

**State of California
Office of Administrative Law**

In re:
California Architects Board

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections:

Amend sections: 2655, 5656

Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2020-0624-04

OAL Matter Type: Regular (S)

The California Architects Board proposed this action to amend two regulations that establish criteria for determining when a crime, act, or professional misconduct is substantially related to the qualifications, functions, and duties of a landscape architect, or when a landscape architect applicant or licensee has made a showing of rehabilitation related to a crime, act, or professional misconduct that resulted in the denial of a license or disciplinary action against a licensee. The proposed amendments implement amendments to the Business and Professions Code made in A.B. 2138 (Stats. 2018, ch. 995).

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 12/4/2020.

Date: December 4, 2020



Richard L. Smith
Senior Attorney

For: Kenneth J. Pogue
Director

Original: Laura Zuniga, Executive Officer

Copy: Kourtney Nation

NOTICE PUBLICATION/REGULATIONS SUBMISSION

STD. 400 (REV. 10/2019)

REGULAR

(See instructions on reverse)

For use by Secretary of State only
ENDORSED - FILED
in the office of the Secretary of State
of the State of California

DEC 04 2020

1:38 p.m.

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2019-0926-02	REGULATORY ACTION NUMBER 2020-0624-045	EMERGENCY NUMBER
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For use by Office of Administrative Law (OAL) only

2020 JUN 24 P 12:09

OFFICE OF
ADMINISTRATIVE LAW

NOTICE

REGULATIONS

AGENCY WITH RULEMAKING AUTHORITY

California Architects Board, Department of Consumer Affairs

AGENCY FILE NUMBER (if any)

A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON	TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2019 4-2		PUBLICATION DATE 10/11/19

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Criminal Conviction Substantial Relationship and Rehabilitation Criter	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (including title 26, if toxics related)

SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT
	AMEND 2655, 2656
	REPEAL
TITLE(S) 16	

3. TYPE OF FILING

<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §§11349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))	<input type="checkbox"/> Other (Specify)		

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

March 4, 2020-March 20, 2020

per agency

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)☐ Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))☒ Effective on filing with Secretary of State☐ \$100 Changes Without Regulatory Effect☒ Effective other (Specify) July 1, 2020per agency
request**6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY**☒ Department of Finance (Form STD. 399) (SAM §6660)☐ Fair Political Practices Commission☐ State Fire Marshal☒ Other (Specify) Kimberly Kirchmeyer, Director, Department of Consumer Affairs*Kimberly Kirchmeyer***7. CONTACT PERSON**

Kourtney Nation

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I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE

DATE

6/24/20

TYPED NAME AND TITLE OF SIGNATORY

Laura Zuniga, Executive Officer, California Architects Board

per agency
request

For use by Office of Administrative Law (OAL) only

ENDORSED APPROVED

DEC 04 2020

Office of Administrative Law

**LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE OF THE
CALIFORNIA ARCHITECTS BOARD**

**CRIMINAL CONVICTION SUBSTANTIAL RELATIONSHIP
AND REHABILITATION CRITERIA**

ORDER OF ADOPTION

Proposed amendments to the regulatory language are shown in single underline for new text and ~~single strikethrough~~ for deleted text.

Amend Section 2655 of Article 1 of Division 26 of Title 16 of the California Code of Regulations as follows:

§ 2655. Substantial Relationship Criteria.

(a) For the purpose of denial, suspension, or revocation of the license of a landscape architect pursuant to Section 141, Division 1.5 (commencing with Section 475), or Section 5675.5 of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions, and duties of a landscape architect if to a substantial degree it evidences present or potential unfitness of a landscape architect to perform the functions authorized by ~~his or her~~ the license in a manner consistent with the public health, safety, or welfare. ~~Such crimes or acts shall include, but not be limited to, the following:~~

(b) In making the substantial relationship determination required under subsection (a) for a crime, the Board shall consider all of the following criteria:

- (1) The nature and gravity of the offense.
- (2) The number of years elapsed since the date of the offense.
- (3) The nature and duties of a landscape architect.

(c) For purposes of subsection (a), a substantially related crime, professional misconduct, or act shall include, but is not limited to, the following:

(a1) Any violation of the provisions of Chapter 3.5 of Division 3 of the ~~Business and Professions Code~~ or other state or federal laws governing the practice of landscape architecture.

Note: Authority cited: Sections 481 and 5630, Business and Professions Code.
Reference: ~~Division 1.5, Sections 141, 475, 480, 481, 490, 493, et seq and 5630 and 5675.5,~~ Business and Professions Code.

Amend Section 2656 of Article 1 of Division 26 of Title 16 of the California Code of Regulations as follows:

§ 2656. Criteria for Rehabilitation.

(a) Denial of a license.

(1) When considering the denial of a landscape architect's license under Section 480 of the Business and Professions Code on the ground that the applicant has been convicted of a crime, the Board shall consider whether the applicant made a showing of rehabilitation, if the applicant completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, will consider the following criteria:

(A) The nature and gravity of the crime(s).

(B) The length(s) of the applicable parole or probation period(s).

(C) The extent to which the applicable parole or probation period was shortened or lengthened and the reason(s) the period was modified.

(D) The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.

(E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(2) If the applicant has not completed the criminal sentence at issue without a violation of parole or probation, the Board determines that the applicant did not make the showing of rehabilitation based on the criteria in subsection (a)(1), the denial is based on professional misconduct, or the denial is based on one or more of the grounds specified in Sections 5653 of the Code, the Board shall apply the following criteria in evaluating an applicant's rehabilitation:

(1A) The nature and severity-gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.

(2B) Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial which also could be considered as grounds for denial under Section 480 of the Business and Professions Code.

(3C) The time that has elapsed since commission of the act(s), professional misconduct, or crime(s) referred to in subsection subparagraph (1A) or (2B).

(4D) The extent to which Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(E) The criteria in subsection (a)(1)(A)-(E), as applicable.

(5F) Evidence, if any, of rehabilitation submitted by the applicant.

(b) Suspension or revocation of a license.

(1) When considering the suspension or revocation of the license of a landscape architect under Section 490 of the Code on the grounds that the person licensed has been convicted of a crime, the Board shall consider whether the licensee made a showing of rehabilitation, if the licensee completed the criminal sentence at issue without a violation of parole or probation. In making this determination, the Board shall, in evaluating the rehabilitation of such person and his or her present eligibility for a license will consider the following criteria:

(A) The nature and gravity of the crime(s).

(B) The length(s) of the applicable parole or probation period(s).

(C) The extent to which the applicable parole or probation period was shortened or lengthened, and the reason(s) the period was modified.

(D) The terms or conditions of parole or probation and the extent to which they bear on the licensee's rehabilitation.

(E) The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

(2) If the licensee has not completed the criminal sentence at issue without a violation of parole or probation, the Board determines that the licensee did not make the showing of rehabilitation based on the criteria in subsection (b)(1), the suspension or revocation is based on a disciplinary action as described in Section 141 of the Code, or the suspension or revocation is based on one or more of the grounds specified in Article 5 of Chapter 3.5 of Division 3 of the Code, the Board shall apply the following criteria in evaluating the licensee's rehabilitation:

(1A) The Nature and severity-gravity of the act(s), disciplinary action(s), or offensecrime(s).

(2B) The Total criminal record.

(3C) The time that has elapsed since commission of the act(s), disciplinary action(s), or offensecrime(s).

(4D) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(E) The criteria in subsection (b)(1)(A)-(E), as applicable.

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

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

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

Note: Authority cited: Sections 481, 482 and 5630, Business and Professions Code.
Reference: ~~Division 1.5, Sections 141, 475, 480, 481, 482, 488, 493, et seq~~ and 5630.

5653, 5660, 5666, 5667, 5668, 5669, 5670, 5671, 5672, 5673, 5675, 5675.5 and 5678,
Business and Professions Code.