



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 (APELSCIDLA Board) Regulations
Action title	Changes to Experience Requirements for Landscape Architect Applicants
Date this document prepared	June 27, 2006

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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 purpose of the proposal is to make the following changes:

Amend the entry requirements for those landscape architect applicants who possess an LAAB accredited degree in landscape architecture to require them to obtain three years of acceptable experience before being granted certification (they could still be approved to take, and sit for, the examination prior to obtaining the required three years of experience; however, certification would not be awarded until such time as the three years of acceptable experience is obtained, documented, submitted, reviewed and approved).

Other changes which may be necessary pursuant to the Board's periodic review of its regulation, and any other changes, will 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 15, 2006, 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 (APELSCIDLA Board) 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.

§§ 54.1-404, 54.1-411.C, 13.1-549 and 13.1-1111 of the Code of Virginia authorize 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.

The need to regulate the practice of landscape architecture was determined by the General Assembly when it passed the law establishing the certification program for landscape architects. Section 54.1-300 of the Code of Virginia states: "Certification' means the process whereby the Department or any regulatory board issues a certificate on behalf of the Commonwealth to a person certifying that he possesses the character and minimum skills to engage properly in this profession or occupation." Further, Section 54.1-311 of the Code of Virginia states that a "Certification" program is warranted "When the public requires a substantial basis for relying on the professional services of a practitioner" A publication entitled *Regulation of Landscape Architecture and the Protection of Public Health, Safety and Welfare* produced for the American Society of Landscape Architects by Alex P. Schatz, JD, in October 2003 also states the need for the regulation of the landscape architecture profession.

The system of regulation of design professions (architecture, professional engineering, land surveying, landscape architecture and interior design) across the country is usually set-up on the model of a three-legged stool; the combination of education, experience and examination together ensures that an individual is minimally competent to practice and will not endanger the public. This model ensures that even if a person managed to complete one or two legs of the stool without being minimally competent, the likelihood of completing all three legs of the stool without being minimally competent is not very likely.

The proposed change is being made to better protect the health, safety and welfare of the public by including an experience requirement for those landscape architect applicants who possess an LAAB accredited degree in landscape architecture (they could still be approved to take, and sit for, the examination prior to obtaining the required three years of experience; however, certification would not be awarded until such time as the three years of acceptable experience is obtained, documented, submitted, reviewed and

approved). Once a landscape architect is certified, they may hold themselves out as, and practice as, a landscape architect/certified landscape architect (see § 54.1-409 of the Code of Virginia); therefore, the current requirement could allow those with an LAAB accredited degree to become certified and provide services to the public without the benefit of any practical experience.

Patrick A. Miller, Ph.D., FASLA, Professor, Landscape Architecture Department, VPI & SU, provided the following information regarding the need for graduates of their LAAB accredited landscape architecture degree program to obtain experience before becoming certified:

“I think the idea of an internship recognizes the difference between classroom learning (the theoretical underpinnings of something) and practice (the act of synthesizing knowledge (putting to use what you know in the process of doing). I like to use the example of medicine. You can learn about the physiology of the human body and the different symptoms of diseases from books, but the art of making a diagnosis requires actual experience with patients. For example, we can teach the basics of grading in the classroom, but to become a proficient in grading requires practice - this is best obtained in an office. Most educators today see learning as something more than facts and information that a student memorizes. Learning also involves a persons ability and confidence to use what one knows. Some things are better learned in a practice setting and some things better learned in a classroom setting. I believe it is extremely important to have this holistic vision learning when educating a professional such as a medical doctor or a landscape architect.

“I don't have statistics, but can give you [anecdotal] examples of people who have gone to work for companies that did not provide a very good internship or experience (it was not very broad and opportunities for feedback was limited - for example landscape contractors), and they then have had difficulty passing the LARE and entering the profession.

“I would categorically disagree with this [the assertion that recent graduates may actually be more qualified to practice than professionals with experience because they will have been exposed to the latest information]. While we are living in an age where advanced technology (computers, programs, digital information and etc.) are changing very rapidly, however I believe that the fundamentals of landscape architecture design and implementation (construction practices) do not change that rapidly. I would argue that it is exactly because we must to expose students to so many new and different technologies today that it is even more important that they obtain a good grounding the day to day applications in a practice setting. Again, if we look at a profession like medicine we see that they are also in an environment with rapid technological change, but I don't think anyone would suggest that it is not important for a medical doctor to be an intern (to actually work with diagnosing patients) before they become a licensed medical practitioner.

“Also, faculty advise students on post graduate internship opportunities and stress the importance of getting good experience in the first job after graduation (this may not always be the best paying job). I think most of faculty would define good experience as engaging in a diverse set of professional activities in a setting where one can receive the appropriate advice and guidance from a licensed landscape architect.”

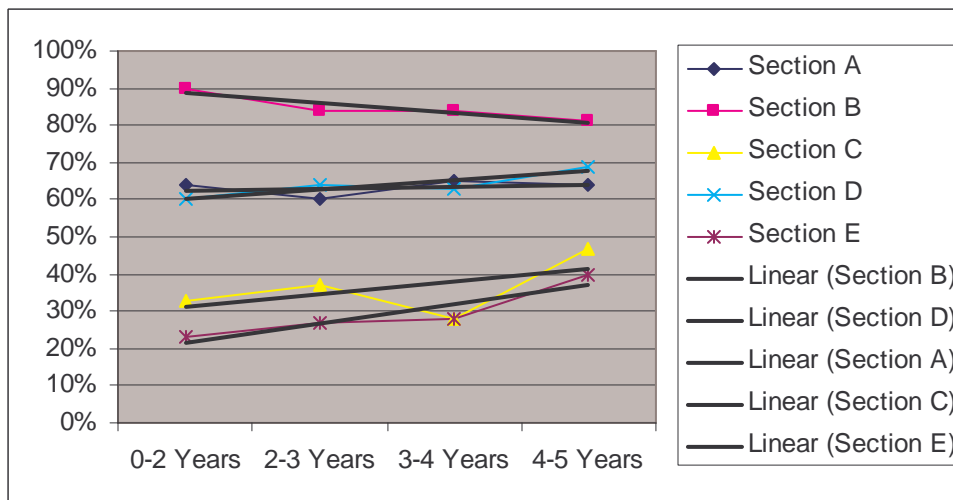
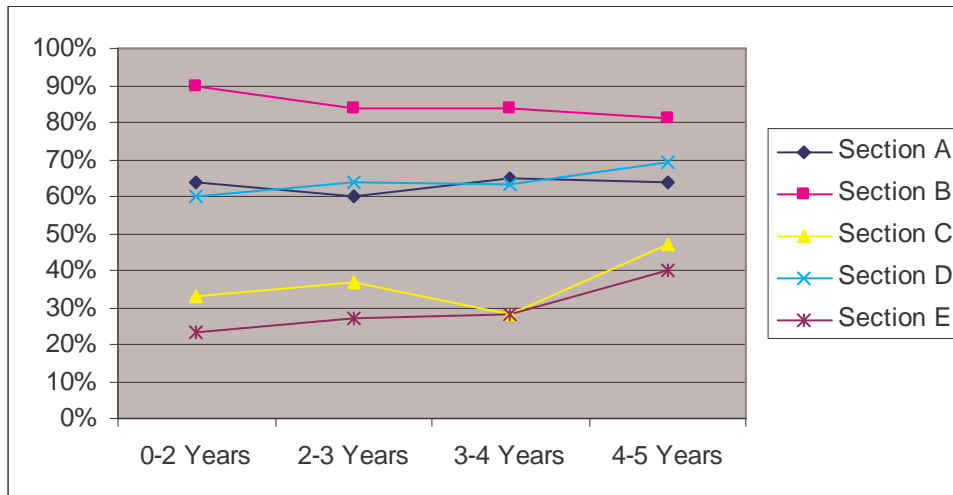
Once an individual becomes certified, they are then required to seal work for which they are responsible from which permits and other approvals will be issued. In addition, they may also be designated as responsible management for a business in order for the firm to be able to offer landscape architectural services (they must have a certificate holder in charge of the professional services in order to obtain the mandatory firm registration from the Board). Expecting an individual with no experience to take on this responsibility may place them in a situation where they do not understand the gravity of decisions they are making and the resulting impact which could have substantial financial and design implications.

In addition, the Council of Landscape Architectural Registration Boards (CLARB), which is comprised of the boards across the United States which regulate the landscape architecture profession and which

develops the national examination which is utilized in the regulation of the profession, provided the following data with the pass rates broken out by experience. After the data, there are two charts which we have prepared from the data - one is a graph of the data and the second is a graph of the data with trend lines. Based on the trend lines, please note that the pass rate for Section B decreases as the amount of experience increases, the pass rate for Section A stays the same regardless of the amount of experience, and the pass rates for Sections C, D and E increase as the amount of experience increases.

	Section A	Section B	Section C	Section D	Section E
Experience					
0 – 2 years	64%	90%	33%	60%	23%
2 – 3 years	60%	84%	37%	64%	27%
3 – 4 years	65%	84%	28%	63%	28%
4 – 5 years	64%	81%	47%	69%	40%

Note: June 2003 data was used as this was the last complete administration of all five sections of the Landscape Architect Registration Examination (LARE) at one sitting. The data is based on candidates with at least a bachelors degree in landscape architecture. The experience levels are based on the question posed on the Examinee Questionnaire.



Of the 20 individuals who obtained certification via examination during the time period of January 1, 2003, through August 11, 2004, 17 possessed an LAAB accredited degree in landscape architecture. Of the 17 with the LAAB accredited degree, the amount of time that elapsed between their graduation from the LAAB accredited degree program and the issue date of their certificate after successfully completing the examination ranged from 3 years, 3 months, to 16 years, 8 months, with an average amount of time being 6 years, 8 months. Therefore, the requirement for those landscape architect applicants who possess an LAAB accredited degree in landscape architecture to have three years of acceptable experience in order to become certified is currently being met by Virginia candidates.

The need for codifying the requirement is that it would help these candidates in obtaining certification or licensure in other jurisdictions which have an experience requirement. Having Virginia's requirements comparable with other jurisdictions would allow Virginia certificate holders to obtain certification/licensure in other states without having to meet additional experience requirements. Of the 45 jurisdictions (other than Virginia) which currently regulate landscape architecture (of which 37 are practice acts and 8 are title acts), for those persons holding a bachelors degree: 6 jurisdictions require no experience; 5 require 1 year of experience; 17 require 2 years of experience; 13 require 3 years of experience; and 4 require 4 years of experience. Instituting an experience requirement would bring Virginia's requirements in line with the majority of other jurisdictions that regulate landscape architecture.

Finally, while the benefits from the proposed change may not be great, neither is the cost nor the requirements being placed on potential regulants as they are already satisfying the experience requirement prior to obtaining certification.

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.

Amend the entry requirements for those landscape architect applicants who possess an LAAB accredited degree in landscape architecture to require them to obtain three years of acceptable experience (currently no experience is required for these applicants) before being granted certification (they could still be approved to take, and sit for, the examination prior to obtaining the required three years of experience; however, certification would not be awarded until such time as the three years of acceptable experience is obtained, documented, submitted, reviewed and approved).

Any 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 public will be better protected in that those individuals possessing an LAAB accredited degree in landscape architecture will be required to have three years of acceptable experience before being granted certification. This will ensure that all landscape architect practitioners have at least some real

world experience before being held out to the public as minimally competent by the Board. There are no anticipated disadvantages as applicants are currently meeting this standard. Further, this change will make it easier for individuals initially certified in Virginia to become certified/licensed in other jurisdictions which have an experience requirement.

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.

VAC #	SUMMARY OF CHANGES MADE AT FINAL SINCE THE PROPOSED STAGE
[18 VAC 10-20-440.H]	[Add a provision for those individuals who possess an LAAB accredited degree in landscape architecture and qualified under the prior provisions, but do not pass the examination during the three year eligibility period, and have to reapply under the new requirements.]

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 26, 2005 – March 16, 2006, with a public hearing held on March 16, 2006) regarding the proposed regulations. During the public comment period and public hearing, the Board received the following comment:

#	REGULATION #	SUMMARY OF COMMENT(S)
	COMMENTOR’S NAME	BOARD RESPONSE
1	18 VAC 10-20-420	The Virginia Chapter of the American Society of Landscape Architects strongly supports the amendment to regulation 18 VAC 10-20-420 concerning the proposed experience requirement for persons seeking certification as a landscape architect.
	Lynn M. Crump, CLA, ASLA, President, Virginia Chapter of the American Society of Landscape Architects, via letter presented by John Fogg at the public hearing on March 16, 2006.	Concur with the comment.

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.

VAC #	SUMMARY OF CHANGES MADE AT FINAL SINCE THE PROPOSED STAGE
[18 VAC 10-20-440.H]	[Add a provision for those individuals who possess an LAAB accredited degree in landscape architecture and qualified under the prior provisions, but do not pass the examination during the three year eligibility period, and have to reapply under the new requirements.]

VAC #	SUMMARY OF CHANGES MADE AT PROPOSED
18 VAC 10-20-420	Include a requirement for those candidates who possess an LAAB accredited degree in landscape architecture to have 36 months of experience before obtaining certification (they may sit for the examination prior to achieving the 36 months).
Landscape Architect Equivalency Table	Update the Table in accordance with the change made to 18 VAC 10-20-420 and relocate the Table from regulation 18 VAC 10-20-450 to regulation 18 VAC 10-20-420.

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.

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.