



TO: The Honorable the Members of the Board of Regents

FROM: Sarah S. Benson *Sarah S. Benson*

SUBJECT: Proposed Amendment to Sections 69.1, 69.2 and 69.3 of the Regulations of the Commissioner of Education Relating to the Education, Experience, Examination and Endorsement Requirements for Licensure as an Architect

DATE: March 26, 2020

AUTHORIZATION(S): *[Signature]* *Sharam K. Talae*

SUMMARY

Issue for Decision (Consent Agenda)

Should the Board of Regents amend Sections 69.1, 69.2 and 69.3 of the Regulations of the Commissioner of Education relating to the education, experience, examination and endorsement requirements for licensure as an architect?

Reason for Consideration

Review of policy.

Proposed Handling

The proposed amendment will be presented to the Full Board for adoption as a permanent rule at the April 2020 meeting of the Board of Regents. A copy of the proposed rule is included as Attachment A.

Procedural History

The proposed amendment was initially presented to the Professional Practice Committee for discussion at the September 2019 meeting of the Board of Regents. A Notice of Proposed Rule Making was published in the State Register on September 25, 2019. Following the 60-day public comment period required under the State Administrative Procedure Act, the Department received one comment on the proposed amendment. An assessment of public comment is included as Attachment B. At the

January 2020 meeting of the Board of Regents, the Department presented a revised rulemaking to the Professional Practice Committee to clarify the text and intent of the proposed regulation. A Notice of Revised Rule Making was published in the State Register on January 29, 2020 for a 45-day public comment period. Following the 45-day public comment period required under the State Administrative Procedure Act for revised rule makings, the Department did not receive any comments on the revised rulemaking. Supporting materials for the proposed rule are available upon request from the Secretary to the Board of Regents.

Background Information

The purpose of the proposed amendment to sections 69.1, 69.2 and 69.3 is to more closely align the New York State requirements for licensure as an architect with national standards and to streamline the licensure by endorsement process for this profession.

The National Architectural Accrediting Board (NAAB) accredits all United States (US) professional programs in architecture at the undergraduate and graduate levels. Currently, to satisfy the education requirements for licensure as an architect in New York, receipt of bachelor of architecture or master of architecture, or the equivalent as determined by the Department, are required. In 2001, a doctor of architecture program was first accredited by the NAAB. To date, at least, one university now offers an NAAB accredited program which culminates with receipt of the Doctor of Architecture degree. The proposed amendment to section 69.1 of the Regulations of the Commissioner of Education would expand the education requirements for licensure as an architect to include the degree of doctor of architecture.

In New York, eight years of combined education and experience are statutorily required to satisfy the education and experience requirements for licensure as an architect. For most applicants for licensure as architects in New York, these requirements translate to attendance at a five-year bachelor of architecture degree program followed by three years of experience. The Department currently permits a second professional degree in architecture to count in lieu of not more than one year of work experience. Historically, that second professional degree has been a master of architecture. However, as of July 1, 2018, NAAB adopted strict requirements for all NAAB-accredited programs which use the title Master of Architecture. This change resulted in non-NAAB-accredited architecture degree programs having to discontinue their use of this degree title. The proposed amendment to section 69.1 of the Regulations of the Commissioner of Education addresses this situation by permitting other types of master's degrees, including, but not limited to, Master of Science in Advanced Architectural Design, Master of Advance Architectural Design, Master of Science Sustainability in the Urban Environment, Master of Science in the Built Environment, Master of Architecture in Urban Design, as well as other related degrees, to count in lieu of not more than one year of work experience for licensure purposes.

Additionally, to satisfy the experience requirements for licensure as an architect in New York, an applicant must complete the Architectural Experience Program (AXP®) that is administered by the National Council of Architectural Registration Boards (NCARB) and

meet certain duration requirements. The duration requirements for licensure vary depending upon the type of degree earned, with fewer years required for those earning a professional degree in architecture and additional years required for those earning other types of degrees. For example, while three years of experience are required for those earning a Bachelor of Architecture degree, ten years of experience are required for those earning an Associate in Applied Science Architectural Technology degree. While NCARB and most US states and territories permit experience earned while an applicant is not attending college to count towards completion of the AXP®, New York has historically not allowed such experience to count towards the typical three-year duration requirement in architecture. The proposed addition of paragraph (3) to subdivision (b) of §69.1 of the Regulations of the Commissioner of Education is designed to address this situation by permitting experience that is earned non-concurrently with full-time attendance at college, including, but not, limited to, during summer breaks, to count towards satisfaction of the experience requirements for licensure and describes the specific parameters under which such experience may count for this purpose.

The six-division Architect Registration Examination® (ARE®) is the examination that is used nationally for licensure purposes. NYS is one of only seven US states and territories that still permits candidates to review or challenge their failed examination divisions. During this review, candidates may review their incorrectly answered examination questions for the division under review and challenge only multiple-choice questions. The correct response to the challenged question is not provided and no feedback is given to the candidates by Department staff proctoring the review. In the last three years, only four of the 7,993 New York candidates taking the ARE® have availed themselves of this review opportunity. Additionally, in the past 14 years, no examination score has ever been changed from a fail to a pass as a result of this process. Thus, based on the foregoing, as well as the fact that examination security is an ever-present issue with the potential for examination content to be compromised via this review process, the proposed amendment to §69.2 of the Regulations of the Commissioner of Education eliminates this review.

New York has 13 of the 136 colleges and universities¹ currently offering accredited programs in architecture; the highest number of any State in the US. However, New York students are presently at a competitive disadvantage due to their inability to take the ARE® while enrolled in college. Currently, students at 21 of the 136 colleges and universities offering accredited programs in architecture in the US may begin taking the ARE® while attending college. These 21 colleges are located within 16 states of the US. However, none of them are located in New York. All students attending New York schools of architecture must wait until after graduation to take the ARE®, while NCARB and most US states and territories accept examination scores passed prior to graduation for licensure as an architect. The proposed amendment to subdivision (c) of 69.2 of the Regulations of the Commissioner of Education would permit early access to the ARE® while a New York applicant is still in college, which will ensure that New York students

¹ Out of the 136 colleges and universities offering accredited programs in architecture in the US, six are in candidacy status, which is the first step towards accreditation, including one program in New York. A program in candidacy status indicates that the program and institution are prepared to implement a plan for achieving initial accreditation.

are afforded the opportunity, like students in other states, to complete the examination requirements in a thoughtful and deliberate manner that suits their individual abilities. It should be noted that this proposed amendment does not mandate the exact timing of when applicants may start to take the ARE®, it merely provides them with the option to start taking this examination while they are still in college.

Currently, there is only one pathway for licensure by endorsement in New York and this pathway is limited to applicants who took the professional examination in use prior to 1983, which is a relatively small pool of applicants. The proposed amendment to §69.3 of the Regulations of the Commissioner of Education establishes additional licensure by endorsement pathways for other types of prospective applicants. The proposed amendment permits additional applicants to become licensed in New York if they meet certain requirements, which, include, but are not limited to: (1) satisfactory evidence of at least five years of acceptable experience within the seven years immediately preceding application for endorsement; (2) satisfactory evidence of meeting the examination requirement; (3) satisfactory evidence of good standing as a licensee in each jurisdiction in which the applicant is licensed to practice architecture; and (4) an attestation of good moral character.

Additionally, the proposed amendment to section 69.3 of the Regulations of the Commissioner of Education would permit architects with licenses issued by a Canadian province to become architects in New York by endorsement of their Canadian licenses, if they meet all the specified licensure by endorsement requirements.

The Canadian model of architectural education is substantially equivalent to the US model. By reciprocal agreement, professional programs in architecture that are accredited by the Canadian Architectural Certification Board (CACB), like the NAAB in the US, are recognized by 46 US states and territories. Thus, graduates of the 11 accredited Canadian architectural programs are held to the same standards of in-depth education as graduates of the 136 US architectural schools, which will assist in ensuring that public protection will be maintained.

The Canadian model for verification of a candidate's experience is also substantially equivalent to the US model. By reciprocal agreement, Canada's model for experience as an intern, the Internship in Architecture Program (IAP), is recognized by 41 US states and territories as being the equivalent to NCARB's AXP®. Thus, graduates of the 11 accredited Canadian architectural programs are held to the same standards of in-depth training and quality assurance as they gain their experience as interns, which will assist in ensuring public protection in NYS.

There are instances where prospective Canadian licensure by endorsement applicants are found to be ineligible for licensure in New York simply because they took the Canadian examination, and not the ARE®, to be initially licensed in a Canadian province. The proposed amendments to section 69.3 of the Regulations of the Commissioner of Education would permit Canadian applicants to become licensed by endorsement of their Canadian licenses, if they meet certain requirements, which, include, but are not limited to: (1) satisfactory evidence of at least five years of acceptable experience within the seven years immediately preceding application for endorsement;

(2) satisfactory evidence of meeting the examination requirement, or if the applicant does not meet the examination requirements, passing a practical examination satisfactory to the State Board for Architecture; (3) satisfactory evidence of good standing as a licensee in each jurisdiction in which the applicant is licensed to practice architecture; and (4) an attestation of good moral character. The practical examination requirement for those Canadian endorsement applicants who took the Canadian examination, and not the ARE®, will ensure public protection as these applicants must pass the New York practical examination in order to meet the examination requirement.

It is anticipated that the proposed amendment to the education, experience, examination and endorsement requirements for licensure as an architect will increase the number of licensees in this State and, therefore, improve the public's access to architectural services, while ensuring public protection.

Proposed Revisions to the Proposed Rule Following the First Public Comment Period

At its January Regents meeting, the Department revised the proposed amendment to clarify the text and intent of the proposed regulation as follows:

In section 69.1(b)(3), the words “all experience earned shall be at least one month in duration” were moved from the end of the paragraph to the beginning of the paragraph. This revision makes it clear that for any experience to be acceptable for licensure purposes, it must be at least one month in duration.

In section 69.2(c)(1), the wording for the requirements for admission to examination was revised to read: “the third year of a professional bachelor **or master** of architecture program, **if the only degree received**, or the first year of a professional master of architecture or higher program **following receipt of an undergraduate** degree...” (emphasis added). This revision makes it clear that, in addition to permitting students to take the licensure examination after the third year of a bachelor of architecture program, students who, complete a third year of a professional master of architecture program, if the only degree received, or who complete the first year of a professional master of architecture or higher program, following receipt of an undergraduate degree, are likewise permitted to take the licensure examination.

Related Regent's Items

September 2019: [Proposed Amendment to Sections 69.1, 69.2 and 69.3 of the Regulations of the Commissioner of Education Relating to the Education, Experience, Examination and Endorsement Requirements for Licensure as an Architect:](https://www.regents.nysed.gov/common/regents/files/919ppcd2.pdf) (https://www.regents.nysed.gov/common/regents/files/919ppcd2.pdf)

January 2020: [Proposed Amendment to Sections 69.1, 69.2 and 69.3 of the Regulations of the Commissioner of Education Relating to the Education, Experience, Examination and Endorsement Requirements for Licensure as an Architect](https://www.regents.nysed.gov/common/regents/files/120ppcd1.pdf)
(<https://www.regents.nysed.gov/common/regents/files/120ppcd1.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That Sections 69.1, 69.2 and 69.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective April 22, 2020.

Timetable for Implementation

If adopted at the April 2020 meeting, the revised proposed rule will become effective on April 22, 2020.

Attachment A

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6506, 6507, and 7304 of the Education Law

1. Section 69.1 of the Regulations of the Commissioner of Education is amended, as follows:

69.1 Professional study and experience requirements for architecture.

(a) Definition. Unless otherwise provided, acceptable accrediting agency means an accrediting agency which is recognized by the United States Commissioner of Education as a reliable authority for the purpose of accreditation at the postsecondary level, and which applies its criteria for granting accreditation in a fair, consistent and nondiscriminatory manner.

(b) Licensure requirement. To meet the professional education and experience requirements for licensure as an architect in this State, the applicant shall submit evidence of either:

(1)

(i) graduation from a professional program in architecture registered by the department, accredited by an acceptable accrediting agency, or determined by the department to be the equivalent of a registered or accredited program; and

(ii) receipt of the degree of bachelor of architecture or [master of architecture] higher, or the equivalent as determined by the department, from a school offering a program which meets the requirements of subparagraph (i) of this paragraph; and

(iii) ...

(2) ...

(3) For purposes of this subdivision, all experience earned shall be at least one month in duration and one year of architectural work experience shall mean an aggregate total of twelve calendar months of full-time employment. Full-time shall be defined as at least 35 hours of experience earned per week, excluding overtime. Any portion of the experience requirement may be completed during periods of time that are not concurrent with full-time attendance at an institution of higher education.

(c) The department may accept a [second professional] masters' or higher degree in architecture, or a masters' or higher degree in architecturally related studies acceptable to the department, in lieu of not more than one year of work experience.

2. Section 69.2 of the Regulations of the Commissioner of Education is amended, 2019, as follows:

69.2 Licensing examinations.

(a) ...

(b) ...

(c) [Rescorings and reviews. Multiple choice or other objective divisions of the examination will be rescored upon written request of the candidate. Candidates who have failed the graphic divisions of the examination may review those divisions in accordance with the provisions of section 59.5(g) of this Title.

(d) Admission to examination. To meet the professional education and experience requirements for admission to the licensing examination, an applicant shall submit evidence of completion of either:

(1) [(i) graduation from a professional program in architecture] the third year of a professional bachelor or master of architecture program, if the only degree received, or the first year of a professional master of architecture or higher program following receipt

of an undergraduate degree registered by the department, accredited by an acceptable accrediting agency as defined in section 69.1 of this Part, or determined by the department to be the equivalent of a registered or accredited program; [and] or

[(ii) receipt of the degree of bachelor of architecture or master of architecture, or the equivalent as determined by the department, from a school offering a program which meets the requirements of subparagraph (i) of this paragraph; or]

(2) completion of experience in architectural work acceptable to the State Board for Architecture or a combination of education and experience totaling [9] 7 years which is determined by the department to be the equivalent of the education and experience credit described in section 69.1(b)(1) of this Part.

3. Section 69.3 of the Regulations of the Commissioner of Education is amended, as follows:

69.3 Endorsement.

[For endorsement of a license to practice architecture issued by another jurisdiction, the applicant shall present evidence of having met all the requirements of sections 59.6 and 69.1 of this Title; except an architect licensed in another state or jurisdiction as the result of successful completion of only the professional examination in use before 1983 may be granted licensure upon presentation of evidence of at least five years of work experience, provided that such experience occurs following licensure in such state or jurisdiction and occurs within the seven years immediately preceding licensure by endorsement in this State and such experience is of a grade and character satisfactory to the State Board for Architecture, or upon completion of those parts of the written examination not previously passed.]

(a) Endorsement of licenses of other states. A license to practice architecture issued by another state or jurisdiction of the United States may be endorsed for practice in New York State if the applicant submits the following to the department:

(1) evidence satisfactory to the State Board for Architecture of at least five years of professional experience acceptable to such board, provided that such experience occurs following licensure in such jurisdiction and within the seven years immediately preceding application for licensure by endorsement in New York State; and

(2) evidence of meeting the examination requirements prescribed in section 69.2 of this Part; and

(3) evidence acceptable to the department of good standing as a licensee in each jurisdiction in which the applicant is licensed to practice architecture; and

(4) an attestation of good moral character.

(b) Endorsement of licenses of Canadian provinces. A license to practice architecture issued by a Canadian province may be endorsed for practice in New York State if the applicant submits the following to the Department:

(1) evidence satisfactory to the State Board for Architecture of at least five years of professional experience acceptable to such board, provided that such experience occurs following licensure in such jurisdiction and within the seven years immediately preceding application for licensure by endorsement in New York State; and

(2) evidence of meeting the examination requirements prescribed in section 69.2 of this Part or, if the candidate does not meet the examination requirements prescribed in section 69.2 of this part, passing a practical examination satisfactory to the State Board for Architecture; and

(3) evidence acceptable to the department of good standing as a licensee in each jurisdiction in which the applicant is licensed to practice architecture; and

(4) an attestation of good moral character.

(c) Special endorsement provisions. An applicant with a license to practice architecture in another state or jurisdiction of the United States as the result of successful completion of the professional examination in use before 1983 may be granted licensure upon presentation of evidence of at least five years of work experience, provided that such experience occurs following licensure in such state or jurisdiction and occurs within the seven years immediately preceding licensure by endorsement in this State and such experience is of a grade and character satisfactory to the State Board for Architecture, or upon completion of those parts of the written examination not previously passed. Such an applicant shall also submit the following to the Department:

(1) evidence acceptable to the Department of good standing as a licensee in each jurisdiction in which the applicant is licensed to practice architecture; and

(2) an attestation of good moral character.

8 NYCRR §§69.1, 69.2 and 69.3

ASSESSMENT OF PUBLIC COMMENT

Following publication of a Notice of Proposed Rule Making in the State Register on September 25, 2019, the State Education Department received the following comment. This comments were previously published as part of the January 2020 Board of Regents Item.

1. COMMENT:

A commenter noted concerns regarding the granting of earlier access for candidates to take the Architect Registration Examination® (ARE®) while in college, finding the change to be counterproductive, ineffectual and misleading. The commenter suggested that this change will lead to architects who do not have the full expertise and knowledge of architecture and will lead to the public's view that a licensed architect is not necessarily an expert and proficient in the field. The commenter blames the current ability of a candidate to take the ARE® upon graduation, and while in college, if the proposed amendments are adopted, as a basis for creating a class of licensed architects who are simply good at taking tests, but know little to nothing about architecture.

DEPARTMENT RESPONSE:

Passage of the ARE® is one of several requirements that an applicant must satisfy to become a licensed architect in New York State. If the proposed amendment is adopted, the education and experience requirements for licensure remain unchanged. Therefore, the Department has determined that no changes to the proposed rule are necessary at this time.