

**State of California
Office of Administrative Law**

In re:
Landscape Architects Technical Committee

Regulatory Action:

Title 16, California Code of Regulations

Adopt sections: 2611.5
Amend sections: 2611, 2616
Repeal sections:

**NOTICE OF APPROVAL OF REGULATORY
ACTION**

Government Code Section 11349.3

OAL Matter Number: 2021-0930-03

OAL Matter Type: Regular (S)

In this rulemaking action the Committee adopts a regulation to define terms such as "candidate file," "examination," and "inactive." The regulation further establishes a retention period of five years for candidate files, a period after which the files will be purged. The Committee also amends existing regulations to describe complete applications and abandoned applications.

OAL approves this regulatory action pursuant to section 11349.3 of the Government Code. This regulatory action becomes effective on 4/1/2022.

Date: December 13, 2021



**Thanh Huynh
Senior Attorney**

**For: Kenneth J. Pogue
Director**

Original: Jon S. Wreschinsky, Chair
Copy: Stacy Townsend

NOTICE PUBLICATION/REGULATIONS SUBMISSION

REGULAR

See instructions on reverse)

For use by Secretary of State only

STD. 400 (REV. 10/2019)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z- 2021-0520-01	REGULATORY ACTION NUMBER 2021-0930-03	EMERGENCY NUMBER S
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For use by Office of Administrative Law (OAL) only	
NOTICE	REGULATIONS

ENDORSED - FILED
in the office of the Secretary of State
of the State of California
DEC 13 2021
J:49 pm

OFFICE OF ADMIN. LAW
2021 SEP 30 PM3:17

AGENCY WITH RULEMAKING AUTHORITY California Architects Board, Landscape Architects Technical Committee	AGENCY FILE NUMBER (If any)
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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 ACTION ON PROPOSED NOTICE <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn	NOTICE REGISTER NUMBER	PUBLICATION DATE	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Abandonment of Applications and Retention of Candidate Files	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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 2611.5
	AMEND 2611, 2616
TITLE(S) 16	REPEAL

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)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)

<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)
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6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY

<input type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal
<input checked="" type="checkbox"/> Other (Specify) Kimberly Kirchmeyer, Director, Department of Consumer Affair		

7. CONTACT PERSON Stacy Townsend	TELEPHONE NUMBER (916) 575-7235	FAX NUMBER (Optional) (916) 575-7283	E-MAIL ADDRESS (Optional) stacy.townsend@dca.ca.gov
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8. 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 <i>Laura Zuniga</i>	DATE 09/02/2021
TYPED NAME AND TITLE OF SIGNATORY Laura Zuniga, Executive Officer, California Architects Board	

For use by Office of Administrative Law (OAL) only
ENDORSED APPROVED
DEC 13 2021
Office of Administrative Law

DEPARTMENT OF CONSUMER AFFAIRS
Title 16. CALIFORNIA ARCHITECTS BOARD,
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE

PROPOSED REGULATORY LANGUAGE
Abandonment of Application §2611
Retention of Candidate Files §2611.5
Application for Licensure Following Examination §2616

Legend: Added text is indicated with an underline.
Omitted text is indicated by (* * * *)
Deleted text is indicated by ~~strikeout~~.

Amend Section 2611 of Article 1 of Division 26 of Title 16 of the California Code of Regulations

Section 2611. Abandonment of Application

- (a) An applicant whose license application for licensure is incomplete, or for which additional information is requested, shall be deemed to have abandoned their application if ~~he or she does~~ they have not submitted all required documents, data, ~~and information,~~ and license fees, and complied with applicable criminal history record check requirements, pursuant to Section 144 of the Code within by the date that is one year from after the date of their notification letter notifying the applicant that their application is incomplete or requesting additional information.
- (b) (1) An applicant whose eligibility application for the Landscape Architect Registration Examination (LARE) or the California Supplemental Examination (CSE) is incomplete shall be deemed to have abandoned their application if they have not submitted all required documents, data, information, and required fees by the date that is one year after the date of their incomplete application notification.
- (b)(2) An applicant whose eligibility application for the LARE or the California Supplemental Examination CSE has been accepted shall be deemed to have abandoned their application if: ~~he or she does not take the California Supplemental Examination within three years from the date an eligibility letter was issued.~~
- (A) For the LARE, they have not taken a section of the examination within five years from the date their eligibility letter was issued, or five years have

passed since the last date on which the applicant took a section of the examination, whichever is later.

(B) For the CSE, they have not taken the examination within three years from the date their eligibility letter was issued, or five years have passed since the last date on which the applicant took the examination, whichever is later.

(c) Any application submitted after subsequent to the abandonment of a former application shall be treated as a new application and shall include all required information and accompanying materials that would be submitted by a first-time applicant, regardless of whether the information or materials were previously included in their former application. An abandoned application shall be retained in the candidate file, as defined in Section 2611.5, until the candidate file is purged pursuant to that section.

Note: Authority cited: Section 5630, Business and Professions Code.

Reference: Section 144, 5650, 5653, and 5675, Business and Professions Code.

Adopt section 2611.5 of Article 1 of Division 26 of Title 16 of the California Code of Regulations as follows:

Section 2611.5. Retention of Candidate Files

(a) For purposes of the regulations contained in this division, the following terms have the following meanings:

(1) "Candidate file" means the file maintained by the Board relating to a candidate's eligibility for examinations or licensure and previous examinations taken by that candidate. References in section 2620(d)(2) to "applications" and "records" shall be deemed references to a candidate file.

(2) "Examination" means an examination necessary for licensure.

(3) "Inactive" means that a candidate, during the period of time specified, has not:

(A) Submitted an eligibility application for an examination. For purposes of this subparagraph, "submitted" means that the Board has received the application.

(B) Responded in writing to an issued or mailed notice from the Board that their eligibility application is incomplete or a request from the Board for additional information. For purposes of this subparagraph, "responded" means that the Board has received the candidate's response.

(C) Taken an examination. For purposes of this subparagraph, "taken an examination" means that the Board has received the candidate's examination results.

(D) Applied for a license or requested the Board retain their candidate file for an additional time. For purposes of this subparagraph, "requested" means that the Board has received the candidate's request.

(b) The Board shall retain candidate files on the following schedule:

(1) If a candidate still needs to pass an examination necessary for licensure, the Board shall not purge a candidate file until (A) the file has been inactive for the previous five years, (B) the Board has mailed the candidate, at the candidate's last address known to the Board, notice of its intention to purge their file, and (C) the Board has waited at least six weeks after mailing to receive a request to retain the file for an additional time. Except as provided in subsection (c), the Board shall purge an inactive candidate file if all of the preceding conditions are met.

(2) If a candidate has passed both examinations necessary for licensure, the Board shall not purge a candidate file until:

(A) The date after which the Board would be prohibited from issuing a license to the candidate pursuant to Section 2616(b).

(B) The date on which the candidate is issued a license. The Board shall re-designate the candidate file as a license file after that date.

(c) Notwithstanding subsection (b), the Board shall retain a candidate's examination scores.

Note: Authority cited: Section 5630, Business and Professions Code.

Reference: Section 5650, Business and Professions Code.

Amend section 2616 of Article 1 of Division 26 of Title 16 of the California Code of Regulations as follows:

Section 2616. Application for Licensure Following Examination.

- (a) A candidate, having passed all sections of the Landscape Architect Registration Examination and the California Supplemental Examination necessary for licensure, shall apply for a landscape architects license within five years after the date of mailing of on which the candidate is provided examination results indicating the candidate passed the final examination necessary for licensure.
- (b) A candidate who fails to apply for a license in accordance with subsection (a), or whose most recent application as of the last day of the period specified in that subsection is abandoned, withdrawn, or denied, shall not be issued a license unless the candidate reapplies for a license and meets the following requirements:
- (1) No fact, circumstance, or condition exists which would justify denial under Business and Professions Code Section 480 of the Code,
 - (2) The candidate pays all of the fees which would be required of the candidate if the candidate were then applying for the license for the first time, and
 - (3) The candidate takes and passes the examination(s) which would be required of all candidates applying for the first time or is subject to waiver of the examination pursuant to Business and Professions Code Section 5651(b) of the Code.

Note: Authority cited: Section 5630, Business and Professions Code. Reference: Sections 5650, 5651 and 5652, Business and Professions Code.