the [NOAA Website](#)
- b. Enter your zip code or city & state in the search box and click “go”
- c. Scroll down to the bottom right hand of the page under “Additional Forecasts & Information”
- d. Click on “Forecast Weather Table Interface” at the bottom of the section

22. Where can I get copies of inspection forms?

The Construction General Permit lists minimum requirements. Dischargers may develop their own inspection forms that satisfy the minimum criteria for their specific site.

23. What is a Sediment Sensitive Watershed, and how is it determined?

A sediment sensitive watershed drains into a receiving water body (1) listed on EPA's approved CWA 303 (d) list for sedimentation/siltation, turbidity with an approved TMDL or (2) designated with beneficial uses of SPAWN, MIGRATORY and COLD. Dischargers may either use the State Water Board provided GIS guidance maps (in SMARTS and at https://ftp.waterboards.ca.gov/?u=GIS_Shared&p=GIS_Download&path=/swrcb/dwg/cgp/Risk/), or conduct a site specific analysis using the State Water Board 303(d) listings and the local Regional Board Basin Plans. Where a discharger disagrees with the State Board provided GIS guidance map, a site specific analysis should be conducted with supporting documentation submitted as an attachment in SMARTS.

24. Where can I obtain guidance for pH and turbidity sampling?

The Surface Water Ambient Monitoring Program (SWAMP) has a [Guidance Compendium for Watershed Monitoring and Assessment](#). Sections 3.1.4 and 3.1.5 of this Compendium contain guidance for pH and turbidity sampling.

A SWAMP Field Methods Course training CD is also available for the public. Please contact http://www.waterboards.ca.gov/water_issues/programs/swamp/ to request a copy.

25. What is the meaning and use of the term “direct discharge”?

The Construction General Permit glossary defines direct discharge as “a discharge that is routed directly to waters of the US by means of a pipe, channel, or ditch (including a municipal storm sewer system), or through surface runoff.”

26. Does my project need to do the post-construction requirements in the Construction General Permit or the standards in the local municipal storm water permit?

Projects located within an area subject to post-construction standards of an active Phase I or II MS4 permit that has an approved Standard Urban Stormwater Mitigation Plan (SUSMP) are exempt from the post-construction requirements in the Construction General Permit. Post-construction requirements should be considered during the project design phase to prevent the pollution of storm water runoff. These requirements are achieved through implementation of Low Impact Development (LID) practices and the Construction General Permit and municipal storm water permits with post-construction requirements generally require that the amount of storm water runoff from the completed construction project site is similar to the amount of runoff from the site prior to construction. In general, the post-construction requirements.

27. Do all projects need to submit an Annual Report?

Annual Reports must be submitted by projects that are enrolled under the Construction General Permit. The Annual Reports will be submitted

electronically in [SMARTS](#). Annual Reports are due to the State Water Board on September 1 of each year with a July 1 through June 30 compliance year.

28. **Do I need to revise my risk re-calculation if my project extends past the original construction end date specified?**
Projects that extend past their original construction end date need to re-calculate their risk level to determine if the information in SMARTS is correct. Use the original start of construction date and a realistic end date when submitting your COI.
29. **Is effluent monitoring required at my site?**
Effluent monitoring is required for Risk Level 2 & 3 (LUP Type 2 & 3) project sites and Risk Level 1 (LUP Type 1) where there are non-visible pollutants. The Construction General Permit requires effluent monitoring of discharges resulting from a qualifying rain event (defined as one half inch or greater). A rain event can only conclude when there is a minimum of 48 hours of dry weather. There will be some instances where a rain event may not reach on half inch until days 2 or 3 (or later). Dischargers should take grab samples any time there is a discharge observed, and then check the rain event size at the conclusion. There will be some instances where rain events larger than one half inch will not produce discharge. Effluent Monitoring Results must be submitted electronically through SMARTS.
30. **When is a pre-storm event visual inspection required?**
The Construction General Permit requires visual monitoring for Qualifying Rain Events of 0.5 inch or more. The size of a rain event cannot be predicted so an adequate trigger for a pre-storm event visual inspection would be same trigger for the Rain Event Action Plan (REAP): 50 percent or greater probability of producing precipitation based on the National Weather Service Forecast Office (NOAA). Visit the NOAA Website
31. **Assuming my project lasts at least one year, do I need to implement erosion and sediment controls year round, even though a small percentage of my RUSLE Rainfall-Runoff Erosivity Factor (R factor) occurs during the summer months?**
An effective combination of erosion and sediment controls, as defined in the permit, must be deployed year round.
32. **How should "total area to be disturbed" on the NOI form be calculated for linear construction activity?**
All disturbances to the ground must be accounted for and considered additive (see the Construction General Permit's Attachment A.2. section on "Calculation Land Disturbance Areas of LUPs"). The following formula attempts to account for all disturbances from the construction activity, not just the trenching activity itself:
[Width of disturbance (including trench width) + Immediate access width] * Length of Project pipe
+ Areas where project-related activity occur (i.e, equipment and material storage, staging, and preparation areas, ancillary facility areas)
+ (Bore hole diameter * Immediate access width) * number of bore holes
+ New road construction width * road length
= Total area to be disturbed
This formula illustrates how to account for disturbances to the ground resulting from the construction activity. Although dischargers are not required to use this exact formula, they must include all disturbances to the ground in their total calculation.
33. **Since linear construction activities can transverse or enter into different Regional Boards jurisdictions, how many NOIs must be submitted?**
Regardless of the project scheduling, separate PRDs must be submitted electronically in SMARTS for each Regional Board area prior to the commencement of construction activities (see the Construction General Permit's Attachment A, section 4).
34. **Attachment A requires that photographs of the site taken before, during, and after storm events are taken during inspections, and submitted through the State Water Board's SMARTS website every three rain events. Are photographs required every rain event or every third rain event for linear construction activities?**
Photographs must be taken and submitted in SMARTS every third rain event regardless of rain event size. No action pertaining to photo documentation is necessary for rain events one and two.
35. **Do the visual inspection requirements in Attachment A, section M(3)(a)(iv)(2) and (3) apply to Linear Underground/Overhead - Risk Type 1 projects in rural (undeveloped/unpaved) settings?**
The specific, daily closure requirements will vary from project-to-project. The discharger must specify suitable daily closure requirements in the SWPPP that reflect the characteristics of the project and the necessary water quality protections associated with the project. [Office of Chief Counsel Memo](#), dated January 31, 2012

Please email any questions you may have about the Construction General Permit at stormwater@waterboards.ca.gov.

(Updated 9/26/18)

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The California Water Boards include the State Water Resources Control Board and nine Regional Boards
The State Water Board is one of six environmental entities operating under
the authority of the California Environmental Protection Agency
Cal/EPA | ARB | CalRecycle | DPR | DTSC | OEHHA | SWRCB

AGENDA ITEM L: DISCUSS AND POSSIBLE ACTION ON NEW LATC LOGO

Background Summary

On January 31, 2019, the Executive Committee of the California Architects Board (Board) reviewed two new logos designed by the Department of Consumer Affairs' (DCA) Office of Publications, Design and Editing (OPDE). Creating a new Board logo stemmed from a discussion with the DCA's Office of Public Affairs about the services they provide. Previously, the Board had been using the state seal of California on their letterhead and other communications. The Executive Committee reviewed two options provided by OPDE (see Attachment 1) and reviewed other DCA logos as a basis for comparison. The Executive Committee preferred one design that was more contemporary and modern, and they requested staff to work with OPDE to modify the design and present the alternative design for the Board's review and consideration.

On February 27, 2019, the Board reviewed the OPDE's proposed designs along with possible color options (see Attachment 2). Sample letterhead was presented as well as examples of letterhead from other DCA boards for comparison. The logo and color scheme that the Board selected have been included for the LATC's review (see Attachment 3). As a point of reference, attached are the LATC's current letterhead (see Attachment 4), and the Board's prior letterhead (see Attachment 5).

If the LATC is also interested in adopting a new logo, the members could consider the following entities to develop its design: 1) OPDE; 2) Committee members; or 3) Students who are in landscape architect programs.

Action Requested

The Committee is asked to consider if the LATC should adopt a new logo, and if so who should design it.

Attachments

1. Designs Created by OPDE for the Executive Committee's Review
2. Modified Designs Created by OPDE for the Board's Review
3. New Board Logo
4. LATC's Current Letterhead
5. Board's Prior Letterhead



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(sample letterhead using DCA template)



(sample letterhead using DCA template)

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Landscape Architects Technical Committee

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AGENDA ITEM M: ELECTION OF 2020 LATC OFFICERS

Members of the Landscape Architects Technical Committee will nominate and elect a Chair and Vice Chair for 2020 at today's meeting.

AGENDA ITEM N: REVIEW OF FUTURE LATC MEETING DATES

Background Summary

An updated schedule of meetings and events for the remainder of 2019 are provided to the Committee.

<u>Date</u>	<u>Meeting</u>	<u>Location</u>
<i>November 11</i>	<i>Veterans Day</i>	<i>Office Closed</i>
November 15-18	American Society of Landscape Architects Conference on Landscape Architecture	San Diego
<i>November 28-29</i>	<i>Thanksgiving Holiday</i>	<i>Office Closed</i>
December 11	California Architects Board Meeting	Los Angeles
<i>December 25</i>	<i>Christmas Day</i>	<i>Office Closed</i>