

**MISSISSIPPI STATE BOARD OF ARCHITECTURE**  
**RULES AND REGULATIONS**  
Final Rules Proposed February 18, 2020; Effective October 19, 2020

**CLEAN**

**Title 30, Part 201, Chapter 1: Examinations**

*Rule 1.7 Conditions*

- A. The test vendor will monitor the computer sections of the ARE in strict compliance with the procedures approved by NCARB.
- B. If there is any alleged misbehavior on the part of an applicant in connection with taking the examination, the Board will investigate the allegation and take appropriate action. This behavior may include, without limitation, violation of NCARB's guidelines or policies, or an applicant's confidentiality agreements with respect to the examination.

Source: *Miss. Code Ann. § 73-1-17*

**Title 30, Part 201, Chapter 3: General Rules**

*Rule 3.2 Practice Procedures*

3.2.4 For the purpose of properly identifying drawings, specifications, and contract documents, each architect shall obtain a stamp of a design approved by the Board to be used as the stamp required by *Miss. Code Ann. §73-1-35*. The manual, electronic, or digital signature of the architect and date of execution shall appear over the stamp on all documents prepared by the architect or under the architect's responsible control for use in the State of Mississippi.

3.2.7 In a design/build undertaking where the general contracting firm is owned by the architect of record, the general contracting firm and the architectural firm must be two distinct and separate entities and there must be separate contracts for both the construction and architectural services. If the architect of record is also an owner in the contracting firm for the project, the architect should advise the owner of the potential conflict of interest so that the owner can have the opportunity to employ a third party to provide construction administration.

Sources: *Miss. Code Ann. §§ 73-1-1, 3, 13, 19, 29 & 35; 73-2-3*

*Rule 3.3 RESERVED*

**Title 30, Part 201, Chapter 4: Professional Code of Conduct**

*Rule 4.3 Compliance with Laws*

4.3.1 An architect shall not, in the conduct of the architect's architectural practice, knowingly violate a state or federal criminal law directly related to the duties and responsibilities of the

practice of architecture.

*Commentary – This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant’s professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant’s architectural practice. It is intended, however, that Rule 4.5.4 will cover reprehensible conduct on the part of the architect not embraced by Rule 4.3.1.*

Source: *Miss. Code Ann. § 73-1-29(1)*

#### *Rule 4.5 Professional Conduct*

4.5.7 The signature (manual, electronic, or digital as defined below) of the registrant and date of signature shall be affixed to all documents listed in Rule 4.5.5 above:

- A. a manual signature is the handwritten name of the registrant applied to a document that identifies the person, serves as a means of authentication of the contents of the document, provides responsibility for the creation of the document and provides for accountability for the contents of the document.
- B. for electronic or digital documents transmitted to others in their native file format (e.g., AutoCAD, Revit, Word, or Excel), a digital signature with an electronic authentication process attached to or logically associated with the document. The digital signature must be as follows:
  - 1. unique to the person using it; and
  - 2. capable of verification; and
  - 3. under the sole control of the person using it; and
  - 4. linked to a document in such a manner that the digital signature is invalidated if any data in the document is changed.
- C. for electronic or digital documents transmitted to others in a “pdf” or similar format that has modified the native file so that it is not easily altered, an electronic (scanned) signature is acceptable if it is an accurate depiction of the licensee’s actual signature. It is the responsibility of the architect sealing the document to provide adequate security when documents with electronic seals and/or signatures are distributed.

Sources: *Miss. Code Ann. §§ 73-1-1, 13, 19, 29(1), 35*

### **Title 30, Part 201, Chapter 5: Disciplinary Actions**

#### *Rule 5.1 Filing of Complaints*

Any person may file a complaint against a registered architect, or any individual, charging a violation of the Architect Registration law and/or rules. Such complaints shall be filed with the Board, either verbally or in writing, and need not be signed or sworn to. The Board shall proceed in accordance with *Miss. Code Ann. §73-1-29* and the rules in this chapter. Contact the Board office or visit the Board’s website for a copy of the complaint and disciplinary procedures.

Source: *Miss. Code Ann. §73-1-29*

### *Rule 5.2 Investigative Procedures*

Upon the filing of charges or information in accordance with Rule 5.1, the Executive Director shall refer the matter to an Investigative Committee, composed of the Executive Director, investigator, and a Special Assistant Attorney General (SAAG). The Investigative Committee may also include a designated Board member or subject matter expert(s) when determined necessary by the Executive Director and/or the SAAG. Upon completion of the investigation, the Investigative Committee will provide a summary report to the Board. A Board member designated to review a complaint shall not vote on the disposition of the complaint.

Source: *Miss. Code Ann. §73-1-29*

### *Rule 5.3 Disciplinary Proceedings*

5.3.1 Notice of Hearing and Complaint – The Board shall investigate all charges filed with it consistent with the procedures outlined above and, upon finding reasonable cause to believe that the charges are not frivolous, unfounded or filed in bad faith, the Board may direct the Executive Director to issue a notice of hearing and complaint detailing the charges. The hearing may be scheduled on a regularly scheduled Board meeting date, or on any other date that the Board and/or the Executive Director determines appropriate. The notice shall be:

- A. mailed by registered or certified mail, return receipt requested, to the respondent's most recent address on file with the Board, or personally served on the respondent, and
- B. mailed or personally served not less than thirty (30) days prior to the scheduled date of the disciplinary hearing.
- C. The Investigative Committee reserves the right to amend or alter the charges contained in the notice of hearing at any time, as long as notice is given to the respondent pursuant to these rules. If a notice of hearing is amended after original service has been made on the respondent, the amended notice of hearing may be served by electronic means, including, but not limited to, facsimile transfer or e-mail. Service by electronic means is complete when the electronic equipment being used by the party being served acknowledges receipt, or when the sending party obtains an acknowledgment from the recipient.

5.3.2 Consent Orders – If, after receipt of a complaint and prior to the disciplinary hearing, the accused desires to admit to a violation, a consent order may be entered into with the accused without the necessity of a disciplinary hearing. This opportunity for settlement shall be within the sole discretion of the Investigative Committee. Any consent order shall be subject to the approval of the Board and shall not be subject to appeal. The Board may reject a proposed consent order and vote to hold a formal disciplinary hearing.

5.3.3 Informal Conferences – The respondent may request an informal conference with the Investigative Committee for the purpose of showing that the allegation(s) contained in the complaint is (are) not true. The respondent may have an attorney present only in an advisory capacity. If the respondent desires a conference and the complaint cannot thereafter be dismissed on the evidence, an effort will then be made to reach an informal settlement and consent order as provided in Rule 5.3.2.

5.3.4 Requests for Continuance – Any request for continuance of a disciplinary hearing must be made in writing and presented to the Board staff at least five (5) days prior to the scheduled

hearing or, upon good cause shown, at any time prior to the hearing. Continuances will not be routinely granted. Instead, a party must show substantial, legitimate grounds for a continuance. Where scheduling conflicts are the basis for requesting a continuance, the party shall provide written proof of such conflicts in a timely manner as set forth herein. A grant of continuance shall be based on a balance of the right of respondent to a reasonable opportunity to prepare and present a defense and the Board's responsibility to protect the public health, safety and welfare. If a request for more than one continuance is made, the SAAG may, in his discretion and in order to protect the public health, safety and welfare, request that the respondent surrender his license until the hearing date. The revised notice of hearing may be served by electronic means, including, but not limited to, facsimile transfer or e-mail. Service by electronic means is complete when the electronic equipment being used by the party being served acknowledges receipt, or when the sending party obtains an acknowledgment from the recipient.

5.3.5 Action Against Unlicensed Individuals – If the Board determines that there is evidence of a violation of the law by an unlicensed individual, the Board will issue a letter of education requesting compliance with the law. If the matter cannot be resolved informally, the Board may request that a SAAG apply in any chancery court of competent jurisdiction for an order enjoining such violation in accordance with *Miss. Code Ann. §73-1-25*.

Source: *Miss. Code Ann. §§73-1-25 and 73-1-29*

#### *Rule 5.4 Conflict and Bias*

5.4.1 A Board member shall not be entitled to participate in any disciplinary action if the Board determines that such Board member is personally biased against the accused.

5.4.2 Any accused in a disciplinary proceeding may assert conflict or bias by filing with the Executive Director at least three (3) days before the scheduled disciplinary hearing an affidavit asserting the disqualification together with specific details of the underlying factual bias for the assertion.

Source: *Miss. Code Ann. §73-1-29*

#### *Rule 5.5 Disqualification*

The recusal or disqualification of Board members shall be considered on the record as a preliminary matter at the hearing before any other questions are decided. In the event that after said consideration there does not remain a quorum, the case shall be decided by the administrative hearing officer presiding over the hearing.

Source: *Miss. Code Ann. §73-1-29*

#### *Rule 5.6 Pre-Hearing Discovery*

5.6.1 Pre-hearing discovery may be permitted in accordance with this rule and Rule 5.7 to the extent necessary to prevent fraud, conserve the Board's time, prevent undue surprise at the hearing, protect persons from annoyance, embarrassment, or undue burden or expense, and promote the ends of justice.

5.6.2 All discovery shall be completed within thirty (30) days of the accused's receipt of the notice of hearing and complaint unless otherwise modified by the Investigative Committee for good cause. A hearing may not be continued for the sole purpose of conducting discovery.

5.6.3 The attorney for the Board or the accused may obtain discovery regarding any matter not privileged, which is relevant to the subject matter of the pending action, whether it relates to the prosecution or the defense.

5.6.4 Discovery shall be had in strict accordance with such terms and conditions as may be imposed by the Investigative Committee, considering all the factors of each case.

Source: *Miss. Code Ann. §73-1-29*

#### *Rule 5.7 Methods of Discovery*

Upon timely notice the following discovery may be allowed or ordered by the Investigative Committee.

- A. Written interrogatories, limited to 30 in number, to be answered in writing, under oath, by any party, material witness or expert witness, within fifteen (15) days of receipt of the interrogatories.
- B. Requests for production and copying of documents and things and for entry upon land for inspection and other relevant purposes, limited to 30 in number, by any party against any party or person. A response to the requests for production of documents must be made within fifteen (15) days of receipt of the request.
- C. Before an action is commenced, the Board may direct that the Board's attorney, or the Board's attorney may on his own initiative, conduct such preliminary discovery regarding any matter under investigation that the Board or the Board's attorney deems necessary and proper in order to perpetuate testimony or to otherwise prevent a failure or delay of justice. Such pre-action discovery methods shall be in conformance with those set out hereinabove. The product of such discovery may be used in any action involving the same subject matter subsequently brought before the Board.
- D. At least seven (7) days prior to the disciplinary hearing, the parties shall exchange a list of witnesses that will testify and a copy of all exhibits that will be offered into evidence.

Source: *Miss. Code Ann. §73-1-29*

#### *Rule 5.8 Disciplinary Hearings*

- A. Conduct of Hearing – All hearings shall be conducted informally, but in such a manner as to ensure order and fairness to both parties. Hearings may be structured as follows:
  1. Hearing Officer – The Board may, in its discretion, appoint some person to act as hearing officer at disciplinary hearings. In the event a hearing officer is appointed, such officer shall preside at the hearing and shall rule on all questions of evidence and procedure in accordance with the provisions of these rules. The hearing officer shall not make any findings of fact or conclusions of law, unless necessary as contemplated by Rule 5.5, or unless requested by the Board.
  2. Plea – The accused shall either admit or deny the charges set forth in the complaint.

3. Opening Statement – Each side may make a short opening statement, although an opening statement is not required.
4. Form of Hearing – The Board shall present its evidence, followed by the accused, followed by such rebuttal as may be necessary and proper. Each witness called may be examined in the following manner:
  - Direct examination
  - Cross examination
  - Re-direct examination
 Witnesses shall not be interrupted during testimony except by the Hearing Officer or a Board member. Board members may ask questions of witnesses at any time during the hearing.
5. Closing Statement – Each side shall be permitted to make a short closing statement summarizing the evidence presented and urging the application of relevant law to the evidence presented.
6. Proposed Order – The Board may request one or both parties to submit within seven (7) days for the Board’s consideration a proposed order of the Board, including findings of fact and conclusions of law, a copy of which the submitting party shall mail to the other party. Underlying facts of record that support the findings should be cited. If the submitting party desires a written transcript of the hearing for the purpose of preparing such proposed order, that party must request same and pre-pay the cost of postage and the reasonable cost of transcription. In such event, the Board may request the proposed order to be submitted within ten (10) days of the mailing of the transcript.
7. Order – The Board shall issue an order not more than forty-five (45) days after the close of the hearing, which shall include findings of fact and conclusions of law, stated separately. The accused shall be forwarded a copy of the order by certified or registered mail, return receipt requested.
8. Evidence – The Mississippi Rules of Evidence shall be used as a general guide for the presentation of evidence; however, any evidence which reasonably appears to be relevant to the issues of the case, including hearsay evidence, may be allowed notwithstanding its inadmissibility under said Rules, unless the evidence offered is clearly of a privileged nature.
9. Procedure – The Mississippi Rules of Civil Procedure shall be used as a general guide for the conduct of the proceedings; however, formal adherence to said Rules shall not be mandated except as may be reasonably required to promote the ends of justice.

Source: *Miss. Code Ann. §73-1-29*

*Rule 5.9 Disciplinary Penalties*

Set forth below are guidelines from which disciplinary penalties will be imposed by the Board upon practitioners found guilty of violating the law and/or rules of the Board. One purpose of the guidelines is to give notice to licensees and others under the Board’s jurisdiction of the range of penalties the Board may impose for violations of particular provisions of the law and/or rules. The guidelines are not meant to be all encompassing, are not meant to address every disciplinary circumstance that might occur and there may be other causes for the imposition of discipline not

mentioned below upon which the Board may act.

The guidelines are based upon a single count violation of each provision listed and are a guideline only. 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. The Board shall be able to add to or deviate from the guidelines upon showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final decision. The maximum penalty for any violation is revocation and a \$5,000 fine per violation.

In determining the penalty to be imposed, the Board shall consider the following factors:

- A. Whether the penalty imposed will be a substantial deterrent to the violation
- B. The circumstances leading to the violation
- C. The severity of the violation and the risk of harm to the public
- D. The economic benefits gained by the violator as a result of non-compliance
- E. The interest of the public
- F. Consistency of the penalty with past penalties for similar offenses, or justification for the penalty imposed
- G. Prior disciplinary action in any jurisdiction or repeated violations
- H. Self-reporting of the offense, cooperation with the Board's investigation, and any corrective action taken

The guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees, applicants, intern architects, licensure candidates and examination candidates for violation of the above-mentioned statutes and rules. The Board shall have the right to collect any legal, investigative, and/or administrative charges incurred by the Board during the course of the investigation. In addition to the above sanctions, the Board may also require the individual to take and successfully pass a state jurisprudence examination as a condition precedent to final resolution of the disciplinary action.

Disciplinary Penalties:

- A. Failure to stamp plans (4.5.5; 3.2.4):  
Minimum Penalty-Letter of reprimand and \$500 fine
- B. Failure to sign over stamp (73-1-35; 3.2.4; 4.5.7):  
Minimum Penalty-Same as (A) above
- C. Providing work not competent to perform (4.1.1; 4.1.3):  
Minimum Penalty-Reprimand and \$2,500 fine
- D. "Plan Stamping" (73-1-35; 3.2.4; 4.5.2; 4.5.5; 4.5.9):  
Minimum Penalty-Suspension and \$2,500 fine
- E. Attempting to procure a license by providing false, deceptive or misleading information (73-1-13(d)(iii); 73-1-29(b); 4.4.5):  
Minimum Penalty-Revocation and \$2,500 fine if licensed (denial of license if application in process)
- F. Licensee disciplined by another jurisdiction (4.3.1; 4.3.4):  
Minimum Penalty-Board discretion

- G. Criminal conviction relating to architecture (73-1-29(g); 4.3.1):  
 Minimum Penalty-Misdemeanor: reprimand and \$2,500 fine  
 Minimum Penalty-Felony: One (1) year suspension, one (1) year probation and \$2,500 fine
- H. Practice on suspended license resulting from disciplinary action by Board (73-1-29(e)):  
 Minimum Penalty-Revocation and \$5,000 fine
- I. Practice on inactive license (73-1-27; 73-1-29(e); 2.3):  
 Minimum Penalty-Fine based on length of time in practice while inactive; \$1,000 per month (penalty will require licensee to renew license or cease practice)
- J. Practice on revoked license based on non-payment of renewal fee (73-1-27; 73-1-29(e); 2.3):  
 Minimum Penalty-Fine based on length of time in practice while revoked; \$1,000 per month
- K. Fraudulent, false, deceptive or misleading advertising (73-1-1; 3.2.2; 3.2.3; 3.2.9; 3.2.11):  
 Minimum Penalty-Cease and desist letter and public reprimand
- L. Negligence (73-1-29(c); 4.1.1; 4.1.3):  
 Minimum Penalty-Reprimand, one (1) year probation and \$2,500 fine
- M. Fraud or Deceit (73-1-29(h); 4.5.4):  
 Minimum Penalty-Reprimand, one (1) year suspension, one (1) year probation and \$2,500 fine
- N. Incompetence (mental or physical impairment) (4.1.4):  
 Minimum Penalty-Suspension until ability to practice proved, followed by probation
- O. Bribery to obtain clients or commissions (4.3.3; 4.5.3):  
 Minimum Penalty-Revocation and \$5,000 fine
- P. Undisclosed conflict of interest (73-1-29(i); 4.2.1):  
 Minimum Penalty-Reprimand, \$2,500 fine and one (1) year probation
- Q. Aiding unlicensed practice (3.2.6(c); 4.3.2; 4.4.7; 4.4.8):  
 Minimum Penalty-Probation and \$2,500 fine
- R. Practicing architecture without a license (73-1-1; 73-1-13(d)(v); 73-1-29(a); 2.2):  
 Minimum Penalty-Reprimand and \$2,500 fine (denial of license if application in process)
- S. Practicing architecture through a business corporation or through a business entity that is not provided on the architect's record with the Board (73-1-19; 3.2.12):  
 Minimum Penalty-\$2,500 fine and test on Board laws and rules
- T. Violating the provisions of the construction administration rule (3.2.16):  
 Minimum Penalty-\$1,500 fine

Source: *Miss. Code Ann. §73-1-29(4)*

#### *Rule 5.10 Appeals*

Any person aggrieved by the action of the Board as a result of disciplinary proceedings conducted hereunder may appeal therefrom as provided for in Section 73-1-31 Mississippi Code Annotated (1972), with the exception of consent orders as detailed in Rule 5.3.2.



Source: *Miss. Code Ann. §73-1-31*

## **Title 30, Part 201, Chapter 6: Mandatory Continuing Education Guidelines**

### *Rule 6.5 Health, Safety, and Welfare Subjects.*

Technical and professional subjects related to the practice of architecture that the Board deems appropriate to safeguard the public and that are within the following continuing education subject areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

- A. **PRACTICE MANAGEMENT:** This category focuses on areas related to the management of architectural practice and the details of running a business.
- B. **PROJECT MANAGEMENT:** This category focuses on areas related to the management of architectural projects through execution.
- C. **PROGRAMMING & ANALYSIS:** This category focuses on areas related to the evaluation of project requirements, constraints, and opportunities.
- D. **PROJECT PLANNING & DESIGN:** This category focuses on areas related to the preliminary design of sites and buildings.
- E. **PROJECT DEVELOPMENT & DOCUMENTATION:** This category focuses on areas related to the integration and documentation of building systems, material selection, and material assemblies into a project.
- F. **CONSTRUCTION & EVALUATION:** This category focuses on areas related to construction contract administration and post-occupancy evaluation of projects.

*Commentary – Acceptable topics for each of the subject areas listed above include, but are not limited to, the following:*

*PRACTICE MANAGEMENT: Applicable laws and regulations, ethics, insurance to protect owner and public, business management, risk management, information management, design for community needs, supervisor training.*

*PROJECT MANAGEMENT: Project delivery methods, contract negotiation, pre-design services, site and soils analysis, consultant management, project scheduling, quality control (QA/QC), economic assessment, value engineering.*

*PROGRAMMING & ANALYSIS: Land-use analysis, programming, site selection, historic preservation, adaptive reuse, codes, regulations, and standards, natural resources, environmental impact and ecosystem risk assessment, hazardous materials, resilience to natural and human impacts, life safety, feasibility studies.*

*PROJECT PLANNING & DESIGN: Building systems, urban planning, master planning, building design, site design, safety and security measures, impacts, adaptation and mitigation of a changing climate, energy efficiency and positive energy design, sustainability, indoor air quality, ergonomics, lighting, acoustics, accessibility, construction systems, budget development.*

*PROJECT DEVELOPMENT & DOCUMENTATION: Construction documents, materials and assemblies, fixtures, furnishings, and equipment.*

*CONSTRUCTION & EVALUATION: Construction contract administration, bidding and negotiation, post occupancy evaluation (POE), building commissioning.*

Source: *Miss. Code Ann. §73-1-9*

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**MARK-UP**

**Title 30, Part 201, Chapter 1: Examinations**

*Rule 1.7 Conditions*

- A. The test vendor will monitor the computer sections of the ARE in strict compliance with the procedures approved by NCARB.
- B. If there is any alleged misbehavior on the part of an applicant in connection with taking the examination, the Board will investigate the allegation and take appropriate action. This behavior may include, without limitation, violation of NCARB's guidelines or policies, or an applicant's confidentiality agreements with respect to the examination.

Source: *Miss. Code Ann. § 73-1-17*

**Title 30, Part 201, Chapter 3: General Rules**

*Rule 3.2 Practice Procedures*

3.2.4 For the purpose of properly identifying drawings, specifications, and contract documents, each architect shall obtain a stamp of a design approved by the Board to be used as the stamp required by *Miss. Code Ann. §73-1-35*. ~~The live-manual, or~~ electronic, or digital signature of the architect and date of execution shall appear over the stamp on all documents prepared by the architect or under the architect's responsible control for use in the State of Mississippi.

3.2.7 In a design/build undertaking where the general contracting firm is owned by the architect of record, the general contracting firm and the architectural firm must be two distinct and separate entities and there must be separate contracts for both the construction and architectural services. If the architect of record is also an owner in the contracting firm for the project, the architect should advise the owner of the potential conflict of interest so that the owner can have the opportunity to employ a third party to provide construction administration.

Sources: *Miss. Code Ann. §§ 73-1-1, 3, 13, 19, 29 & 35; 73-2-3*

*Rule 3.3 Filing of Complaints ~~RESERVED~~*

~~Any person may file a complaint against a registered architect, or any individual, charging a violation of the Architect Registration law. Such complaints shall be filed with the Board, either verbally or in writing, and need not be signed or sworn to. The Board shall proceed in accordance with *Miss. Code Ann. §73-1-29*. Contact the Board office or visit the Board's website for a copy of the complaint and disciplinary procedures.~~

Source: *Miss. Code Ann. § 73-1-29(2)*

## Title 30, Part 201, Chapter 4: Professional Code of Conduct

### Rule 4.3 Compliance with Laws

4.3.1 An architect shall not, in the conduct of the architect's architectural practice, knowingly violate ~~any~~ a state or federal criminal law directly related to the duties and responsibilities of the practice of architecture.

*Commentary – ~~Miss. Code Ann. Section 73-1-29(1) provides that the Board is authorized to take disciplinary action against any architect registered in this state upon conviction of “any felony except culpable negligent manslaughter”.~~ This rule is not limited to the violation of a state or federal criminal law while in the conduct of the registrant's professional practice as in some jurisdictions. This rule is concerned with the violation of a state or federal criminal law while in the conduct of the registrant's professional practice. Thus, it does not cover criminal conduct entirely unrelated to the registrant's architectural practice. It is intended, however, that Rule 4.5.4 will cover reprehensible conduct on the part of the architect not embraced by Rule 4.3.1.*

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### Rule 4.5 Professional Conduct

4.5.7 The signature (manual, electronic, or digital as defined below) of the registrant and date of signature shall be affixed to all documents listed in Rule 4.5.5 above:

- A. a manual signature is the handwritten name of the registrant applied to a document that identifies the person, serves as a means of authentication of the contents of the document, provides responsibility for the creation of the document and provides for accountability for the contents of the document.
- B. ~~an electronic signature shall carry the same weight, authority, and effects as a manual signature. The electronic signature must be as follows:~~

- ~~1. unique to the person using it; and~~
- ~~2. capable of verification; and~~
- ~~3. under the sole control of the person using it; and~~
- ~~4. linked to a document in such a manner that the electronic signature is invalidated if any data in the document is changed.~~

for electronic or digital documents transmitted to others in their native file format (e.g., AutoCAD, Revit, Word, or Excel), a digital signature with an electronic authentication process attached to or logically associated with the document. The digital signature must be as follows:

- 1. unique to the person using it; and
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- C. ~~it is the responsibility of the architect sealing the document to provide adequate security when documents with electronic seals and/or signatures are distributed.~~

for electronic or digital documents transmitted to others in a “pdf” or similar format that has modified the native file so that it is not easily altered, an electronic (scanned) signature is acceptable if it is an accurate depiction of the licensee’s actual signature. It is the responsibility of the architect sealing the document to provide adequate security when documents with electronic seals and/or signatures are distributed.

Sources: *Miss. Code Ann. §§ 73-1-1, 13, 19, 29(1), 35*

## **Title 30, Part 201, Chapter 5: Disciplinary Guidelines, ~~Range of Penalties, Aggravating and Mitigating Circumstances~~ Actions**

### *Rule 5.1 Filing of Complaints*

~~Set forth below are guidelines from which disciplinary penalties will be imposed by the Board upon practitioners found guilty of violating the law and/or rules of the Board. One purpose of the guidelines is to give notice to licensees and others under the Board’s jurisdiction of the range of penalties the Board may impose for violations of particular provisions of the law and/or rules. The guidelines are not meant to be all encompassing, are not meant to address every disciplinary circumstance that might occur and there may be other causes for the imposition of discipline not mentioned below upon which the Board may act.~~

~~The guidelines are based upon a single count violation of each provision listed and are a guideline only. 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. The Board shall be able to add to or deviate from the guidelines upon showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final decision. The maximum penalty for any violation is revocation and a \$5,000 fine per violation.~~

~~In determining the penalty to be imposed, the Board shall consider such factors as the following:~~

- ~~A. Whether the penalty imposed will be a substantial deterrent to the violation~~
- ~~B. The circumstances leading to the violation~~
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~~The guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees, applicants, intern architects, licensure candidates and examination candidates for violation of the above mentioned statutes and rules. The Board shall have the right to collect any legal, investigative, and/or administrative charges incurred by the Board during the course of the investigation. In addition to the above sanctions, the Board may also require the individual to~~

take and successfully pass a state jurisprudence examination as a condition precedent to final resolution of the disciplinary action.

~~Disciplinary Penalties:~~

- ~~A. Failure to stamp plans (4.5.5; 3.2.4):  
Minimum Penalty Letter of reprimand and \$500 fine~~
- ~~B. Failure to sign over stamp (73-1-35; 3.2.4; 4.5.7):  
Minimum Penalty Same as (A) above~~
- ~~C. Providing work not competent to perform (4.1.1; 4.1.3):  
Minimum Penalty Reprimand and \$2,500 fine~~
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- ~~G. Criminal conviction relating to architecture (73-1-29g; 4.3.1):  
Minimum Penalty Misdemeanor: reprimand and \$2,500 fine  
Minimum Penalty Felony: One (1) year suspension, one (1) year probation and \$2,500 fine~~
- ~~H. Practice on suspended license resulting from disciplinary action by Board (73-1-29e):  
Minimum Penalty Revocation and \$5,000 fine~~
- ~~I. Practice on inactive license (73-1-27; 73-1-29e; 2.3):  
Minimum Penalty Fine based on length of time in practice while inactive; \$1,000 per month (penalty will require licensee to renew license or cease practice)~~
- ~~J. Practice on revoked license based on non-payment of renewal fee (73-1-27; 73-1-29e; 2.3):  
Minimum Penalty Fine based on length of time in practice while revoked; \$1,000 per month~~
- ~~K. Fraudulent, false, deceptive or misleading advertising (73-1-1; 3.2.2; 3.2.3; 3.2.9; 3.2.11):  
Minimum Penalty Cease and desist letter and public reprimand~~
- ~~L. Negligence (73-1-29e; 4.1.1; 4.1.3):  
Minimum Penalty Reprimand, one (1) year probation and \$2,500 fine~~
- ~~M. Fraud or Deceit (73-1-29h; 4.5.4):  
Minimum Penalty Reprimand, one (1) year suspension, one (1) year probation and \$2,500 fine~~
- ~~N. Incompetence (mental or physical impairment) (4.1.4):  
Minimum Penalty Suspension until ability to practice proved, followed by probation~~
- ~~O. Bribery to obtain clients or commissions (4.3.3; 4.5.3):  
Minimum Penalty Revocation and \$5,000 fine~~
- ~~P. Undisclosed conflict of interest (73-1-29i; 4.2.1):  
Minimum Penalty Reprimand, \$2,500 fine and one (1) year probation~~

- ~~Q. Aiding unlicensed practice (3.2.6(e); 4.3.2; 4.4.7; 4.4.8):  
Minimum Penalty Probation and \$2,500 fine~~
- ~~R. Practicing architecture without a license (73-1-1; 73-1-13d/v; 73-1-29a; 2.2):  
Minimum Penalty Reprimand and \$2,500 fine (denial of license if application in process)~~
- ~~S. Practicing architecture through a business corporation or through a business entity that is not provided on the architect's record with the Board (73-1-19; 3.2.12):  
Minimum Penalty \$2,500 fine and test on Board laws and rules~~
- ~~T. Violating the provisions of the construction administration rule (3.2.16):  
Minimum Penalty \$1,500 fine~~

Any person may file a complaint against a registered architect, or any individual, charging a violation of the Architect Registration law and/or rules. Such complaints shall be filed with the Board, either verbally or in writing, and need not be signed or sworn to. The Board shall proceed in accordance with Miss. Code Ann. §73-1-29 and the rules in this chapter. Contact the Board office or visit the Board's website for a copy of the complaint and disciplinary procedures.

Source: Miss. Code Ann. §73-1-29(4)

#### Rule 5.2 Investigative Procedures

Upon the filing of charges or information in accordance with Rule 5.1, the Executive Director shall refer the matter to an Investigative Committee, composed of the Executive Director, investigator, and a Special Assistant Attorney General (SAAG). The Investigative Committee may also include a designated Board member or subject matter expert(s) when determined necessary by the Executive Director and/or the SAAG. Upon completion of the investigation, the Investigative Committee will provide a summary report to the Board. A Board member designated to review a complaint shall not vote on the disposition of the complaint.

Source: Miss. Code Ann. §73-1-29

#### Rule 5.3 Disciplinary Proceedings

5.3.1 Notice of Hearing and Complaint – The Board shall investigate all charges filed with it consistent with the procedures outlined above and, upon finding reasonable cause to believe that the charges are not frivolous, unfounded or filed in bad faith, the Board may direct the Executive Director to issue a notice of hearing and complaint detailing the charges. The hearing may be scheduled on a regularly scheduled Board meeting date, or on any other date that the Board and/or the Executive Director determines appropriate. The notice shall be:

- A. mailed by registered or certified mail, return receipt requested, to the respondent's most recent address on file with the Board, or personally served on the respondent, and
- B. mailed or personally served not less than thirty (30) days prior to the scheduled date of the disciplinary hearing.
- C. The Investigative Committee reserves the right to amend or alter the charges contained in the notice of hearing at any time, as long as notice is given to the respondent pursuant to these rules. If a notice of hearing is amended after original service has been made on the respondent, the amended notice of hearing may be served by electronic means, including, but not limited to, facsimile transfer or e-mail. Service by electronic means is complete

when the electronic equipment being used by the party being served acknowledges receipt, or when the sending party obtains an acknowledgment from the recipient.

5.3.2 Consent Orders – If, after receipt of a complaint and prior to the disciplinary hearing, the accused desires to admit to a violation, a consent order may be entered into with the accused without the necessity of a disciplinary hearing. This opportunity for settlement shall be within the sole discretion of the Investigative Committee. Any consent order shall be subject to the approval of the Board and shall not be subject to appeal. The Board may reject a proposed consent order and vote to hold a formal disciplinary hearing.

5.3.3 Informal Conferences – The respondent may request an informal conference with the Investigative Committee for the purpose of showing that the allegation(s) contained in the complaint is (are) not true. The respondent may have an attorney present only in an advisory capacity. If the respondent desires a conference and the complaint cannot thereafter be dismissed on the evidence, an effort will then be made to reach an informal settlement and consent order as provided in Rule 5.3.2.

5.3.4 Requests for Continuance – Any request for continuance of a disciplinary hearing must be made in writing and presented to the Board staff at least five (5) days prior to the scheduled hearing or, upon good cause shown, at any time prior to the hearing. Continuances will not be routinely granted. Instead, a party must show substantial, legitimate grounds for a continuance. Where scheduling conflicts are the basis for requesting a continuance, the party shall provide written proof of such conflicts in a timely manner as set forth herein. A grant of continuance shall be based on a balance of the right of respondent to a reasonable opportunity to prepare and present a defense and the Board's responsibility to protect the public health, safety and welfare. If a request for more than one continuance is made, the SAAG may, in his discretion and in order to protect the public health, safety and welfare, request that the respondent surrender his license until the hearing date. The revised notice of hearing may be served by electronic means, including, but not limited to, facsimile transfer or e-mail. Service by electronic means is complete when the electronic equipment being used by the party being served acknowledges receipt, or when the sending party obtains an acknowledgment from the recipient.

5.3.5 Action Against Unlicensed Individuals – If the Board determines that there is evidence of a violation of the law by an unlicensed individual, the Board will issue a letter of education requesting compliance with the law. If the matter cannot be resolved informally, the Board may request that a SAAG apply in any chancery court of competent jurisdiction for an order enjoining such violation in accordance with *Miss. Code Ann. §73-1-25*.

Source: *Miss. Code Ann. §§73-1-25 and 73-1-29*

#### Rule 5.4 Conflict and Bias

5.4.1 A Board member shall not be entitled to participate in any disciplinary action if the Board determines that such Board member is personally biased against the accused.

5.4.2 Any accused in a disciplinary proceeding may assert conflict or bias by filing with the Executive Director at least three (3) days before the scheduled disciplinary hearing an affidavit



asserting the disqualification together with specific details of the underlying factual bias for the assertion.

Source: Miss. Code Ann. §73-1-29

Rule 5.5 Disqualification

The recusal or disqualification of Board members shall be considered on the record as a preliminary matter at the hearing before any other questions are decided. In the event that after said consideration there does not remain a quorum, the case shall be decided by the administrative hearing officer presiding over the hearing.

Source: Miss. Code Ann. §73-1-29

Rule 5.6 Pre-Hearing Discovery

5.6.1 Pre-hearing discovery may be permitted in accordance with this rule and Rule 5.7 to the extent necessary to prevent fraud, conserve the Board's time, prevent undue surprise at the hearing, protect persons from annoyance, embarrassment, or undue burden or expense, and promote the ends of justice.

5.6.2 All discovery shall be completed within thirty (30) days of the accused's receipt of the notice of hearing and complaint unless otherwise modified by the Investigative Committee for good cause. A hearing may not be continued for the sole purpose of conducting discovery.

5.6.3 The attorney for the Board or the accused may obtain discovery regarding any matter not privileged, which is relevant to the subject matter of the pending action, whether it relates to the prosecution or the defense.

5.6.4 Discovery shall be had in strict accordance with such terms and conditions as may be imposed by the Investigative Committee, considering all the factors of each case.

Source: Miss. Code Ann. §73-1-29

Rule 5.7 Methods of Discovery

Upon timely notice the following discovery may be allowed or ordered by the Investigative Committee.

- A. Written interrogatories, limited to 30 in number, to be answered in writing, under oath, by any party, material witness or expert witness, within fifteen (15) days of receipt of the interrogatories.
- B. Requests for production and copying of documents and things and for entry upon land for inspection and other relevant purposes, limited to 30 in number, by any party against any party or person. A response to the requests for production of documents must be made within fifteen (15) days of receipt of the request.
- C. Before an action is commenced, the Board may direct that the Board's attorney, or the Board's attorney may on his own initiative, conduct such preliminary discovery regarding any matter under investigation that the Board or the Board's attorney deems necessary and proper in order to perpetuate testimony or to otherwise prevent a failure or delay of

justice. Such pre-action discovery methods shall be in conformance with those set out hereinabove. The product of such discovery may be used in any action involving the same subject matter subsequently brought before the Board.

- D. At least seven (7) days prior to the disciplinary hearing, the parties shall exchange a list of witnesses that will testify and a copy of all exhibits that will be offered into evidence.

Source: Miss. Code Ann. §73-1-29

Rule 5.8 Disciplinary Hearings

- A. Conduct of Hearing – All hearings shall be conducted informally, but in such a manner as to ensure order and fairness to both parties. Hearings may be structured as follows:

1. Hearing Officer – The Board may, in its discretion, appoint some person to act as hearing officer at disciplinary hearings. In the event a hearing officer is appointed, such officer shall preside at the hearing and shall rule on all questions of evidence and procedure in accordance with the provisions of these rules. The hearing officer shall not make any findings of fact or conclusions of law, unless necessary as contemplated by Rule 5.5, or unless requested by the Board.
2. Plea – The accused shall either admit or deny the charges set forth in the complaint.
3. Opening Statement – Each side may make a short opening statement, although an opening statement is not required.
4. Form of Hearing – The Board shall present its evidence, followed by the accused, followed by such rebuttal as may be necessary and proper. Each witness called may be examined in the following manner:

Direct examination

Cross examination

Re-direct examination

Witnesses shall not be interrupted during testimony except by the Hearing Officer or a Board member. Board members may ask questions of witnesses at any time during the hearing.

5. Closing Statement – Each side shall be permitted to make a short closing statement summarizing the evidence presented and urging the application of relevant law to the evidence presented.
6. Proposed Order – The Board may request one or both parties to submit within seven (7) days for the Board’s consideration a proposed order of the Board, including findings of fact and conclusions of law, a copy of which the submitting party shall mail to the other party. Underlying facts of record that support the findings should be cited. If the submitting party desires a written transcript of the hearing for the purpose of preparing such proposed order, that party must request same and pre-pay the cost of postage and the reasonable cost of transcription. In such event, the Board may request the proposed order to be submitted within ten (10) days of the mailing of the transcript.
7. Order – The Board shall issue an order not more than forty-five (45) days after the close of the hearing, which shall include findings of fact and conclusions of law, stated separately. The accused shall be forwarded a copy of the order by certified or registered mail, return receipt requested.

8. Evidence – The Mississippi Rules of Evidence shall be used as a general guide for the presentation of evidence; however, any evidence which reasonably appears to be relevant to the issues of the case, including hearsay evidence, may be allowed notwithstanding its inadmissibility under said Rules, unless the evidence offered is clearly of a privileged nature.
9. Procedure – The Mississippi Rules of Civil Procedure shall be used as a general guide for the conduct of the proceedings; however, formal adherence to said Rules shall not be mandated except as may be reasonably required to promote the ends of justice.

Source: *Miss. Code Ann. §73-1-29*

#### Rule 5.9 Disciplinary Penalties

Set forth below are guidelines from which disciplinary penalties will be imposed by the Board upon practitioners found guilty of violating the law and/or rules of the Board. One purpose of the guidelines is to give notice to licensees and others under the Board's jurisdiction of the range of penalties the Board may impose for violations of particular provisions of the law and/or rules. The guidelines are not meant to be all encompassing, are not meant to address every disciplinary circumstance that might occur and there may be other causes for the imposition of discipline not mentioned below upon which the Board may act.

The guidelines are based upon a single count violation of each provision listed and are a guideline only. 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. The Board shall be able to add to or deviate from the guidelines upon showing of aggravating or mitigating circumstances by clear and convincing evidence presented to the Board prior to the imposition of a final decision. The maximum penalty for any violation is revocation and a \$5,000 fine per violation.

In determining the penalty to be imposed, the Board shall consider the following factors:

- A. Whether the penalty imposed will be a substantial deterrent to the violation
- B. The circumstances leading to the violation
- C. The severity of the violation and the risk of harm to the public
- D. The economic benefits gained by the violator as a result of non-compliance
- E. The interest of the public
- F. Consistency of the penalty with past penalties for similar offenses, or justification for the penalty imposed
- G. Prior disciplinary action in any jurisdiction or repeated violations
- H. Self-reporting of the offense, cooperation with the Board's investigation, and any corrective action taken

The guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees, applicants, intern architects, licensure candidates and examination candidates for violation of the above-mentioned statutes and rules. The Board shall have the right to collect any legal, investigative, and/or administrative charges incurred by the Board during the course of the

investigation. In addition to the above sanctions, the Board may also require the individual to take and successfully pass a state jurisprudence examination as a condition precedent to final resolution of the disciplinary action.

Disciplinary Penalties:

- A. Failure to stamp plans (4.5.5; 3.2.4):  
Minimum Penalty-Letter of reprimand and \$500 fine
- B. Failure to sign over stamp (73-1-35; 3.2.4; 4.5.7):  
Minimum Penalty-Same as (A) above
- C. Providing work not competent to perform (4.1.1; 4.1.3):  
Minimum Penalty-Reprimand and \$2,500 fine
- D. "Plan Stamping" (73-1-35; 3.2.4; 4.5.2; 4.5.5; 4.5.9):  
Minimum Penalty-Suspension and \$2,500 fine
- E. Attempting to procure a license by providing false, deceptive or misleading information (73-1-13(d)(iii); 73-1-29(b); 4.4.5):  
Minimum Penalty-Revocation and \$2,500 fine if licensed (denial of license if application in process)
- F. Licensee disciplined by another jurisdiction (4.3.1; 4.3.4):  
Minimum Penalty-Board discretion
- G. Criminal conviction relating to architecture (73-1-29(g); 4.3.1):  
Minimum Penalty-Misdemeanor: reprimand and \$2,500 fine  
Minimum Penalty-Felony: One (1) year suspension, one (1) year probation and \$2,500 fine
- H. Practice on suspended license resulting from disciplinary action by Board (73-1-29(e)):  
Minimum Penalty-Revocation and \$5,000 fine
- I. Practice on inactive license (73-1-27; 73-1-29(e); 2.3):  
Minimum Penalty-Fine based on length of time in practice while inactive; \$1,000 per month (penalty will require licensee to renew license or cease practice)
- J. Practice on revoked license based on non-payment of renewal fee (73-1-27; 73-1-29(e); 2.3):  
Minimum Penalty-Fine based on length of time in practice while revoked; \$1,000 per month
- K. Fraudulent, false, deceptive or misleading advertising (73-1-1; 3.2.2; 3.2.3; 3.2.9; 3.2.11):  
Minimum Penalty-Cease and desist letter and public reprimand
- L. Negligence (73-1-29(c); 4.1.1; 4.1.3):  
Minimum Penalty-Reprimand, one (1) year probation and \$2,500 fine
- M. Fraud or Deceit (73-1-29(h); 4.5.4):  
Minimum Penalty-Reprimand, one (1) year suspension, one (1) year probation and \$2,500 fine
- N. Incompetence (mental or physical impairment) (4.1.4):  
Minimum Penalty-Suspension until ability to practice proved, followed by probation
- O. Bribery to obtain clients or commissions (4.3.3; 4.5.3):  
Minimum Penalty-Revocation and \$5,000 fine

- P. Undisclosed conflict of interest (73-1-29(i); 4.2.1):  
Minimum Penalty-Reprimand, \$2,500 fine and one (1) year probation
- Q. Aiding unlicensed practice (3.2.6(c); 4.3.2; 4.4.7; 4.4.8):  
Minimum Penalty-Probation and \$2,500 fine
- R. Practicing architecture without a license (73-1-1; 73-1-13(d)(v); 73-1-29(a); 2.2):  
Minimum Penalty-Reprimand and \$2,500 fine (denial of license if application in process)
- S. Practicing architecture through a business corporation or through a business entity that is not provided on the architect's record with the Board (73-1-19; 3.2.12):  
Minimum Penalty-\$2,500 fine and test on Board laws and rules
- T. Violating the provisions of the construction administration rule (3.2.16):  
Minimum Penalty-\$1,500 fine

Source: Miss. Code Ann. §73-1-29(4)

#### Rule 5.10 Appeals

Any person aggrieved by the action of the Board as a result of disciplinary proceedings conducted hereunder may appeal therefrom as provided for in Section 73-1-31 Mississippi Code Annotated (1972), with the exception of consent orders as detailed in Rule 5.3.2.

Source: Miss. Code Ann. §73-1-31

### **Title 30, Part 201, Chapter 6: Mandatory Continuing Education Guidelines**

#### Rule 6.5 Health, Safety, and Welfare Subjects.

Technical and professional subjects related to the practice of architecture that the Board deems appropriate to safeguard the public and that are within the following enumerated continuing education subject areas necessary for the proper evaluation, design, construction, and utilization of buildings and the built environment.

- A. ~~Building Systems: structural, mechanical, electrical, plumbing, communications, security, fire protection;~~ PRACTICE MANAGEMENT: This category focuses on areas related to the management of architectural practice and the details of running a business.
- B. ~~Construction Contract Administration: contracts, bidding, contract negotiations;~~ PROJECT MANAGEMENT: This category focuses on areas related to the management of architectural projects through execution.
- C. ~~Construction Documents: drawings, specifications, delivery methods;~~ PROGRAMMING & ANALYSIS: This category focuses on areas related to the evaluation of project requirements, constraints, and opportunities.
- D. ~~Design: urban planning, master planning, building design, site design, interiors, safety and security measures;~~ PROJECT PLANNING & DESIGN: This category focuses on areas related to the preliminary design of sites and buildings.
- E. ~~Environment: energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, insulation;~~ PROJECT DEVELOPMENT & DOCUMENTATION: This category focuses on areas related to the integration and documentation of building systems, material selection, and material assemblies into a

- project.
- F. ~~Legal: laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public; CONSTRUCTION & EVALUATION: This category focuses on areas related to construction contract administration and post-occupancy evaluation of projects.~~
  - G. ~~Materials and Methods: construction systems, products, finishes, furnishings, equipment pre design: land use analysis, programming, site selection, site and soils analysis, surveying;~~
  - H. ~~Preservation: historic, reuse, adaptation.~~

Commentary – Acceptable topics for each of the subject areas listed above include, but are not limited to, the following:

PRACTICE MANAGEMENT: Applicable laws and regulations, ethics, insurance to protect owner and public, business management, risk management, information management, design for community needs, supervisor training.

PROJECT MANAGEMENT: Project delivery methods, contract negotiation, pre-design services, site and soils analysis, consultant management, project scheduling, quality control (QA/QC), economic assessment, value engineering.

PROGRAMMING & ANALYSIS: Land-use analysis, programming, site selection, historic preservation, adaptive reuse, codes, regulations, and standards, natural resources, environmental impact and ecosystem risk assessment, hazardous materials, resilience to natural and human impacts, life safety, feasibility studies.

PROJECT PLANNING & DESIGN: Building systems, urban planning, master planning, building design, site design, safety and security measures, impacts, adaptation and mitigation of a changing climate, energy efficiency and positive energy design, sustainability, indoor air quality, ergonomics, lighting, acoustics, accessibility, construction systems, budget development.

PROJECT DEVELOPMENT & DOCUMENTATION: Construction documents, materials and assemblies, fixtures, furnishings, and equipment.

CONSTRUCTION & EVALUATION: Construction contract administration, bidding and negotiation, post occupancy evaluation (POE), building commissioning.

Source: Miss. Code Ann. §73-1-9