

CHAPTER 28-01-02.1
BOARD BYLAWS AND ADMINISTRATION

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28-01-02.1-01. Meetings. The board shall hold meetings at least twice each year, including at least one in January and one in July. The chairman may call special meetings when the chairman deems such meetings necessary. The executive director shall give notice as required by law. The date, time, and place of each meeting must be mutually agreed upon by a quorum of the board. All meetings of the board, whether regular meetings or special meetings, must be open public meetings.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-07

28-01-02.1-02. Rules of procedure. Robert's Rules of Order must govern procedure of the board except as otherwise provided by this chapter.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-07

28-01-02.1-03. Board quorum. A quorum of the board is required to transact business.

History: Effective January 1, 1988.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-07

28-01-02.1-04. Officers and board staff.

1. The board shall hold an election at the first meeting after July first of each year and elect a chairman, vice chairman, and secretary.
2. Each officer will be elected for one year and may be reelected.
3. The chairman:

- a. Shall be the executive head of the board.
 - b. Shall preside at all meetings when present.
 - c. Shall call meetings of the board when the chairman deems such meetings necessary.
 - d. Shall sign all certificates of registration.
4. The vice chairman shall in the absence or incapacity of the chairman exercise the duties and shall possess all the powers of the chairman.
 5. The secretary shall sign all official documents prepared by the board and shall sign all certificates of registration.
 6. The executive director shall perform all duties as may be prescribed by the board. The associate executive director shall in the absence or incapacity of the executive director exercise the duties and shall possess all the powers of the executive director.
 7. The executive director and any other person with signatory authority on the board's accounts shall give a surety bond in an amount determined by the board.
 8. The office of the board may be established at a place designated by the board.
 9. The board shall establish, appoint, and create ad hoc or standing committees to study, research, and evaluate such matters as assigned. For each committee a chairman must be designated.
 10. Board officers and members serve without compensation except for per diem when engaged in state business approved by the board and for subsistence, lodging, and travel expenses at the rates established for state employees. All per diem and expenses must be requested on the travel voucher approved by the state.
 11. The board staff members must be reimbursed expenses for approved travel, lodging, and subsistence at rates established for state employees. All per diem and expenses must be requested on the travel voucher approved by the state.

History: Effective January 1, 1988; amended effective April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-03

28-01-02.1-05. Forms - Records - Roster - Reports.

1. **Forms.** The board shall prescribe forms for applications and other documents. Copies of the forms and the instructions for completing the forms must be made available by the board office. All applications and documents must be completed in accordance with the board's instructions.
2. **Records.**
 - a. The open records law requires that most records, papers, and reports of the board are public in nature and may be obtained through the executive director or designee upon request and payment of costs of reproduction, handling, and mailing.
 - b. The board shall keep a record of all its proceedings, including its action on each application coming before the board.
 - c. The board shall keep a record of all applications received.
 - d. The board shall keep a record of all certificates issued.
 - e. The board shall keep a record of all complaints received and of any actions taken on those complaints.
 - f. All applications, approved or deferred, unless otherwise specified in this or other sections of this chapter, will be retained in accordance with North Dakota Century Code section 54-46-10.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-09, 43-19.1-10, 43-19.1-11

28-01-02.1-06. Statement of purpose of rules - Amendments. Repealed effective October 1, 2010.

28-01-02.1-07. Gender and definitions.

1. **Gender.** This title is to be read and interpreted in a nongender context without regard to race, creed, or sex.
2. **Definitions.** The terms used throughout this title have the same meaning as in North Dakota Century Code chapter 43-19.1, except:
 - a. "Accreditation board for engineering and technology accredited curriculum" means those academic programs offered by institutions of higher learning that the accreditation board for engineering and technology (ABET) certify to have met the criteria and qualifications

required to receive the designations as accredited programs in the education, training, and preparation of the graduates from such programs; engineering curriculum must have the accreditation of the engineering accreditation commission (EAC) within the accreditation board for engineering and technology and land surveying curriculum must have either engineering accreditation commission or technology accreditation commission (TAC) or applied science accreditation commission (ASAC) of the accreditation board for engineering and technology to be acceptable to the board.

- b. "Application" means the act of furnishing data, documents, and such information under oath as may be required by the board and on forms prescribed by the board.
- c. "Code of ethics" means that set of rules prescribed by the board and adopted herein that govern the professional conduct of all registrants.
- d. "Direct supervision" means the activities of that person who is in responsible charge of technical, engineering, or land surveying work in progress, whose professional skill and judgment are embodied in the plans, specifications, reports, plats, or other documents required to be certified pursuant to section 28-02.1-08-01. A person in direct supervision of work directs the work of other registrants, interns, draftspersons, technicians, or clerical persons assigned to that work.
- e. "Engineering intern" and "land surveyor (surveying) intern" are recognized by the board as synonymous with engineer-in-training and land surveyor-in-training provided the intern designations are conferred under the same requirements as the "in-training" designations pursuant to these rules.
- f. "Examination" means that series of tests prescribed by the board that are developed to ascertain the level of proficiency in the fundamentals and in the practices of the professions regulated by the board.
- g. "Gross negligence" means a substantial deviation in professional practice from the standard of professional care exercised by members of the registrant's profession, or a substantial deviation from any technical standards issued by a nationally recognized or state-recognized professional organization, or both, comprised of members of the registrant's profession, or a substantial deviation from requirements contained in state laws, board regulations, local ordinances, or regulations related to the registrant's professional practice.

- h. "Incompetence" means to lack the professional qualifications, experience, education, or combination thereof to undertake a professional engagement or assignment. The following acts or omissions, among others, may be deemed to be "incompetence" and to be cause for denial, suspension, or revocation of a certificate of registration to practice engineering or land surveying and the imposition of any other lawful discipline. Incompetence includes:
 - (1) Recklessness or excessive errors, omissions, or failures in the registrant's record of professional practice.
 - (2) Mental or physical disability or addiction to alcohol or drugs that leads to the impairment of the registrant's ability to exercise due skill and care in providing professional services so as to endanger the health, safety, and welfare of the public.

- i. "Misconduct" means:
 - (1) Conviction of any crime reasonably related to the practice of the registrant's profession;
 - (2) An adverse civil adjudication involving dishonesty, gross negligence, or incompetence;
 - (3) Suspension or revocation or voluntary surrender of a professional license or registration by this state or by any other jurisdiction;
 - (4) Any act or practice in violation of the rules of professional conduct as set forth in sections 28-03.1-01-01 through 28-03.1-01-17;
 - (5) Violation of any of the administrative rules set forth in this title; or
 - (6) Knowingly fail to comply with continuing professional competency requirements set forth in article 28-04.

- j. "Registrant" means any individual or organization who has been approved for a certificate of registration as an engineer intern, land surveyor intern, a professional engineer, a professional land surveyor, or any combination thereof, or a temporary permit to practice engineering, or a certificate of commercial practice.

History: Effective January 1, 1988; amended effective August 1, 1994; April 1, 1999; October 1, 2004; October 1, 2010.

General Authority: NDCC 43-19.1-08

Law Implemented: NDCC 43-19.1-08