



Final Regulation Agency Background Document

Agency name	DPOR/Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects (APELSCIDLA Board)
Virginia Administrative Code (VAC) citation	18 VAC 10-20
Regulation title	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects Regulations
Action title	To allow candidates to sit for the ARE prior to completing the NCARB IDP
Date this document prepared	July 11, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The Board intends to change its regulation to permit architect license applicants, who are applying via examination, to begin taking divisions of the Architect Registration Examination (ARE) prior to completing the NCARB Intern Development Program (IDP). Currently, the Board's regulation requires an architect examination applicant to complete the NCARB IDP prior to becoming eligible to take the ARE.

Other changes which may be necessary may also be considered.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.

On June 18, 2008, the Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects adopted final Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects Regulations.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 54.1-404 of the Code of Virginia authorizes the Board to promulgate regulations for a regulatory system. While the Board is mandated to establish regulations, the content of the regulations is up to the discretion of the Board.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

At its meeting in June 2006, the National Council of Architectural Registration Boards (NCARB), of which the Virginia Board is a member (NCARB is also responsible for developing and managing the ARE and the IDP), voted to change its policy to allow examination candidates to begin taking the ARE prior to completing the IDP (provided they are enrolled in the IDP and have completed a portion of the IDP).

In February 2006, the NCARB Board adopted a policy on this matter which states:

In the decades since the sequential concept of education/IDP/ARE was established in the Model Law, much has changed in the education and training of emerging professionals. Notably, with great credit to the Boyer Report, the practice of architecture is better integrated into the academy, and accredited programs today attract among the very best and brightest of university students. While an emerging professional has much yet to learn after graduation from an accredited program, we recognize that some of them may be prepared to begin taking the ARE after acquiring a prerequisite level of practical experience.

NCARB has collected and analyzed considerable data, debated this subject internally and discussed this matter with our collateral colleagues. After these deliberations, it is our conclusion that there is no evidence of increased risk to the health, safety and welfare of the public if a candidate with an accredited professional degree and who is actively engaged in IDP is permitted to begin to start taking divisions of the ARE. The data revealed that only a very small portion of candidates in those jurisdictions that permit the ARE to be taken out of sequence currently choose to do so.

At its meeting in June 2007, NCARB further refined its policy to allow examination candidates to begin taking the ARE prior to completing the IDP (provided they are enrolled in the IDP – they no longer have to have completed a portion of the IDP).

The Virginia Board concurs with this change and would like its applicants, if they so elect, to be able to take advantage of this change in NCARB policy. This change will permit applicants to begin taking the examination when they are most ready to take the examination; more and more architectural applicants are non-traditional students, who have gained substantial amounts of work experience prior to completing the education requirement, thereby making them ready to begin taking the examination sooner.

Other changes which may be necessary may also be considered.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

The Board would like to change its regulation to allow architect license applicants, who are applying via examination, the opportunity to start taking divisions of the Architect Registration Examination (ARE) prior to completing the NCARB Intern Development Program (IDP). Currently, the Board’s regulation requires an architect examination applicant to complete the NCARB IDP prior to becoming eligible to take the ARE.

Other changes which may be necessary may also be considered.

Issues

Please identify the issues associated with the proposed regulatory action, including:

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

If there are no disadvantages to the public or the Commonwealth, please indicate.

The Board could leave the status quo; however, this would handicap those candidates who are ready to being taking the examination sooner by forcing them to wait unnecessarily. In addition, if Virginia does not make this change, and becomes out of sync with the rest of the nation, it could cause candidates who would normally apply to Virginia to take the examination to, instead, apply to other states which would let them take the exam earlier in accordance with NCARB’s revised policy position. There are no anticipated disadvantages to the public or Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There have been no changes made since the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

Summary of comments received during public comment period (December 24, 2007 – March 19, 2008, with a public hearing held on March 19, 2008) regarding the proposed regulations. During the public comment period and public hearing, the Board received the following comments from 3 parties:

#	REGULATION #	SUMMARY OF COMMENT(S)
	COMMENTOR'S NAME	BOARD RESPONSE
1	N/A	The proposed regulatory action induces interns to take a very expensive exam before they are ready. There is a mistaken belief that the ARE tests a student's knowledge of what they learned in academia - that is not the case. The ARE tests an intern's readiness to practice as an architect and only thorough understanding of both academics and practice experience can adequately prepare one to successfully complete the exam and practice in that capacity. Furthermore, since cost of the ARE is not an insignificant sum, the resulting failure to pass the exam as soon as graduation from academia, will not only serve to frustrate the premature exam takers, but will impoverish them at a time in their life when they can least afford it.
	David L. May, Jr., AIA, via the Public Comment Forum on the Virginia Regulatory Town Hall (www.townhall.virginia.gov) on March 10, 2008.	Do not concur with the comment. The proposed change allows those candidates who are ready to start taking the examination prior to completing the Intern Development Program (IDP) to do so – it does not mandate that they start taking the examination prior to the time they are comfortable with their ability to take and be successful on the examination. There has been an increase in the number of non-traditional students who have significant amounts of work experience prior to enrolling in the IDP and, therefore, have sufficient experience to allow them successfully complete the examination. Further, those states which have implemented this change have not seen a large number of candidates taking the examination prior to completing IDP – further supporting the position

#	REGULATION #	SUMMARY OF COMMENT(S)
	COMMENTOR'S NAME	BOARD RESPONSE
		that only those interns who are ready to take the examination prior to completing IDP are doing so.
2	N/A	Is against allowing interns to sit for the ARE until they have had at least 3 years experience working for a licensed, practicing architect. Does not believe that completion of a structured IDP program should be required prior to taking the exam - experience is critical but IDP is not. Believes that as long as an intern has worked for three years in a firm (with or without IDP program) they should be allowed to sit for the exam, even if that time was obtained as a student. Completion of an IDP program could still be required as a prerequisite to licensure.
	John S. LaMonica, AIA, Architect, via the Public Comment Forum on the Virginia Regulatory Town Hall (www.townhall.virginia.gov) on March 11, 2008.	This change is intended to allow those candidates who are ready to take the examination prior to completion of the IDP to do so – it is anticipated that candidates who significant amounts of experience prior to completion of the IDP are the ones that will avail themselves to this opportunity. All candidates are required to complete IDP prior to receiving their license.
3	N/A	Agree to unbundle only a portion of the ARE – IDP completion still a must. Is a firm believer in the IDP program as a good tool to measure experience needed for the ARE...but there are several portions of the ARE that are better suited to be taken right after graduation.
	Kimberly Belfour, AIA, LEED AP, via the Public Comment Forum on the Virginia Regulatory Town Hall (www.townhall.virginia.gov) on March 11, 2008.	Do not concur with the comment. The proposed change allows those candidates who are ready to start taking the examination prior to completing the Intern Development Program (IDP) to do so – it does not mandate that they start taking the examination prior to the time they are comfortable with their ability to take and be successful on the examination. There has been an increase in the number of non-traditional students who have significant amounts of work experience prior to enrolling in the IDP and, therefore, have sufficient experience to allow them successfully complete the examination. Further, those states which have implemented this change have not seen a large number of candidates taking the examination prior to completing IDP – further supporting the position that only those interns who are ready to take the examination prior to completing IDP are doing so.

All changes made in this regulatory action

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
18 VAC 10-20-120			Strike language under sub-sections B and C which require the candidate to have completed the Intern Development Program (IDP) prior to sitting for the Architect Registration Examination (ARE).
18 VAC 10-20-140			Remove and clarify language that candidates may sit for the ARE once they have started the IDP but prior to completion if they so choose.

Enter any other statement here

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The regulations were developed with consideration that the affected industries consist of small businesses. The Board considers that the regulatory methods implemented were promulgated to accomplish the applicable law while minimizing the adverse impact on small businesses and are consistent with the regulation of small businesses of other professions.

The amendment does not apply to businesses and contains no compliance or reporting requirements for businesses and has no impact on performance standards for small businesses.

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage

economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The contemplated changes are not anticipated to have any significant impact on Virginia's families.