

Professional Conduct Committee: Rules of Procedure

Approved by the Board of Directors 4/25/2024

I. Introduction and Purpose.

These Rules of Procedure set forth the procedures followed by the National Council of Architectural Registration Boards (“NCARB”) with respect to the professional conduct of individuals who are “Record Holders.” The term “Record Holder” may be used to describe any individual who is covered by these Rules of Procedure, including

- Individuals who hold an NCARB Certificate,
- Individuals who previously held an NCARB Certificate and are on “inactive” status,
- Individuals who seek to obtain an NCARB Certificate (e.g., candidates for the Architect Registration Examination® (“ARE”), and
- Individuals who participate in or seek to participate in other NCARB programs (e.g., the Architectural Experience Program® (“AXP”), the Education Alternative, and the Foreign Architect programs).

The NCARB Professional Conduct Committee (“PCC”) is charged by the NCARB Board of Directors (the “NCARB Board”) to review the conduct of Record Holders and recommend sanctions or issue a warning letter when the PCC has found misconduct.

These Rules of Procedure set forth the framework for PCC’s operation and may be supplemented by internal PCC operational guidelines consistent with these Rules.

Consistent with the *NCARB Bylaws*, the purpose of the PCC acting within these Rules of Procedure is to provide Member Boards with confidence that an NCARB Record Holder has demonstrated sufficient character as would be expected of an individual qualified to practice architecture. Although Member Boards are charged with regulating the practice of architecture in their jurisdictions, the PCC is established to uphold the high standards of the profession and the value of the NCARB Certificate.

The processes described herein are meant to provide procedural fairness to individuals faced with potential sanctions, while permitting NCARB to maintain and enforce standards of professional conduct. These processes are not meant to replicate formal governmental criminal or civil proceedings. Record Holders facing sanctions are permitted to be represented by an attorney engaged at their expense.

II. General Provisions.

- A. PCC Structure. The PCC shall be composed of individuals appointed by the NCARB Board or any individual delegated with the authority to make such appointments, for a term as set forth by the appointing NCARB Board or individual. Appointees

shall be referred to as “PCC Members.” PCC Members may include, among others, persons who serve or have served as executives, members, and other representatives of a Member Board. A Chair of the PCC shall be appointed by the NCARB Board or any individual delegated with the authority to make such appointment. This person shall be known as the “PCC Chair.” The PCC shall have charges assigned to it on an annual basis by the NCARB Board and shall report regularly as required by the NCARB Board.

- B. Proceedings. The PCC shall meet regularly in person or by teleconference to review cases reported by Member Boards and/or NCARB staff and to conduct other business as may be deemed appropriate. The PCC Chair shall work with the assigned NCARB staff liaison (“NCARB Staff Liaison”) and counsel (“NCARB Counsel”) to establish agendas in advance of each meeting.
- C. Conflicts of Interest. PCC Members shall review the agenda and other advance reading materials in preparation for each meeting and advise the PCC Chair, NCARB Staff Liaison, and/or NCARB Counsel if an actual or potential conflict of interest may exist. Any individual with an actual or potential conflict shall abstain from the discussion and voting on any such matter. A PCC Member who is employed by or serves as a member of a Member Board shall abstain from discussing or acting on any matter arising out of the state or jurisdiction represented by that Member Board.
- D. Other Proceedings. Regardless of the status of a matter before the PCC, NCARB shall at all times be entitled to take any other action, including but not limited to pursuing judicial or administrative proceedings, against any Record Holder or other person. In addition to the particular sanctions and other actions provided for in these Rules of Procedure and in the Policy for the ARE: Exam Candidate Conduct, NCARB independently may seek damages, injunctive relief, or other remedies available to NCARB at law and equity.
- E. NCARB Board Reporting. The PCC shall, on a regular basis, provide to the NCARB Board a report of all recent case dispositions. When applicable, NCARB Board members shall observe conflict of interest procedures when considering such matters.
- F. Correspondence. Any notice or other official correspondence to Record Holders shall be made by certified mail, return receipt requested, or by an overnight delivery service, such as Federal Express or UPS, with a signature required.

III. Member Board Reporting.

With regard to individuals holding an NCARB Certificate, the PCC relies on and acts on reporting done by each NCARB Member Board ("Member Board"). Each Member Board is required by the *NCARB Bylaws* to report each case in which the Member Board has 1) revoked an architect's registration (the term "registration" as used in this document is meant to refer to an architect's licensure in a particular jurisdiction, regardless of what term that jurisdiction may use) for cause other than nonpayment of renewal fees or failure to file information with the Member Board or 2) the Member Board or a court makes a finding, not reversed on appeal, that the architect has, in the conduct of architectural practice, violated the laws and/or regulations.

Each Member Board is requested to report all disciplinary actions to the NCARB Disciplinary Database. For reporting purposes, "disciplinary actions" are defined as "public actions taken by a Member Board against an individual who violates one or more laws and/or regulations, resulting in an order or agreement that is issued after the individual was provided an opportunity for response/appeal/due process."

IV. Member Board Actions for PCC Consideration.

- A. Actions Requiring PCC Review. Upon receipt of Member Board actions, NCARB staff will review all submissions and forward to the PCC any cases that involve any of the following actions or violations taken by the Member Board:
1. Revocation for cause other than nonpayment of renewal fees or failure to file information with a Member Board;
 2. Conviction of a felony or crime involving fraud or wanton disregard for the rights of others; and
 3. Finding of multiple offenses that in compilation may indicate significant lapses of character.
- B. Actions That May Require PCC Review. Upon receipt of Member Board actions, NCARB staff will review all submissions and forward to the PCC any cases that involve any of the following actions taken by the Member Board, except for infractions described in Section C below:
1. Suspension;
 2. Surrender of registration in connection with pending or threatened disciplinary action;
 3. Civil penalty/fine;
 4. Probation; and
 5. Restrictions on practice involving scope of practice limitation.

C. Infractions Not Requiring PCC Review. For actions otherwise described in Section B above that fall into one of the following categories, NCARB staff shall not forward such actions to the PCC for its review:

1. Consent actions in which there may be agreed-upon penalties but no finding or agreement that the law has been violated;
2. Corporate or firm registration violations;
3. Disciplinary actions on account of failure to pay taxes or to furnish child support or other like civil violations;
4. Disciplinary actions following nonpayment of renewal fees or failure to file information or to meet other administrative requirements for continued registration, including continuing education violations;
5. Violations relating to technical submissions such as seal and signature requirements, title block mistakes, failure to timely submit plans for review, construction administration notifications, and the like; and
6. Disciplinary action in one state that is based solely on the disciplinary action of another state or failure to report the disciplinary action of another state (provided that such prior state's disciplinary action had been previously reported to NCARB).

In the event NCARB staff is uncertain as to whether an action should be categorized as an infraction not requiring PCC review, the case shall be presented to the PCC for a determination.

V. Prohibited Conduct, Sanctions, and Case Procedures.

A. Registration Revocation or Certificate Ineligibility.

1. Conduct Subject to Mandatory Certificate Revocation. The Bylaws of NCARB provide that NCARB shall revoke an architect's NCARB Certificate ("Certificate") if:
 - a. A Member Board has at any time revoked the architect's registration for a cause other than nonpayment of renewal fees or failure to file information with the Member Board; or
 - b. Facts are subsequently revealed that show that the architect was actually ineligible for the Certificate at the time of certification.
2. Initial NCARB Action. Upon being informed of a registration revocation, the staff of NCARB will, in the case of Section 1(a) above, return a copy of the action to the Member Board with a letter asking such board to confirm that its

action has not been appealed. When the confirmation that no appeal has been filed is received from the Member Board, NCARB staff will notify the PCC.

In the case of Section 1(b) above, before making a final determination as to whether the individual has been ineligible for a Certificate at the time of certification, NCARB staff shall request a response as set forth in Section V.D.2 from the Record Holder. Upon receipt of the response from the Record Holder or upon passage of the 30-day time frame without receipt of a response, NCARB staff shall provide to the PCC, at least seven days prior to the meeting at which the matter will be considered, the Record Holder's response to the PCC Members.

3. NCARB PCC Action. The PCC will then confirm that the Certificate revocation is one which is subject to Section 1(a) or 1(b) above and shall recommend Certificate revocation to the NCARB Board of Directors. The PCC may, in its discretion, withhold a final decision on a particular matter if it determines that further clarification or information would be needed.
 4. NCARB Board of Directors Action. If the PCC recommends revocation of a Certificate, NCARB staff shall prepare appropriate notice documents for consideration by the NCARB Board. Upon approval by the NCARB Board, NCARB staff will notify the architect that their Certificate has been revoked.
- B. Exam Misconduct. Conduct covered under the NCARB Policy for the ARE: Exam Candidate Conduct shall be subject to discretionary discipline under the terms of that document. Upon being informed of conduct described in NCARB Policy for the ARE: Exam Candidate Conduct, NCARB staff shall initiate proceedings as set forth in that document.
- C. Other Infractions.
1. Conduct Subject to Discretionary Action for a Record Holder who is an NCARB Certificate Holder. The Bylaws of NCARB provide that NCARB may revoke an architect's Certificate if:
 - a. A Member Board or a court makes a finding, not reversed on appeal, that the architect
 - i. has, in the conduct of their architectural practice, violated the law, or
 - ii. has engaged in conduct involving wanton disregard for the rights of others;

- b. The architect has surrendered or allowed to lapse their registration in connection with disciplinary action pending or threatened, or a Member Board has denied the architect registration for a cause other than the failure to comply with the educational, experience, age, citizenship, or other technical qualifications for registration in such jurisdiction; or
 - c. The architect has willfully misstated a material fact in a formal submission to NCARB (including, without limitations, applications for a Certificate and annual reports for renewal of a Certificate).
- 2. Conduct Subject to Discretionary Action for an NCARB Record Holder.
NCARB Bylaws provide that NCARB shall obtain and record factual data including but not limited to a Record Holder's character. NCARB has adopted as one of its standards for holding a Certificate that a Record Holder must be of good character as verified by employers, architects, and Member Boards. The PCC may consider the following as grounds for denial of certification based on character:
 - a. Revocation or suspension of the Record Holder's registration by any Member Board for a cause other than nonpayment of renewal fees or failure to file information or to meet other administrative requirements for continued registration;
 - b. A finding by a Member Board or court, not reversed on appeal, that the Record Holder
 - i. Has violated the law, or regulation governing the practice of architecture; or
 - ii. Engaged in conduct involving fraud or wanton disregard for the rights of others;
 - c. Conviction of the Record Holder of a felony or a crime involving fraud or wanton disregard for the rights of others;
 - d. Surrender or lapse of the Record Holder's registration in connection with disciplinary action pending or threatened;
 - e. Denial of registration by a Member Board for a cause other than failure to comply with the educational, experience, age,

citizenship, or other technical qualifications for registration in such jurisdiction;

- f. Willful misstatement of a material fact in a formal submission to NCARB, including without limitation any submissions regarding continuing education hours on any application for a Certificate or renewal thereof;
 - g. Evidence of incompetence, dishonesty, or unlawful conduct, not adequately refuted, related to the practice of architecture or involving fraud or wanton disregard of the rights of others;
 - h. A finding by NCARB that a Record Holder has violated the ARE Candidate Agreement and/or NCARB's Policy for the ARE: Exam Candidate Conduct;
 - i. Willful misstatement of NCARB information (including, for example, falsely claiming to hold Certificate status); or
 - j. A finding by NCARB that the Record Holder has engaged in any behavior—written, verbal, or physical—that may be considered inappropriate, abusive, disruptive, threatening, discriminatory, prejudicial, or harassing in nature while engaging with NCARB, any Member Board, and/or any vendor working on behalf of NCARB.
3. Initial NCARB Action. Upon being informed of circumstances that appear to be a violation as set forth in Sections 1 or 2 above, NCARB staff shall request a response as set forth in Section V.D.2 from the Record Holder. Upon receipt of the response from the Record Holder or upon passage of the 30-day time frame without receipt of a response, NCARB staff shall provide to the PCC, at least seven days prior to the meeting at which the matter will be considered, the Record Holder's response to the PCC Members.

Violations of Section V.C.2.j (inappropriate conduct) shall be reviewed and referred by the NCARB Chief Executive Officer prior to presentation to the PCC.

4. NCARB PCC Action. The PCC will consider whether it finds the Record Holder's conduct to be in violation of one or more specific provisions of these Rules of Procedure and/or the *NCARB Model Rules of Conduct*. The PCC may, in its discretion, withhold a final decision on a particular matter if it determines that further clarification or information would be needed.

If the PCC determines a violation occurred, it shall determine which sanction or other action is appropriate. The actions available to the PCC are (note that one or more may be applied in any case):

- (i) Recommend Certificate revocation to NCARB Board;
- (ii) Recommend Certificate suspension for a period of time to NCARB Board;
- (iii) Recommend Certificate denial to NCARB Board;
- (iv) Recommend public reprimand to NCARB Board;
- (v) Require that Record Holder take certain ethics education courses (NCARB Board approval not required);
- (vi) Issue a warning letter to Record Holder (NCARB Board approval not required). A warning letter is not a sanction by NCARB.

When a warning letter or one or more sanctions not requiring approval by the NCARB Board is issued by the PCC, the PCC shall direct staff to take such actions necessary to inform the Record Holder and implement such sanction(s) or warning letter.

5. NCARB Board of Directors Action. If a proposed sanction requires approval by the NCARB Board, NCARB staff shall prepare appropriate notice documents for consideration by the NCARB Board.

D. Procedures.

1. Review Standard. The PCC shall use the standard of preponderance of the evidence (“more likely than not”) when deciding whether it believes a violation has been shown.
2. Request for Response. Upon being informed of circumstances that appear to be a violation as set forth in Sections V.A or V.C above, NCARB staff shall notify the applicable Record Holder of such circumstances. Such notification shall:
 - a. Contain all documents—including, for example, Member Board decision and these Rules of Procedure—that are relevant to the matter;
 - b. State which provisions of these Rules of Procedure are alleged to have been violated;
 - c. State that the Record Holder has 30 calendar days to respond in writing and/or submit relevant information as to why the Record Holder should not be subject to sanctions; and

- d. Provide clear instructions to the Record Holder regarding how to submit a written response.
3. Publicity. A public reprimand and/or Certificate revocation shall include the name of the affected Record Holder, the identification of the city and state in which the Record Holder either lives or works, and a brief description of the conduct leading to the sanctions. Said information shall be published in the appropriate NCARB publications and NCARB web page as determined by NCARB staff for a period of one year. NCARB staff may also share publicly case studies regarding matters considered under these Rules of Procedures that were not subject to a public reprimand sanction, provided that the identifying information (such as the name of the Record Holder) is not included.
4. Timing. A sanction shall become effective immediately upon notice to and receipt by the Record Holder of final documentation from NCARB.
5. Notice to Member Boards. NCARB staff shall notify each applicable Member Board when an individual Record Holder has been sanctioned or has received a warning letter and shall update NCARB's disciplinary records accordingly.
6. Appeals. Petition for relief from sanctions hereunder shall be submitted by the affected Record Holder to the PCC for review and may only be submitted for purposes of demonstrating newly revealed evidence that is contrary to the factual information previously presented and would invalidate the basis for those sanctions. Petitions for relief shall not be submitted for purposes of seeking a re-evaluation of evidence previously presented or the sanctions imposed or for consideration of other evidence or circumstances that do not invalidate the basis for the prior disciplinary action. Petitions for relief must be submitted to NCARB no later than 30 days following the date of the applicable final decision. The NCARB Board of Directors may waive or extend the 30-day appeal deadline in extraordinary circumstances only. Upon receipt of a petition for relief permitted hereunder, NCARB staff or the PCC may, in its discretion, request the petitioner or any Member Board to submit additional relevant evidence. NCARB Staff or the PCC may defer consideration and decision pending receipt of such information or other evidence that would demonstrate that the original basis for the prior disciplinary action was invalid. The petitioner shall be notified of the action taken hereunder. The submission of any petition for relief hereunder shall not, during its pendency, suspend or defer the implementation of the disciplinary action previously taken. The procedures for petitions for relief under this section are in addition to the procedures set forth in Section V.D.7 for reinstatement of a revoked Certificate and reapplication after a denied Certificate.

7. Reinstatement or Reversal of Denial.

a. Reinstatement.

- i. Revoked Certificate. A Certificate previously revoked may be considered for reinstatement if the cause of the revocation has been removed, corrected, or otherwise remedied. NCARB shall only consider an application for reinstatement after two years following the effective date of revocation. Upon receiving an application for reinstatement, the PCC will consider the matter. The PCC may, in its discretion, request the applicant or any Member Board to submit relevant information in connection with the application for reinstatement that would warrant reinstatement. The PCC may defer consideration and decision pending receipt of such information. In making such determination, the PCC may consider grounds relevant to denial of the Certificate based on character under Section V.C.2. The PCC by a vote of a majority of its present voting members, shall recommend to the NCARB Board to accept or deny the reinstatement application. The NCARB Board may vote to accept the PCC's recommendation or take other action as the NCARB Board may decide. The applicant shall be notified of the action taken. If the action is to reinstate, then upon the applicant's paying the established fee and complying with all other NCARB requirements, the Certificate will be reinstated.
- ii. Suspended Certificate. An architect whose Certificate has been suspended will have the Certificate reinstated automatically after the period of suspension has ended, unless conditions and/or stipulations were included as part of the original suspension. If conditions and/or stipulations were included as part of the original suspension, the architect must demonstrate that those conditions and/or stipulations have been met prior to reinstatement being approved pursuant to the NCARB Board recommendation(s).

- b. Reversal of Denial. In the case of a denial of Certificate, a Record Holder may re-apply for the Certificate if the cause of the denial has been removed, corrected, or otherwise remedied. The PCC shall not consider re-applications for a Certificate until one year following the effective date of the denial.