

**MISSISSIPPI STATE BOARD OF ARCHITECTURE
LANDSCAPE ARCHITECTURE ADVISORY COMMITTEE
RULES AND REGULATIONS**

Proposed Rule Revisions | Filed with MS SOS on May 7, 2024

CLEAN

Title 30, Part 202, Chapter 1: Registration and Definitions

Rule 1.2 Eligibility.

1.2.1 An applicant for initial registration or registration by reciprocity as a Landscape Architect in Mississippi shall comply with Section 73-2-7 of the Mississippi Code of 1972.

1.2.2 The minimum degree accepted by the Committee shall be a four-year landscape architecture degree, or any landscape architecture degree above a four-year degree, including a master's degree, which is accredited or accepted by a CLARB recognized accreditation body or a CLARB recognized education evaluation authority.

1.2.3 Any applicant that does not meet the education requirements of 1.2.2 must have seven years of experience in landscape architecture as required by *Miss. Code Ann. §73-2-7* under the direct supervision of a licensed landscape architect. To be considered "experience in landscape architecture," an applicant must gain experience in the following practice domains to ensure competency necessary to protect the public and the environment:

1. Project and Construction Management: includes pre-project management, project management, bidding, construction, and maintenance;
2. Inventory and Analysis: includes site inventory, physical analysis, and contextual analysis;
3. Design: includes stakeholder process, master planning, and site design;
4. Grading, Drainage, and Construction Documentation: includes site preparation plans, general plans and details, specialty plans, and specifications.

The review and acceptance of such experience is at the sole discretion of the Committee and subject to approval by the Board. Graduation from a college or university in a curriculum other than landscape architecture shall be accepted by the Board as the equivalent of two years' experience of the seven years required by §73-2-7(b). No applicant shall receive credit for more than two years' experience for any scholastic training regardless of the length of the educational process.

1.2.4 An applicant for initial registration or reciprocal registration shall have successfully completed the CLARB registration examination, where the examination administration and grading were conducted in accordance with CLARB's standards in effect at the time.

Source: *Miss. Code Ann §73-2-7*

Title 30, Part 202, Chapter 2: Professional Code of Conduct

Rule 2.2 Competence.

2.2.1 In practicing landscape architecture, a Landscape Architect shall act with care and competence, and shall apply the technical knowledge and skill which is required of Landscape Architects, practicing in the State of Mississippi.

2.2.2 In designing a project, a Landscape Architect shall take into account all applicable federal, state and local building laws and regulations. While a Landscape Architect may rely on the advice of other professionals (e.g. attorneys, engineers, and other qualified persons) as to the intent and meaning of such regulations, once having obtained such advice, a Landscape Architect shall not knowingly design a project in violation of such laws and regulations.

2.2.3 A Landscape Architect shall undertake to perform professional services only when he or she, together with those whom the Landscape Architect may engage as consultants, are qualified by education, training and experience in the specific technical areas involved.

2.2.4 No person shall be permitted to practice landscape architecture if, in the Committee's judgment, such person's professional competencies are substantially impaired by physical and/or mental disabilities. The assessment of impairment should be performed by an appropriately qualified professional.

2.2.5 A landscape architect, if properly qualified by training, education and experience, may perform construction management services without obtaining any additional license or certification, provided that the landscape architect does not perform any construction work on the project being managed.

Source: *Miss. Code Ann* §73-2-16(2)(a)

Rule 2.3 Conflict of Interest.

2.3.1 A Landscape Architect shall not accept compensation, financial or otherwise, for landscape architectural services from more than one party on the same project unless the circumstances are fully disclosed and agreed to by all interested parties and such disclosure and agreement are in writing.

2.3.2 A Landscape Architect shall not knowingly solicit or accept employment for professional services for any work which another Landscape Architect has been exclusively employed to perform and with which work the other professional is no longer to have any connection, without first having been advised in writing by the Landscape Architect's prospective employer that the employment of the other professional has been terminated.

2.3.3 If a Landscape Architect has any business association or a direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the Landscape Architect's performance of professional services, the Landscape Architect shall fully disclose in writing to the Landscape Architect's client or employer the nature of the business association or financial interest, and if the client or employer objects to such business association for financial interest, the Landscape Architect will either terminate such association or interest or offer to give up the commission or employment.

2.3.4 A Landscape Architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products. As used herein, “compensation” shall not mean customary and reasonable business hospitality, entertainment, or product education.

2.3.5 The Landscape Architect shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents or their parties in connection with work for which he/she is responsible.

2.3.6 When acting as the interpreter of building contract documents and/or the judge of contract performance, a Landscape Architect shall render decisions impartially, favoring neither party to the contract.

2.3.7 The Landscape Architect shall not solicit or accept a contract from a governmental body on which the Landscape Architect or a principal or officer of his/her organization serves as a member.

2.3.8 When a Landscape Architect is employed in a full or part-time position, he/she shall not use the advantages of his/her position to compete unfairly with other professionals. A Landscape Architect for any county, city or public entity board or agency, where plans or documents must be submitted to him/her for review, approval or a recommendation for approval, cannot review, approve or recommend approval of his/her own plans or documents, or plans or documents prepared by any member of the firm in which he/she is a member.

Source: *Miss. Code Ann* §73-2-16(2)(a)

Rule 2.4 Full Disclosure.

2.4.1 A Landscape Architect, making public statements on landscape architectural questions, shall disclose when the Landscape Architect is being compensated for making such statements or has an economic interest in the issue.

2.4.2 A Landscape Architect shall accurately represent to a prospective or existing client or employer the Landscape Architect's qualifications and the scope of the Landscape Architect's responsibility in connection with work for which the Landscape Architect is claiming credit.

2.4.3 The registrant shall not falsify or permit misrepresentation of his or her associates' academic or professional qualifications. He/she shall not misrepresent or exaggerate his/her degree of responsibility in or for the subject matter or prior assignments. Brochures or other presentations incidental to the solicitation of employment shall not misrepresent pertinent facts concerning employer, employees, associates, joint ventures or past accomplishments.

2.4.4 If, in the course of the Landscape Architect's work on a project a Landscape Architect becomes aware of a decision taken by the Landscape Architect's employer or client, against the Landscape Architect's advice, which violates applicable federal, state or local building laws and regulations and which will, in the Landscape Architect's judgment, materially and adversely affect the health and safety of the public on the finished project, the Landscape Architect shall:

A. Refuse to consent to the decision, and

- B. Report the decision to the building inspector or other public official charged with enforcement of the applicable federal, state or local building laws and regulations, and
- C. In circumstances where the Landscape Architect reasonably believes that other such decisions will be taken notwithstanding his/her objection, terminate his/her services with reference to the project.

2.4.5 A Landscape Architect shall not deliberately make a false statement of a material issue or fail deliberately to disclose a material fact requested in connection with the Landscape Architect's application for registration or renewal or otherwise lawfully requested by the Committee.

2.4.6 False or malicious statements: A licensee shall make no false or malicious statements which may have the effect, directly or indirectly, or by implication, of injuring the personal or professional reputation or business of another member of the profession.

2.4.7 A licensee who has knowledge or reasonable grounds for believing that another individual or another member of his/her profession has violated any statute or rule regulating the practice of landscape architecture shall have the duty of presenting such information to the Committee.

2.4.8 A Landscape Architect shall not assist the application for registration of a person known by the Landscape Architect to be unqualified in respect to education, training, experience, or character.

2.4.9 In the case of where a firm name is considered a "trade name", the name of at least one (1) landscape architect licensed in this state must appear on any announcement, stationary, printed matter or listing. Example: ABC Landscape Architects, John Doe, Landscape Architect

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Rule 2.5 Compliance with the Law.

2.5.1 A Landscape Architect shall not, in the conduct of the Landscape Architect's practice, knowingly violate any state or federal criminal law directly related to the duties and responsibilities of the practice of landscape architecture.

2.5.2 The registrant shall not furnish services in such a manner as to enable unregistered persons to evade federal, state and local building laws and regulations, including building permit requirements.

2.5.3 A Landscape Architect shall neither offer nor make any payments or gifts to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the Landscape Architect is interested.

2.5.4 A Landscape Architect shall comply with the registration laws and regulations governing the Landscape Architect's professional practice in any United States jurisdiction.

2.5.5 No person shall use any titles, words, letters or abbreviations to denote a standard of professional competence that may mislead the public by implying landscape architect or landscape architecture without being duly licensed in this state or without clearly indicating by a written disclaimer the absence of licensure in Mississippi upon any and all instruments or documents on which such reference appears.

2.5.6 An individual seeking a landscape architectural commission or participating in a design competition for a project in Mississippi involving landscape architectural services shall be admitted to Mississippi for the purpose of offering to render landscape architectural services and for that purpose only if:

- A. The applicant holds a current and valid registration issued by a registration authority recognized by the Committee; and
- B. the applicant holds a CLARB Certificate; and
- C. the applicant notifies the Mississippi Committee in writing that:
 - 1. individual holds an CLARB Certificate and is not currently registered in the state, but will be present in the state for the purpose of offering to render landscape architectural services,
 - 2. individual will deliver a copy of the notice referred to in (a) to every potential client to whom the applicant offers to render landscape architectural services,
 - 3. individual shall apply for a Mississippi license within 10 working days of the date of notification to the Mississippi Committee as provided in this paragraph, and
 - 4. the individual consents to the jurisdiction of the Committee.

The individual shall be prohibited from actually rendering landscape architectural services until he/she has been licensed.

2.5.7 A Landscape Architect shall not offer, directly or indirectly, to pay a commission or other consideration or to make a political contribution or other gift in order to secure work, except for payment made to an employment agency for its services.

2.5.8 A Landscape Architect shall cooperate with the Committee in its investigation of complaints or possible violations of any statute or rule regulating the practice of landscape architecture. This cooperation shall include responding timely to written communications from the Committee, providing any information or documents requested within thirty (30) days of the date on which the communication was mailed, and appearing before the Committee or its designee upon request.

2.5.9 A Landscape Architect shall not violate any order of the Committee.

Source: *Miss. Code Ann* §73-2-16(2)(a)

Rule 2.6 Professional Conduct.

2.6.1 Each office maintained for the preparation of drawings, specifications, reports, or other professional work shall have a Landscape Architect resident, and regularly employed in that office having direct control of such work.

2.6.2 A Landscape Architect shall not sign or seal drawings, specifications, reports or other professional work for which he or she does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of such professional work prepared by the Landscape Architect's consultants, registered under this or another professional registration of Mississippi, the Landscape Architect may sign or seal that portion of the professional work if the Landscape Architect has reviewed such portion, has coordinated its preparation and intends to be responsible for its adequacy.

2.6.3 A Landscape Architect shall neither make nor offer to make any gifts, other than that of nominal value (including, for example, reasonable entertainment and hospitality), with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the Landscape Architect is interested.

2.6.4 A landscape architect shall not engage in conduct involving fraud or wanton disregard for the rights of others.

2.6.5 A landscape architect may issue a price proposal or bid for the design and construction of a public project only if doing so as a design/build bid where the bids for both design and construction are submitted in the same proposal in accordance with the design/build provisions for public projects per *Miss. Code Ann.* §31-7-13, or other applicable statutes or provisions.

2.6.6 In the case where a landscape architect is awarded the design contract for a project, whether public or private, which will be competitively bid, neither the landscape architect, nor any entity owned in whole or part by the landscape architect, may bid for the construction, installation and/or implementation of the project.

Commentary: The Committee has recently been made aware of situations in which a landscape architect prepared plans and specifications for a public project, and then bid on and was awarded the construction contract for the project. The Committee is of the opinion that such a situation potentially creates a conflict of interest for the landscape architect in that the landscape architect is the designer and the contractor for the project thus removing the checks and balances which assure that the project is constructed in accordance with the plans and specifications.

2.6.7 In all professional reports, statements and testimony, each landscape architect shall be completely objective and truthful and include all relevant and pertinent information.

Source: *Miss. Code Ann* §73-2-16(2)(a)

Title 30, Part 202, Chapter 3: Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances

Rule 3.1 Disciplinary Guidelines.

The Committee shall follow the disciplinary procedures in the Rules and Regulations of the Mississippi State Board of Architecture (Title 30, Part 201, Chapter 5), to the extent that such

Rules and Regulations are consistent with the Laws, Rules, and Regulations for landscape architects specifically excepting that any discipline to be imposed against a landscape architect shall be governed by the disciplinary guidelines set forth in Title 30, Part 202, Chapter 3 of the Rules and Regulations of the Landscape Architecture Advisory Committee.

The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating the Law and Rules of the Board. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of the law. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of the law or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint will be grounds for enhancement of penalties, i.e., suspension, revocation, etc., including lesser penalties, i.e., fine, probation, or reprimand which may be included in the final penalty at the Board's discretion. The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the above mentioned statutes and rules:

A. Failure to stamp plans	1.11.2	Reprimand and \$250 fine
B. Failure to superimpose signature and/or date of execution over stamp	1.11.3	Reprimand and \$250 fine
C. Providing work not competent to perform	2.2.3	Reprimand and \$1,000 fine
D. "Plan Stamping"	2.6.2	Reprimand and \$1,000 fine
E. Attempting to procure license by providing false, deceptive or misleading information	§73-2-16	Revocation and \$1,000 fine (denial of license if application in process)
F. Licensee disciplined by another jurisdiction	2.5.4	Committee discretion
G. Conviction by any court of a felony relating to landscape architecture, except conviction of culpable negligent manslaughter, in which case the record of conviction shall be conclusive evidence	§73-2-16	1 year suspension, 2 year probation and \$1,000 fine
H. Practice on suspended license	§73-2-16	Revocation and \$1,000 fine
I. Practice on inactive license	§73-2-16	Fine based on length of time in practice while inactive; penalty will require licensee to renew license or cease practice
J. Practice on revoked license	§73-2-16	Fine based on length of time in practice while revoked
K. False, deceptive or misleading advertising	§73-2-16	Cease and desist letter
L. Fraudulent advertising	§73-2-16	Public Reprimand, \$1,000 fine and 1 year probation
M. Negligence	§73-2-16	Reprimand, 2 years probation and \$1,000 fine
N. Fraud or Deceit	§73-2-16	Reprimand, 1 year suspension, 2 years probation

O. Incompetence (mental or physical impairment)	2.2.4	and \$1,000 fine Suspension until ability to practice proved, followed by probation
P. Bribery to obtain clients or commissions	2.5.3	Revocation and \$1,000 fine
Q. Undisclosed conflict of interest	§73-2-16 2.3	Reprimand, \$1,000 fine and 2 years probation
R. Aiding unlicensed practice	Rule 2.5.2	Reprimand and \$1,000 Fine
S. Failure to comply with continuing education requirements	4.5	Admonition and \$500 fine

The Committee shall be able to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of final penalty.

The Committee shall also have the right to collect any legal and/or administrative charges incurred by the agency during the course of the investigation.

Source: *Miss. Code Ann* §73-2-16

Title 30, Part 202, Chapter 4: Mandatory Continuing Education Program

Rule 4.7 Acceptable Providers of Continuing Education.

Acceptable providers of continuing education include, but are not limited to, the following:

- Landscape Architecture Continuing Education System (LA CES)
- American Society of Landscape Architects (ASLA)
- Council of Landscape Architectural Registration Boards (CLARB)
- National Society of Professional Engineers (NSPE)
- American Institute of Architects (AIA)
- Agencies of the state or federal government offering training programs in landscape architecture
- Accredited colleges and universities offering training programs in landscape architecture.

Source: *Miss. Code Ann* §73-2-15

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MARK-UP

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Architect shall:

- A. ~~Report the decision to the local building inspector or their public official charged with enforcement of the applicable state or municipal building laws and regulations~~ Refuse to consent to the decision, and
- B. ~~Refuse to consent to the decision~~ Report the decision to the building inspector or other public official charged with enforcement of the applicable federal, state or local building laws and regulations, and
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Rule 3.1 Disciplinary Guidelines.

The Committee shall follow the disciplinary procedures in the Rules and Regulations of the Mississippi State Board of Architecture (Title 30, Part 201, Chapter 5), to the extent that such Rules and Regulations are consistent with the Laws, Rules, and Regulations for landscape architects specifically excepting that any discipline to be imposed against a landscape architect shall be governed by the disciplinary guidelines set forth in Title 30, Part 202, Chapter 3 of the Rules and Regulations of the Landscape Architecture Advisory Committee.

The Board sets forth below a range of disciplinary guidelines from which disciplinary penalties will be imposed upon practitioners guilty of violating the Law and Rules of the Board. The purpose of the disciplinary guidelines is to give notice to licensees of the range of penalties which will normally be imposed upon violations of particular provisions of the law. The disciplinary guidelines are based upon a single count violation of each provision listed. Multiple counts of violations of the same provision of the law or the rules promulgated thereto, or other unrelated violations contained in the same administrative complaint will be grounds for enhancement of penalties, i.e., suspension, revocation, etc., including lesser penalties, i.e., fine, probation, or reprimand which may be included in the final penalty at the Board's discretion. The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the above mentioned statutes and rules:

A. Failure to stamp plans	1.11.2	Reprimand and \$250 fine
B. Failure to superimpose signature and/or date of execution over stamp	1.11.3	Reprimand and \$250 fine
C. Providing work not competent to perform	2.2.3	Reprimand and \$1,000 fine
D. "Plan Stamping"	2.6.2	Reprimand and \$1,000 fine
E. Attempting to procure license by providing false, deceptive or misleading information	§73-2-16	Revocation and \$1,000 fine (denial of license if application in process)
F. Licensee disciplined by another jurisdiction	2.5.4	Committee discretion
G. Conviction by any court of a felony relating to landscape architecture, except conviction of culpable negligent manslaughter, in which case the record of conviction shall be conclusive evidence	§73-2-16	1 year suspension, 2 year probation and \$1,000 fine
H. Practice on suspended license	§73-2-16	Revocation and \$1,000 fine
I. Practice on inactive license	§73-2-16	Fine based on length of time in practice while inactive; penalty will require licensee to renew license or cease practice
J. Practice on revoked license	§73-2-16	Fine based on length of time in practice while revoked

K. False, deceptive or misleading advertising	§73-2-16	Cease and desist letter
L. Fraudulent advertising	§73-2-16	Public Reprimand, \$1,000 fine and 1 year probation
M. Negligence	§73-2-16	Reprimand, 2 years probation and \$1,000 fine
N. Fraud or Deceit	§73-2-16	Reprimand, 1 year suspension, 2 years probation and \$1,000 fine
O. Incompetence (mental or physical impairment)	2.2.4	Suspension until ability to practice proved, followed by probation
P. Bribery to obtain clients or commissions	2.5.3	Revocation and \$1,000 fine
Q. Undisclosed conflict of interest	§73-2-16 2.3	Reprimand, \$1,000 fine and 2 years probation
R. Aiding unlicensed practice	Rule 2.5.2	Reprimand and \$1,000 Fine
S. Failure to comply with continuing education requirements	4.5	Admonition and \$500 fine

The Committee shall be able to deviate from the above-mentioned guidelines upon a showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of final penalty.

The Committee shall also have the right to collect any legal and/or administrative charges incurred by the agency during the course of the investigation.

Source: *Miss. Code Ann* §73-2-16

Title 30, Part 202, Chapter 4: Mandatory Continuing Education Program

Rule 4.7 ~~Penalty for Late Units. Acceptable Providers of Continuing Education.~~

~~The base penalty for continuing education units claimed on a renewal but earned after the last day of the CEU reporting period, which is December 31 of odd years, shall be \$200, to which will be added a penalty fee of \$25 per late CEU per month for each month after the close of the CEU reporting period. Any CEUs earned after the December 31 close of the CEU reporting period are considered late. The penalty fee formula is as follows: Base penalty of \$200.00 + (\$25 penalty x no. of CEUs late x no. of months late) = late CEU penalty. Acceptable providers of continuing education include, but are not limited to, the following:~~

- Landscape Architecture Continuing Education System (LA CES)
- American Society of Landscape Architects (ASLA)
- Council of Landscape Architectural Registration Boards (CLARB)
- National Society of Professional Engineers (NSPE)
- American Institute of Architects (AIA)
- Agencies of the state or federal government offering training programs in landscape architecture
- Accredited colleges and universities offering training programs in landscape architecture.

Source: *Miss. Code Ann* §73-2-15