

21 NCAC 26 .0101 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0101 AUTHORITY: NAME AND LOCATION OF BOARD

The "North Carolina Landscape Architecture Act," G.S. 89A, establishes and authorizes the "North Carolina Board of Landscape Architects," hereafter called the "Board." Unless otherwise directed, all communications shall be addressed to the Board at Post Office Box 41225, Raleigh, North Carolina 27629. Applications and other information is available on the Board's website: www.ncbola.org.

History Note: Authority G.S. 89A-3.1

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. March 1, 2015; August 1, 2000; July 2, 1979;

Readopted Eff. April 1, 2018.

21 NCAC 26 .0103 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0103 ORGANIZATION OF THE BOARD: OFFICERS

In accordance with Article 33C of G.S. Chapter 143, meetings of the Board shall be open and public except that the Board may meet in closed session to prepare, approve, administer or grade written examinations; or to examine and deliberate the qualifications of an applicant for registration; or to dispose of a proceeding to discipline a registered landscape architect.

*History Note: Authority G.S. 89A-3; 143-318.11;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. March 1, 2015; August 1, 1988;
Readopted Eff. April 1, 2018.*

21 NCAC 26 .0105 is readopted as published in 32:12 NCR 991 as follows:

21 NCAC 26 .0105 FEES

(a) The fee for any initial license application shall be one hundred dollars (\$100.00).

(b) Examination fees payable to the Board shall be paid prior to the examination and in accordance with G.S 89A-6.

(c) The fee for a license by comity shall be one hundred fifty dollars (\$150.00).

(d) The fee for a corporate certificate of registration shall be two hundred dollars (\$200.00).

(e) The fee for the annual renewal of any certificate of registration of any person, firm, or corporation shall be one hundred dollars (\$100.00).

(f) Annual renewal fees received after July 1st of each year shall be subject to a late fee of fifty dollars (\$50.00). Lapse of license renewal in excess of one year shall require an application reinstatement and an application fee of one hundred dollars (\$100.00).

(g) The fee for re-issue of a lost or damaged certificate shall be twenty-five dollars (\$25.00).

(h) If the accompanying payment in the amount of the renewal fee is dishonored by the firm's drawee bank for any reason, the Board shall suspend the firm registration until the renewal fee is paid.

History Note: Authority G.S. 89A-3.1; 89A-5; 89A-6;

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. December 1, 1994; June 1, 1991; April 1, 1990; July 1, 1989;

Temporary Amendment Eff. October 1, 1997;

Temporary Amendment Expired July 12, 1998;

Amended Eff. March 1, 2015; August 1, 2000;

Readopted Eff. April 1, 2018.

21 NCAC 26 .0201 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0201 BOARD LISTING OF INDIVIDUAL AND FIRM NAMES

Every individual licensee, partnership, firm or corporation has the continuing responsibility of keeping the Board advised of his, her or its current mailing address and other contact information and the name or names under which he, she or it is practicing landscape architecture. Each licensee or firm shall notify the Board of any and all changes of association, address or contact information. Upon the dissolution or change of a professional relationship, the member or members thereof shall notify the Board in writing concerning such dissolution, and of the succeeding status and addresses of the individual or firm. Notice to the Board required by this Rule shall be provided within 10 days of the change.

*History Note: Authority G.S. 89A-3.1(2);
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. March 1, 2015;
Readopted Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0206

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (b), what is meant by "The plural form may be used only when justified by the number of licenses in addition to those licenses whose proper names are included in the firm name"? Does this simply mean when there are more than one? Could this language be simplified a bit?

It's unclear to me what (c), (d), and (e) are. Are they intended to be examples for (b)? If so, please consider reformatting these to be sub-paragraphs of (b) and adding some introductory language to the end of (b) such as "as follows:"

In (f), please capitalize "board rules"

In your History Note, please remove G.S. 89A-3(c) as it was repealed. Please add any appropriate statutory authority including G.S. 89A-3.1.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 23, 2018

21 NCAC 26 .0206 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0206 NAME OF FIRM

(a) Exclusion of Non-Licensed Individuals. The name of a landscape architectural firm shall not include the proper name of any officer or employee who is not a licensed landscape architect, architect, geologist, land surveyor or professional engineer.

(b) Associate. The word "associate" may be used only with reference to a licensee who is a principal or regular employee of the firm. The plural form may be used only when justified by the number of licensees in addition to those licensees whose proper names are included in the firm name.

(c) Example: Proper Name and (&) Associates shall refer to a principal landscape architect and at least two licensed landscape architectural employees.

(d) Example: Proper Name Associates shall refer to at least one principal landscape architect and at least one licensed landscape architectural employee.

(e) Example: Assumed Name Associates shall refer to at least one principal landscape architect and at least one licensed landscape architectural employee, or two or more principal landscape architects.

(f) Names Previously in Effect. This Rule shall not be construed to require any firm to seek approval of, or to change, any name duly adopted in conformity with board rules in effect at the date of such adoption.

*History Note: Authority G.S. 55B-5; 89A-3(c);
 Eff. July 1, 1993;
 Amended Eff. February 1, 1994;
 Readopted Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0207

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (b), please delete or define "immediate"

In (g), what is meant by "cannot be altered"? Would this be something like a PDF? Is there a way of adding some additional clarification to the Rule?

In (g), line 4, please change "are not subject" to "shall not be subject" and on line 6 "are subject" to "shall be subject."

In (g), line 6, by "this Paragraph", do you mean this Rule?

In (g), line 6, assuming that it is the intent, please consider adding some additional language regarding "easy editing" to make it clear that you are providing the factor that will determine whether something is "easy editing." Perhaps something like you've done for "secure mode" in (h) such as "easy editing" means that a file consists of separate elements that can be modified or deleted in part or in whole."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 23, 2018

21 NCAC 26 .0207 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0207 APPLICATION OF PROFESSIONAL SEAL

(a) Use of Seal. The seal(s) of the landscape architect(s) responsible for the work and the landscape architectural corporation seal, if appropriate, shall be applied to the following documents:

- (1) Drawings and specifications prepared for public agency approval;
- (2) Drawings and specifications issued for the purpose of bidding, negotiation or construction;
- (3) Reports of technical nature; and
- (4) Letters and certificates of professional opinion.

(b) The seal(s) shall be applied only to documents prepared personally or under the immediate supervision of the landscape architect whose seal is affixed, except that seals may be applied to documents that were not prepared by the landscape architect in the following circumstances:

- (1) Documents that were initially sealed by an out of state individual who is a licensed landscape architect in the state of origin of such plans may then be reviewed by a North Carolina Landscape Architect for code conformance, design adequacy, and site adaptation for the specific application within North Carolina. Standard plans, which bear the seal of an individual who is a licensed landscape architect, shall be sealed by the North Carolina Landscape Architect who is assuming responsibility. In addition to the seal, a statement shall be included as follows: "These plans have been examined by the undersigned. I have determined that they comply with existing local North Carolina codes, and have been properly site adapted for use in this area."
- (2) Documents that are prepared by another licensed professional and obtained by the Landscape Architect may be used to prepare landscape architectural design documents provided the origin of the documents and information prepared by another licensed professional shall appear on each drawing or sheet of the documents sealed by the landscape architect.

(c) Signature and Date. The individual's seal or facsimile thereof shall have the landscape architect's original signature across its face and the effective date shall be indicated below or elsewhere on the document.

(d) Co-authorship. When a document requiring seals has been co-authored by the landscape architect and another licensed design professional of another discipline, the landscape architect shall indicate by notation each portion for which he or she is responsible.

(e) Failure to use the professional seal according to this Rule may be deemed by the Board to be "gross malpractice" within the meaning of G.S. 89A-7.

(f) Electronically transmitted documents and electronic seals shall be allowed. Documents, including drawings, specifications and reports, that are transmitted electronically to a client or a governmental agency shall have the computer-generated seal removed from the original file, unless signed with a digital signature as defined in Paragraph

(g) of this Rule. After removal of the seal, the electronic media shall have the following language inserted in lieu of the signature and date:

1 This document originally issued and sealed by (name of sealer), (license number), on (Date of sealing). This
2 medium shall not be considered a certified document. Hardcopy documents containing the original seal,
3 signature, and date may be obtained from (name of sealer).

4 (g) The scanned digital files of certified documents that cannot be altered are not subject to the requirements of
5 Paragraph (f) of this Rule. The electronic transmission of CAD, vector or other similar files subject to easy editing
6 are subject to the requirements of this Paragraph. Easy editing is based on the file consisting of separate elements that
7 can be modified or deleted in part or in whole.

8 (h) Documents to be electronically transmitted that are signed using a digital signature shall contain the authentication
9 procedure in a secure mode and a list of the hardware, software and parameters used to prepare the document(s).
10 Secure mode means that the authentication procedure has protective measures to prevent alteration or overriding of
11 the authentication procedure. The term "digital signature" shall be an electronic authentication process that is attached
12 to or logically associated with an electronic document. The digital signature shall be:

- 13 (1) Unique to the licensee using it;
- 14 (2) Capable of verification;
- 15 (3) Under the sole control of the licensee; and
- 16 (4) Linked to a document in such a manner that the digital signature is invalidated if any data in the
17 document is changed.

18
19 *History Note: Authority G.S. 89A-3.1; 89A-7;*
20 *RRC Objection Eff. June 17, 1993 Due to Lack of Statutory Authority and Ambiguity;*
21 *Eff. August 1, 1993;*
22 *RRC Objection cured Eff. January 20, 1994;*
23 *Amended Eff. January 1, 2008; February 1, 1994;*
24 *Readopted Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0209

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In Item (2), please consider changing "emanating" to "originating" or "deriving"

In Item (4), please delete "even remotely"

In Item (5), please change "this Board" to "the Board" for purposes of consistency with the Chapter.

In Item (6), please delete or define "properly" in "properly supervise." If the intent is that lines 15-20 essentially define "properly", please make that clear within the text of the Rule. Also, please delete or define "direct" in "direct knowledge" on line 17 and "periodic" in "periodic visits" on line 20.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 23, 2018

21 NCAC 26 .0209 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0209 UNPROFESSIONAL CONDUCT

Registrants shall not:

- (1) allow one's name to be associated with an undertaking in any professional capacity without having served specifically in that capacity;
- (2) accept compensation in whole or in part from fees, commissions, earnings, commercial or speculative profit emanating from sales of materials or services provided to a Landscape Architect's client by others;
- (3) make exaggerated or misleading statements or claims about any personal qualifications, experience or performance;
- (4) fail to disclose to a client or employer the existence of any financial interest which even remotely bears upon the Landscape Architectural services or project;
- (5) fail to respond within 30 calendar days to any inquiry from this Board;
- (6) fail to properly supervise his or her practice. Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have a registered landscape architect employed in that office who shall have direct knowledge and supervisory control of such work, except field offices maintained only for the purpose of project construction administration shall have at least one employee present with the supervising landscape architect maintaining control and making periodic visits.

*History Note: Authority G.S. 89A-3.1; 89A-7;
Eff. August 1, 1993;
Amended Eff. November 1, 2005; March 1, 1994;
Readopted Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0210

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Just so I'm clear regarding authority for (a), is (a) attempting to essentially define G.S. 87-7(a)(1)? If so, could you add some similar language to this Rule that you have in Rule .0211, line 4?

In (a)(1), please add a comma following "practice" for purposes of consistency with the rest of your Rule.

In (a)(2) and (a)(3), please change "this board" to "the Board"

In (b), is there a reason that Combined Design and Construction (Design-Build) Practice" in brackets? Would it be appropriate to say "contracting services, including Combined Design and Construction (Design-Build) Practice, unless..."

Please end (b)(1) with a semi-colon and an "and"

In (b)(2), please move the period inside the ending quotation mark so that it reads project:- project."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 23, 2018

21 NCAC 26 .0210 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0210 DISHONEST PRACTICE

(a) Registrants shall not:

- (1) knowingly make any deceptive or false statement about another's professional work or maliciously injure or attempt to injure the prospects, practice or employment position of those so engaged;
- (2) knowingly make any deceptive or false statements in an application for examination or in any other statements or representations to this Board, to any public agency, to a prospective or actual client, or to another Landscape Architect;
- (3) fail to notify this Board, if registered as a Landscape Architect in North Carolina, of disciplinary action by a Landscape Architectural Board in another jurisdiction.

(b) Because of the inherent conflict of interest with construction services, a landscape architect shall not provide contracting services [Combined Design and Construction (Design-Build) Practice] unless he does the following:

- (1) Uses the term "limited landscape architectural services" in all representations to the public and the client.
- (2) Affixes a notation on each construction drawing and the cover of technical specifications stating "These construction drawings and technical specifications represent the full extent of the limited landscape architectural services provided for this project".

*History Note: Authority G.S. 89A-3.1; 89A-7;
 Eff. August 1, 1993;
 Amended Eff. November 1, 2005; March 1, 1994;
 Readopted Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0211

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, please change "are" to "shall be"

*In Item (1), line 5, please change "which" to "that" so that it reads "~~which~~
~~that~~ are beyond the qualifications ~~which~~ ~~that~~ the landscape..."*

Please end Item (3) with an "and" or an "or", whichever you mean.

Given 89A-7(a)(7), is Item (4) necessary? Please consider deleting.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 23, 2018

21 NCAC 26 .0211 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0211 INCOMPETENCE

The following acts or omissions are deemed to be gross incompetency within the meaning of G.S. 89A-7:

- (1) to attempt to perform professional services which are beyond the qualifications which the landscape architect and those who are engaged as consultants are qualified by education, training and experience in the specific technical areas involved;
- (2) to be negligent in planning, designing, supervising, managing or inspecting landscape architectural projects such that the public health, safety, or welfare is jeopardized;
- (3) to plan, perform, or supervise work for clients in such a manner and with such results as to be below the level of professional competency exercised by other registered landscape architects who are practicing in the area;
- (4) to have been judged incompetent by a court having jurisdiction under G.S. 35A or former G.S. 35 or committed to a mental health facility for treatment of mental illness, as defined in G.S. 122C-3, by a court under G.S. 122C-271.

*History Note: Authority G.S. 89A-3.1; 89A-7;
Eff. August 1, 1993;
Amended Eff. December 1, 2005; March 1, 1994;
Readopted Eff. April 1, 2018.*

21 NCAC 26 .0301 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0301 EXAMINATION AND LICENSURE

(a) The LARE published by CLARB shall be the examination recognized by the Board, so long as the Board shall remain a member of the CLARB. The Board may administer a state supplement to the LARE as allowed by the CLARB.

(b) All persons desiring to submit an application to take the LARE are encouraged to first make application through CLARB. Upon taking and passing all sections of the LARE, candidates shall complete the Board's initial individual application for license by examination and submit the non-refundable application fee as established in Rule .0105 of this Chapter. If an application is complete and the applicant is otherwise qualified by statute and these rules to sit for examination, the Board shall approve the application for licensure by examination.

(c) CLARB sets the fees for the LARE. Fee information shall be made available to all applicants for examination on the Board website, www.ncbola.org, and may be obtained from the CLARB.

(d) An applicant shall be qualified for examination and licensure upon graduation from a LAAB accredited collegiate curriculum in landscape architecture, passage of the LARE, and the experience requirements of Paragraph (f) of this Rule.

(e) In allowing credit for education to satisfy the minimum qualification requirements established by G.S. 89A-4(a)(3), an undergraduate, a masters, or a doctorate degree from an accredited curriculum approved by the LAAB shall be deemed to have met the educational requirement.

(f) To fulfill the experience requirements established by G.S. 89A-4(a)(4), an applicant shall have a minimum of 8,000 hours of professional experience in landscape architecture working under the direct supervision of a registered landscape architect. In submitting an initial individual application to the Board for registration, a licensed landscape architect shall certify that the applicant has completed the number of hours required by this Rule. An applicant may petition the Board for up to 8,000 hours of experience credit by providing proof of work experience that is directly related to the practice of landscape architecture as defined by G.S. 89A-1(3). Experience credits shall be based on a full-time work week of 40 hours and a work year of at least 2,000 hours. Part-time work shall be fully described and may be given proportional credit. An applicant is ineligible to receive experience credit if the work was in fulfillment of an educational requirement.

(g) The Board shall treat as confidential and not subject to disclosure, except to the extent required by law or by rule of the Board, individual test scores and applications and material relating thereto, including letters of reference relating to an application.

History Note: Authority G.S. 89A-3.1(3); 89A-4(a),(b);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. March 1, 2015; January 1, 2008; August 1, 1993; August 1, 1988; November 1, 1980;

July 2, 1979;

21 NCAC 26 .0303 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0303 LICENSE BY COMITY

(a) To assure that the requirements of the other state are at least equivalent to those of this state, an applicant for a license by comity shall show education and experience equal to those required of applicants residing in this State who seek licensure by examination.

(b) An application for a license by comity shall be made on the form provided by the Board and shall be accompanied by the fee.

(c) To be approved for a license by comity the applicant shall meet the following requirements:

(1) Provide evidence of having successfully completed the written examination established by the CLARB or hold a certificate issued by the CLARB;

(2) Provide certification from the proper official of any state having a landscape architectural registration act that the individual is currently certified, licensed, or registered and in good standing in that state;

(3) Submit such additional information concerning the applicant's qualifications as may be requested by the Board; and

(4) Submit examples of work upon request.

(d) In lieu of the requirements of Subparagraph (c)(1) of this Rule, an applicant for licensure by comity who was licensed prior to the adoption of a national written examination shall show proof of having met the requirements of their licensing state at the time of their licensure.

History Note: Authority G.S. 89A-3.1(3); 89A-4(c);

Eff. February 1, 1976;

Readopted Eff. September 30, 1977;

Amended Eff. March 1, 2015; January 1, 2008; August 1, 1988; July 1, 1984;

Readopted Eff. April 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0306

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

Please capitalize "board" on line 4.

How will the determination be made that the cause for revocation no longer exists? Please provide some factors as to how this decision will be made.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 23, 2018

1 21 NCAC 26 .0306 is readopted as published in 32:10 NCR 991 as follows:

2
3 **21 NCAC 26 .0306 REINSTATEMENT AFTER REVOCATION**

4 Any person whose certificate of registration is revoked shall be reinstated at any time by majority vote of the board if
5 there is a finding that the cause for revocation no longer exists.

6
7 *History Note: Authority G.S. 89A-3.1;*
8 *Eff. February 1, 1976;*
9 *Readopted Eff. September 30, 1977;*
10 *Amended Eff. December 1, 2005;*
11 *Readopted Eff. April 1, 2018.*

21 NCAC 26 .0307 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0307 CONTINUING EDUCATION AS A CONDITION OF ANNUAL RENEWAL

(a) Every licensee shall meet the continuing education requirements for professional development as a condition for license renewal.

(b) In order for a licensee to qualify for license renewal as a landscape architect in North Carolina, the licensee shall have completed 10 contact hours of Board approved continuing education within the previous license year. Such continuing education shall be obtained by active participation in courses, seminars, sessions, or programs approved by the Board.

(c) To be acceptable for credit toward this requirement, all courses, seminars, webinars, sessions, or programs shall first be submitted to the CEAC. The CEAC shall review and recommend to the Board any course, seminar, webinar, session, or program for continuing education credit to the Board that the CEAC determines meets the criteria in Rule .0308(b) through (d) of this Section.

(d) Documentation of compliance with this Rule shall be by affidavit provided on the individual application for license renewal and available from the licensee's secure online profile. Erroneous or false information attested to by the licensee shall be deemed as grounds for denial of license renewal and possible suspension of license or denial of consideration for future license reinstatement, at the discretion of the Board.

(e) The Board may establish, in consultation with the CEAC, mandatory continuing education topics for a license year.

*History Note: Authority G.S. 89A-3.1(2); 89A-5;
Eff. May 1, 1990;
Amended Eff. March 1, 2015; March 1, 1996;
Readopted Eff. April 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Board of Landscape Architects

RULE CITATION: 21 NCAC 26 .0401

DEADLINE FOR RECEIPT: March 9, 2018

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

On line 4, please change "in accordance with G.S. 150B-16" to "150B-20" as 150B-16 has been repealed. Please note 150B-20 has an amendment which was effective January 1, 2018.

*G.S. 150B-20 requires that "if a rule-making petition requests the agency to **create or amend** a rule, the person must submit the **proposed text of the requested rule change and a statement of the effect of the requested rule change.**" What is your authority to require any additional information? In light of 150B-20, please review this Rule.*

In your History Note, please remove G.S. 89A-3 as it was repealed. Please add any appropriate statutory authority including G.S. 89A-3.1.

In your History Note, please also remove G.S. 150B-12 and 150B-16 as these were also repealed. Please add G.S. 150B-20.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amber May
Commission Counsel
Date submitted to agency: February 23, 2018

21 NCAC 26 .0401 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0401 RULE MAKING PROCEDURES

In accordance with G.S. 150B-16, any person desiring the adoption, amendment or repeal of a rule by the board shall submit a petition to the board containing the following information:

- (1) Name of board;
- (2) A draft of the proposed rule;
- (3) Reasons for the adoption, amendment or repeal;
- (4) Data supporting the proposed rule;
- (5) The effect of the proposal on existing rules;
- (6) Effects of the proposed rule on persons licensed under Chapter 89A of the General Statutes of North Carolina;
- (7) Names (including addresses if known) of those most likely to be affected by the rule; and
- (8) Name(s) and address(es) of petitioner(s).

History Note: Authority G.S. 89A-3; 150B-12; 150B-16;
Eff. February 1, 1976;
Readopted Eff. September 30, 1977;
Amended Eff. August 1, 1988; April 1, 1983;
Readopted Eff. April 1, 2018.

21 NCAC 26 .0510 is readopted as published in 32:10 NCR 991 as follows:

21 NCAC 26 .0510 DISCIPLINARY REVIEW PROCESS

(a) Allegations or evidence of a violation of the Landscape Architecture Licensing Act or the rules in this Chapter shall be preliminarily reviewed by the Board Chair and legal counsel to the Board. Upon a determination that evidence of a violation exists, the matter shall be subject to Board investigation and may be subject to disciplinary action by the Board.

(b) An investigation shall be initiated by a written notice and explanation of the allegation being forwarded to the person or entity against whom the charge is made and a response shall be requested of the person or firm so charged within 30 days of receipt of said notice to show compliance with all lawful requirements for retention of the license. Notice of the charge and of the alleged facts or alleged conduct shall be given personally or by certified mail, return receipt requested.

(c) In the discretion of the Board Chair, a field investigation may be performed.

(d) After additional evidence has been obtained, the Board Chair shall either:

- (1) recommend dismissal of the charge; or
- (2) refer the matter to the Disciplinary Review Committee.

(e) If the Board Chair recommends dismissal, the Chair shall give a summary report to the Board and a vote shall be called to dismiss the complaint. If the Board does not vote to dismiss the complaint, the matter shall be forwarded to the Disciplinary Review Committee for further consideration.

(f) The Disciplinary Review Committee shall be made up of a minimum of one member of the Board and the Board Chair.

(g) Upon review of the evidence, and further investigation if necessary, the Disciplinary Review Committee shall present to the Board a written recommendation that may include the following:

- (1) The charge be dismissed as unfounded or that the Board is without jurisdiction over the matter;
- (2) The charge is admitted as true, whereupon the Board may accept the admission of guilt by the person or entity charged and discipline the person or entity accordingly;
- (3) The Board may accept a proposed settlement negotiated in an effort to resolve the alleged violations; or
- (4) The charge be presented to the full Board for a hearing and determination of sanctions by the Board in accordance with the substantive and procedural requirements of the provisions of G.S. 150B, Article 3A.

(h) A consultant to the Disciplinary Review Committee shall be designated by the legal counsel of the Board if the Chair of the Disciplinary Review Committee determines that it needs assistance. The consultant shall be a currently licensed landscape architect selected from former Board members or other licensed professionals who are knowledgeable with the Board's processes and have expressed an interest in serving as a consultant. The consultant shall review all case materials and assist the Disciplinary Review Committee in making a recommendation as to the merits of the case.

1 (i) At least 15 days written notice of the date of consideration by the Board of the recommendations of the Disciplinary
2 Review Committee shall be given to the person or entity against whom the charges have been brought and the person
3 submitting the charge.

4 (j) When the Board issues a notice of hearing against whom the charges are brought, the person or entity may request
5 in writing a settlement conference to pursue resolution of the issue(s) through informal procedures. If, after the
6 completion of a settlement conference, the person or entity and the Board's Disciplinary Review Committee do not
7 agree to a resolution of the dispute for the full Board's consideration, the original disciplinary review process shall
8 commence. During the course of the settlement conference, no sworn testimony shall be taken.

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10 *History Note: Authority G.S. 89A-3.1(7),(8),(9); 89A-7;*

11 *Eff. December 1, 2005;*

12 *Amended Eff. March 1, 2015;*

13 *Readopted Eff. April 1, 2018.*