



**TO:** The Honorable Members of the Board of Regents

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

**SUBJECT:** Proposed Amendment of Section 69.6 of the Regulations of the Commissioner of Education Relating to the Continuing Education Requirements for the Profession of Architecture

**DATE:** April 6, 2023

**AUTHORIZATION(S):** *Don McG* *Betty*

### **SUMMARY**

#### **Issue for Decision (Consent)**

Should the Board of Regents amend section 69.6 of the Regulations of the Commissioner of Education relating to the continuing education requirements in the profession of architecture?

#### **Reason for Consideration**

Required by State statute (Chapter 578 of the Laws of 2021) and Review of Policy.

#### **Proposed Handling**

The proposed rule is submitted to the Full Board for adoption as a permanent rule at the April 2023 Regents meeting. A copy of the proposed rule is included (Attachment A).

#### **Procedural History**

The proposed amendment was presented to the Professional Practice Committee for discussion at the December 2022 Regents meeting. A Notice of Proposed Rule Making was published in the State Register on December 28, 2022, for a 60-day public comment period. Following publication in the State Register, the Department received no comments on the proposed amendment. Therefore, an Assessment of Public Comment is not required and no changes to the proposed amendment are needed. A Notice of Adoption will be published in the State Register on May 3, 2023. Supporting materials for the proposed rule are available upon request from the Secretary to the Board of Regents.

## **Background Information**

Chapter 578 of the Laws of 2021 (Chapter 578), effective May 3, 2023, amends the Education Law to update the mandatory continuing education (CE) requirements for architects by: (1) removing the exemption from the CE requirement for new licensees; (2) allowing the Department to grant a full exemption to the CE requirement for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the Department which may prevent compliance;<sup>1</sup> (3) increasing flexibility for CE activities, including allowing up to six credits to be transferred from one triennial registration period to the next; and (4) allowing architects to take courses in engineering, interior design, land surveying, landscape architecture, and geology, as long as the courses contribute to the practice of architecture and meet the standards prescribed by the Commissioner.

Chapter 578 was welcomed by the field for modernizing the law governing CE for architects, Education Law §7308, which was enacted in 1999 and last updated in 2005. Since that time, factors including the growing availability of online educational opportunities have revolutionized the manner in which CE programs are offered. Chapter 578 provides architects with the flexibility and capability to take full advantage of these opportunities. Additionally, the “up to six credits of CE” carry-over provision from one triennial registration period to the next is consistent with laws in other states and the laws that regulate other design professions in New York.

## **Proposed Amendments**

The proposed amendments amend section 69.6 of the Commissioner’s regulations to conform to the requirements of Chapter 578. The proposed amendment additionally:

- Broadens the health, safety, and welfare CE subject areas that may be considered acceptable, in alignment with the national CE standards in architecture;
- Permits service on a committee or task force that addresses technical and/or regulatory issues pertaining to the professional practice of architecture to count as an acceptable CE educational activity, consistent with recently promulgated regulatory amendments for engineering, land surveying, and geology in New York State;
- Amends the requirements for licensees who return to the practice of architecture after a lapse in practice, which also aligns with recently promulgated regulatory amendments for engineering, land surveying, and geology in New York State;

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<sup>1</sup> Education Law §7308(1)(b) already permits the Department to grant an adjustment to the mandatory CE requirement for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the Department which may prevent compliance.

- Permits the approval of continuing education providers that are approved by a licensing authority or agency of another jurisdiction under standards substantially equivalent to those of the Department; and
- Replaces the phrase “self-study programs” with “educational activities.”

### **Related Regents Items**

December 2022: [Proposed Amendment of Section 69.6 of the Regulations of the Commissioner of Education Relating to the Continuing Education Requirements for the Profession of Architecture](https://www.regents.nysed.gov/common/regents/files/1222ppcd1.pdf)

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### **Recommendation**

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

VOTED: that Section 69.6 of the Regulations of the Commissioner of Education Relating to the Continuing Education Requirements for the Profession of Architecture be amended, as submitted, effective May 3, 2023.

### **Timetable for Implementation**

If adopted at the April meeting, the proposed amendment will become effective May 3, 2023.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207, 6504, 6507, and 7308 of the Education Law and Chapter 578 of the Laws of 2021

1. Section 69.6 of the Regulations of the Commissioner of Education is amended, to read as follows:

69.6 Continuing education for architects

(a) ...

(b) Applicability of requirement.

(1) ...

(2) Exemptions and adjustments to the requirement.

(i) Exemptions. The following licensees shall be exempt from the continuing education requirements, as prescribed in subdivision (c) of this section:

(a) [licensees for the triennial registration period during which they are first licensed to practice architecture in New York State, except those first licensed to practice architecture in New York State pursuant to an endorsement of a license of another jurisdiction; and

(b)] licensees whose first registration date following January 1, 2000 occurs prior to January 1, 2001, for periods prior to such registration date; and

[(c)] (b) licensees who are not engaged in the practice of architecture as evidenced by not being registered to practice in New York State, except as otherwise provided in subdivision (e) of this section to meet the requirements for the resumption of practice in New York State.

(ii) Adjustments and/or exemptions to the requirement. An adjustment and/or exemption to the mandatory continuing education requirement, as prescribed in subdivision (c) of this section, may be [made] granted by the department[, provided that the licensee documents good cause that prevents compliance, which shall include, but not be limited to, any of the following reasons: poor health certified by a physician; or a specific physical or mental disability certified by an appropriate health care professional; or extended active duty with the Armed Forces of the United States; or other good cause beyond the licensee's control which in the judgment of the department makes it impossible for the licensee to comply with the continuing education requirements in a timely manner] for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

(c) Mandatory continuing education requirement.

(1) General Requirement.

(i) During each triennial registration period, meaning a registration period of three years' duration, an applicant for registration shall complete at least 36 hours of continuing education acceptable to the department, as defined in paragraph (2) of this subdivision[, provided that the number of hours of such continuing education that consists of other educational activities as prescribed in paragraph (2) of this subdivision shall be limited in accordance with the requirements set forth in section 7308(2) of the Education Law]. A minimum of 24 hours of such continuing education shall be in the areas of health, safety and welfare in accordance with the limitations and requirements set forth in section 7308(2) of the Education Law. No more than six continuing

education hours completed during one triennial registration period may be transferred to a subsequent triennial registration period.

(ii) ...

(2) ...

(i) Subjects. Acceptable continuing education shall be in any of the following subject areas that may contribute to professional practice in architecture:

(a) [in] any one or more of the following [curricular] subject areas relating to the health, safety, and welfare of the public: [accessibility; acoustics; building design; code of ethics; codes, acts, laws, and regulations governing the practice of architecture; construction administration, including the administration of construction contracts; construction documents; construction functions of materials, methods, and systems; energy efficiency; environmental issues - including asbestos, lead based paint, toxic emissions; environmental analysis and issues of building materials and systems; building fire loads - flame spread, smoke contribution, explosives; fire safety systems - detection and alarm standards; life safety codes; materials and systems - roofing/waterproofing, wall systems, and other systems; materials and methods, use and function; mechanical, plumbing, and electrical - system concepts, materials and methods; natural hazards - impact of earthquake, hurricane, or flood related to building design; building preservation, renovation, restoration, and adaptive re-use; design of security of buildings; site and soils analysis; site design; specification writing; structural issues; surveying methods and techniques; sustainable design; zoning as it relates to the improvement and/or protection of the health, safety and welfare of the public;] practice management, project management, programming and analysis, project

planning and design, project development and documentation, construction and evaluation; or other [matters] subject areas of practice, law and ethics which may contribute to the health, safety and welfare of the public; and

(b) [in] other subject areas [topics] in architecture, engineering, interior design, land surveying, landscape architecture and geology which may contribute to the professional practice of architecture as such practice is defined in section 7301 of the Education Law.

(ii) ...

(a) ...

(b) Other educational activities. Acceptable continuing education shall be the following other educational activities[, provided that the number of hours of continuing education that consists of other educational activities shall be limited in accordance with the requirements set forth in section 7308(2) of the Education Law]:

(1) ...

(2) ...

(3) ...

(4) ...

(5) completing a self-study program, meaning structured study, provided by a sponsor approved pursuant to subdivision (i) of this section, that is based on audio, audio-visual, written, on-line, and other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students; [or]

(6) completing an educational tour, meaning a structured tour of an instructional nature provided by a sponsor approved pursuant to subdivision (i) of this section[.]; or

(7) serving on any committee or task force that addresses technical and/or regulatory issues pertaining to the professional practice of architecture, provided that such committee or task force has been established by a governmental entity or other entity determined by the department to be acceptable. To be acceptable for continuing education credit, such service shall be certified in writing by an authorized individual within the committee or task force and approved by the department.

(d) ...

(e) Requirement for lapse in practice.

(1) [The] A licensee who returns to the practice of architecture after a lapse in practice in which the licensee was not registered to practice in New York State [and did not lawfully practice architecture continuously in another jurisdiction throughout the lapse period,] shall be required to complete:

(i) ...

(ii) [at least] one hour of acceptable continuing education for each month of lapsed registration up to a maximum [36] of 12 hours, which shall be completed in the 12 months before the beginning of the new registration period[; and

(iii) at least 12 hours of acceptable continuing education in each succeeding 12-month period, after such registration is reissued, until the next registration date.

(2) The licensee who returns to the practice of architecture after a lapse in practice in which the licensee was not registered to practice in New York State but did lawfully practice architecture continuously in another jurisdiction throughout the lapse period, shall be required to complete:

(i) the continuing education requirement applicable to the period of time the licensee was registered in the licensee's last registration period; and



(ii) at least one hour of acceptable continuing education for each month of lapsed registration up to a maximum of 36 hours, which shall be completed in the new registration period, or at the option of the licensee in the period beginning 36 months before the commencement of the new registration period and ending at the conclusion of the new registration period; and

(iii) the regular continuing education requirement during the new registration period.]

(f) ...

(1) ...

(i) ...

(ii) ...

(iii) ...

(2) ...

(g) ...

(h) Measurement of continuing education study. Continuing education credit shall be granted only for acceptable continuing education as prescribed in subdivision (c) of this section. For continuing education courses, a minimum of 50 minutes of study shall equal one continuing education hour of credit. Courses or educational activities that are less than 50 minutes may be awarded prorated credit. For credit-bearing university or college courses, each semester-hour of credit shall equal 15 continuing education hours of credit, and each quarter-hour of credit shall equal 10 continuing education hours of credit.

(i) Sponsor approval.

(1) To be approved by the department, sponsors of continuing education to licensed architects in the form of courses of learning or [self-study programs] educational activities shall meet the requirements of either paragraph (2) or (3) of this subdivision.

(2) The department shall deem approved as a sponsor of continuing education to licensed architects in the form of courses of learning or [self-study programs] educational activities:

(i) a sponsor of continuing education that is approved by The American Institute of Architects Continuing Education [System] Services (AIA/CES), the International Association for Continuing Education and Training (IACET), the Practicing Institute of Engineering, or an equivalent organization determined by the department with assistance from the State Board for Architecture to have adequate standards for approving sponsors of continuing education for professionals regulated by Title VIII of the Education Law that include but are not limited to standards that are equivalent to the standards prescribed in clauses (3)(ii)(a), (c), and (d) of this subdivision; [or]

(ii) a postsecondary institution that has authority to offer programs that are registered pursuant to Part 52 of this Title or authority to offer equivalent programs that are accredited by an acceptable accrediting agency[.]; or

(iii) a sponsor of continuing education that is approved by a licensing authority or agency of another jurisdiction under standards substantially equivalent to those of the department.

(3) Department review of sponsors.

(i) The department shall conduct a review of sponsors that apply for approval to offer continuing education to licensed architects in the form of courses of learning or

[self-study programs] educational activities that are not deemed approved pursuant to the requirements of paragraph (2) of this subdivision.

(ii) Organizations desiring to offer courses of learning or [self-study programs] educational activities based upon a department review under this paragraph shall submit, with the fee as set forth in subdivision (j) of this section, an application for advance approval as a sponsor at least 90 days prior to the date of the commencement of such continuing education that documents that the organization:

(a) will offer courses of learning or [self-study programs] educational activities in any one or more of the subjects prescribed for acceptable continuing education in subparagraph (c)(2)(i) of this section;

(b) is an organized educational entity, or an entity that has expertise in the professional areas that will be taught, including but not limited to, a school of architecture accredited by an acceptable accrediting agency; or a national, State, or local [architecture] professional design association or organization;

(c) ...

(d) ...

(e) will maintain records for at least six years from the date of completion of course work, which shall include, but shall not be limited to, the name and curriculum vitae of the faculty, a record of attendance of licensed [architects] professionals in the course if a course, a record of participation of licensed [architects] professionals in the [self-study program] educational activity if [a self-study program] an educational activity, an outline of the course or [program] activity, date and location of the course or [program] activity, and the number of hours for completion of the course or [program] activity. In the event an approved sponsor discontinues operation, the governing body of

such sponsor shall notify the department and shall transfer all records as directed by the department.

(iii) ...

(iv) ...

(v) ...

(j) Fees.

(1) ....

(2) ....

(3) Organizations desiring to offer continuing education to licensed architects based upon a department review, pursuant to paragraph (i)(3) of this section, shall submit an application fee of \$900 with the application requesting the issuance of a permit from the department to become an approved sponsor of continuing education to licensed architects in the form of courses of learning or [self-study programs] educational activities. Application for a three-year renewal of the permit shall be accompanied by a fee of \$900.