



**STATE BOARD FOR ENGINEERING, LAND SURVEYING AND GEOLOGY
OFFICE OF THE PROFESSIONS**

89 Washington Avenue, Albany, NY 12234
&
85 Allen Street, Suite 120, Rochester, NY 14608

The public may view the Board Meeting Open Session via the following link:
<https://meetnydirect.webex.com/meetnydirect/j.php?MTID=m88394736d0f6ab1160481028c1478b97>

Thursday June 8, 2023 - 9:30a-11:00a

OPEN SESSION AGENDA

CALL TO ORDER (9:30a)

- **Note: Open Session agenda included as Packet pages 1-2**

INTRODUCTIONS (9:30a – 9:35a)

WELCOME NEW BOARD MEMBERS (9:35a – 9:45a)

- **Michael Rygel, PG**
- **Rosaleen Nogle, PE**
- **Pat VanHaverbeke, LS**

APPROVAL OF MARCH 9, 2023 MEETING MINUTES (9:45 – 9:50)

- **Packet page 3-6**

CHAIRMAN / VICE CHAIRMAIN REPORT (9:50a – 9:55a)

EXECUTIVE SECRETARY REPORT (9:55a – 10:10a)

- **Board Office Report:**
 - **Packet page 7**
- **Meeting Attendance – Extenuating Circumstances**
- **Ethics training**
- **Office of Professional Discipline training**
- **Content Manager (application review) virtual training**
- **Commissioner’s Regulation 68.3 Technical Amendment**
 - **Packet pages 8-13**
- **NCEES Annual Conference (Boston - August 15-18)**

- **ASBOG Annual Conference (Spokane, WA - October 23-25)**
- **NYSSPE Annual Meeting 6/8-6/10 in Rochester**
- **Legislation of Interest**
 - **Packet pages 14-15**

COMMITTEE CHAIR REPORTS & BUSINESS (10:10a – 10:50a)

- **New Board Member Committee Placement (PE, PG, LS)**
- **Professional Engineering**
- **Land Surveying**
- **Geology**
- **Access & Outreach to the Professions**
- **Education**
- **Legislation**
- **Project Delivery Methods**

CONTINUING BUSINESS (10:50a – 10:55a)

- **Next Board Meetings:**
 - **9/7/23 – Location TBD**
 - **12/7/23 – Location TBD**

NEW BUSINESS (10:55a – 11:00a)

- **Board Member suggested topics for future meetings**

RESOLUTION FOR EXECUTIVE SESSION AND ADJOURNMENT (11:00a)



STATE BOARD FOR ENGINEERING, LAND SURVEYING AND GEOLOGY

New York State Education Department
Office of Professions
89 Washington Avenue
Albany, NY 12234

March 9, 2023
~ 9:30am ~

OPEN SESSION MINUTES

Primary Board Members Present:

- M. Noviello (Chair)
- J. Martin (Vice Chair)
- A. Friedman
- R. Frandina
- D. D'Angelo
- B. Holbritter
- W. Kelly
- J. Patota
- T. Mitchell

Extended Board Members Present:

- None

Board Members Absent:

- D. Franzl
- L. Woods
- S. Roseen

Board Office Personnel:

- E. Greppo – Executive Secretary (ES)
- K. Fitzgerald – Associate in Professional Education

Department Personnel:

- D. Spillane – Executive Director, Office of Professional Development

Visitors:

- John Nadeau – NYSCPG
- Emily Whalen – NYSAPLS
- Mark Kriss – NYSSPE

1. Call to Order – Open Session

Chair Noviello called the Open Session to order.

2. NYSED Office of Professional Discipline (OPD)

- Dennis Spillane, Executive Director & Professional Conduct Officer in OPD, presented on disciplinary case procedures. Questions and answers from board members were fielded throughout the presentation.

3. Meeting Minutes

The Open Session meeting minutes from December 8, 2022 were reviewed.

Motion – Martin/Kelly: Approve December 8, 2022 meeting minutes.
PASSED UNANIMOUSLY.

4. Chair and Vice Chair Reports

Chair Noviello and Vice Chair Martin deferred commentary until committee reports.

5. Executive Secretary Report

- The Executive Secretary (ES) listed the number of licenses issued in 2022, along with registered licensee statistics for professional engineers, land surveyors, and professional geologists. These statistics will be shared quarterly.
- L. Woods is on March 13, 2023 Board of Regents March agenda for second primary term appointment. The board office projects the submission of additional candidates for each of the board professions to the Board of Regents over the remainder of the year to address statutory requirements and resource needs.
- There are approximately 85 exam and endorsement applications in queue. Board Members were asked to continue making application reviews a priority.
- An advisory notice and posting of updated regulations were recently added to the NYSED OP website to reflect prior changes made to Part 68.1 and Part 68.3 of the Commissioner's Regulations. Board office is working to update other resources online to reflect the changes.
- Board Members were asked to review their contact information and confirm email address on the Board Office Share Point page.

6. Access & Outreach to the Professions Committee Report

ES reported in Chair Woods' absence. A committee meeting was held on March 2nd. The STEM PowerPoint presentation will be prioritized, with a move towards formal completion. The Board Office is in process of gathering outreach contacts. Upcoming events will be highlighted to board members to solicit participation. Volunteers are encouraged to let the ES know of their interest. Chair Woods will schedule a Q2 2023 meeting to continue development of presentation materials.

7. Education Committee Report

Chair Mitchell said that there is one (1) ongoing proposal and (1) newly received proposal to add licensure-qualifying to previously approved Geology programs. The Geology committee met to

discuss these two (2) proposals. No formal Education committee meetings were held. Additionally, one (1) new engineering program proposal and replies from one (1) prior engineering program proposal review were received. All four (4) mentioned above will be covered in Executive Session.

8. Professional Geology Committee Report

Chair Patota discussed the STEM presentation for access/outreach purposes (referenced in item 6 above). The New York State Council of Professional Geologists (NYSCPG) hosted Chair Patota for outreach twice via WebEx in February 2023. Chair Patota will also be involved in a similar outreach in April 2023 in Syracuse. The committee plans to finish the draft Geology Practice Guidelines during Q2 2023 (meeting date TBD). Geology Days, hosted by NYSCPG, will be held in October 2023. The Board/Board Office intends to present on licensure matters during that event.

9. Land Surveying Committee Report

Chair Holbriiter reported that the committee met via WebEx on January 6th to conduct a final review of the April 2023 NYS-specific land surveying examination questions and to review challenges to the October 2022 examination. ~~New questions were also developed, in order to incorporate current information and technological advances that have occurred in the profession.~~ The New York State Association of Professional Land Surveyors (NYSAPLS) held its annual conference January 2023 in Verona, NY. Chair Holbriiter and Extended Member William Shover were in attendance and participated as licensure information resources. ES and Kiley Fitzgerald also served as Board Office representatives on the final day of the event. Other board members communicated a continued intention for Board Office-led presentations in the future. This committee also met on March 3rd, 2023 to discuss land surveyor application review criteria, 2023 planning, and a recap of the NYSAPLS conference. Chair Holbriiter will schedule a Q2 2023 meeting.

10. Legislation Committee Report

Chair Martin said that the committee met earlier this month and created a legislation tracker for informational awareness. It was mentioned that protecting public health and safety is paramount when reviewing new and reintroduced bills. Meetings will be scheduled as needed.

11. Professional Engineering Committee Report

Chair Martin thanked all members for bringing down the application queue. A meeting will be scheduled for April 2023 to discuss the application review process.

12. Project Delivery Methods Committee Report

Chair D'Angelo noted that no committee meetings have occurred. Since there is intrinsic overlap with the function of this committee with the Legislation committee, Chair D'Angelo will monitor tracked legislation and interact as needed.

13. Continuing Business

ES gave a demonstration of the following trackers: 1) Association Conference, 2) Legislation, 3) Access & Outreach. Trackers are all housed on the Board Office Members Only SharePoint page. Board Members were encouraged to further review and add any pertinent events.

ES pointed out that the National Council of Examiners for Engineering and Surveying (NCEES) proposed bylaws state that a public member may be eligible for election as President-Elect or zone vice-president. This change will be proposed as a motion at the NCEES annual conference in August 2023.

ES reminded Board Members that next board meeting is scheduled for Thursday June 8, 2023, at 9:30am in Albany. The Board will also meet on 9/7/2023 and 12/7/2023 (times and locations TBD).

14. New Business

Board Members shared suggested topics for future meetings.

15. Executive Session and Adjournment

Motion – Mitchell/Kelly: Move to break for lunch and reconvene for Executive Session.
PASSED UNANIMOUSLY.

Respectfully Submitted,

Eric Greppo, PE
Executive Secretary



STATE BOARD FOR ENGINEERING, LAND SURVEYING AND GEOLOGY
OFFICE OF THE PROFESSIONS

Board Office Report
June 2023

Board Member Board of Regents (Re)Appointments:

- | | | |
|----------------------------|------------------------------|-------------------|
| • Leonard Woods, PE | 2 nd Primary term | (3/14/23-3/13/28) |
| • Michael Rygel, PG | 1st Primary term | (4/17/23-4/18/28) |
| • Rosaleen Nogle, PE | 1st Primary term | (5/16/23-5/15/28) |
| • Patrick VanHaverbeke, LS | 1st Primary term | (5/16/23-5/15/28) |

Licenses:

- Application queue: 92 (as of 5/22/23)
- New licenses issued in 2023 (thru 4/2023):
 - PE: 690
 - PG: 5
 - LS: 4
- Registered licensees as of 12/2022:
 - PE: 32,849 (15,581 NYS)
 - LS: 1,401 (1,057 NYS)
 - PG: 1,239 (683 NYS)

NYSED/OP/Staff Activities:

- 3/31-4/1/23: Regional FIRST Robotics competition (MVP Arena, Albany)
 - License Information Booth
 - OP and Ex. Sec. Greppo
- 3/16/23: NYSCPG Membership Meeting (Virtual)
 - Introduction and Board Office resource overview
 - Ex. Sec. Greppo
- 4/5/23: NYSCPG Regional Meeting (Virtual)
 - Ethics presentation
 - Ex. Sec. Greppo

Office of Professional Discipline:

- Sankar K Mandal - East Elmhurst, NY (Regents Action 4/18/23)
- Michael Kelly Wicks - Wading River, NY (Regents Action 4/18/23)



TO: The Honorable Members of the Board of Regents

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

SUBJECT: Proposed Technical Amendment of Section 68.3 of the Regulations of the Commissioner of Education Relating to the Requirements for Admission to the Examination for Licensure as an Engineer

DATE: April 6, 2023

AUTHORIZATION(S): *Dom [Signature] Betty [Signature]*

SUMMARY

Issue for Decision (Consent)

Should the Board of Regents adopt the proposed technical amendment of section 68.3 of the Regulations of the Commissioner of Education relating to the requirements for admission to the examination for licensure as an engineer?

Reason for Consideration

Required by State statute (Chapter 465 of the Laws of 2021).

Proposed Handling

The proposed technical amendment will be presented to the Full Board for adoption as an emergency rule at the April 2023 meeting of the Board of Regents. A copy of the proposed rule (Attachment A) and a statement of facts and circumstances justifying emergency action (Attachment B) are attached.

Procedural History

A Notice of Proposed Rule Making will be published in the State Register on May 3, 2023, for a 60-day public comment period. Supporting materials are available upon request from the Secretary to the Board of Regents.

Background Information

Chapter 465 of the Laws of 2021 (Chapter 465), effective April 6, 2022, amended provisions of the Education Law regarding the profession of engineering. Generally, it updates engineering licensure requirements to reflect modern practice requirements and promote uniformity for the profession.

Chapter 465 phases out the existing “all-experience” pathway, which permitted candidates with 12 years of working experience to obtain licensure without any formal education. To ensure a smooth transition for pipeline candidates, Chapter 465 permits persons currently seeking licensure under this pathway to submit a licensure application with the appropriate fee to the Department by April 6, 2024 (two years after the effective date of the law) to preserve their potential ability to qualify for licensure based on such experience. Although regulatory amendments were adopted by the Board of Regents to reflect these statutory changes at the July 2022 Regents meeting, the regulations are silent relative to the ability of those still meeting the “all experience” pathway to sit for the fundamentals of engineering examination.

Therefore, the Department now proposes to amend section 68.3 of the Commissioner’s regulations to reflect the intent of Chapter 465 by allowing “all experience” pathway applicants to sit for the fundamentals of engineering examination provided that they meet the pathway’s requirements prescribed in section 68.1(c) of the Commissioner’s regulations.

Related Regents Items

July 2022: [Proposed Repeal of Section 68.1 and Addition of a New Section 68.1 and Amendment of Section 68.3 of the Regulations of the Commissioner of Education Relating to the Licensure Requirements for Professional Engineers](https://www.regents.nysed.gov/common/regents/files/722brca22.pdf)
(<https://www.regents.nysed.gov/common/regents/files/722brca22.pdf>)

Recommendation

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

VOTED: That section 68.3 of the Regulations of the Commissioner of Education be amended, as submitted, effective April 18, 2023, as an emergency rule upon a finding by the Board of Regents that such action is necessary for the preservation of the general welfare to immediately conform the Commissioner’s regulations to Chapter 465 of the Laws of 2021, which became effective April 6, 2022.

Timetable for Implementation

If adopted as an emergency rule at the April 2023 Regents meeting, the emergency rule will become effective on April 18, 2023. It is anticipated that the proposed rule will be presented for adoption at the July 2023 Regents meeting after expiration of the 60-day public comment period required under the State Administrative Procedure Act. Because the emergency action will expire before the July Regents meeting, it is anticipated

that an additional emergency action will be presented for adoption at the June 2023 meeting. If adopted at the July meeting, the proposed rule will become effective as a permanent rule on August 2, 2023.

AMENDMENT TO THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to sections 207 and 7206 of the Education Law and Chapter 465 of the Laws of 2021.

Subdivision (b) of section 68.3 of the Regulations of the Commissioner of Education is amended to read as follows:

(b) Admission to examinations.

(1) To meet the requirements for admission to the fundamentals of engineering examination, an applicant shall either:

(i)...

(ii)...

(iii) have met the education requirement of 68.1(b)(4) or (5); or

(iv) as prescribed in section 68.1(c) of this Part, have earned at least six education/experience credits and submitted an application for licensure with the required fee to the department prior to April 6, 2024,

(2)...

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH
NECESSITATE EMERGENCY ACTION

The Department proposes to amend section 68.3 of the Commissioner's regulations to reflect the intent of Chapter 465 of the Laws of 2022 by allowing the "all experience" pathway applicants to sit for the fundamentals of engineering examination provided that they meet the pathway's requirements prescribed in section 68.1(c) of the Commissioner's regulations.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the July 2023 Regents meeting. Furthermore, pursuant to SAPA 203(1), the earliest effective date of the proposed rule, if adopted at the July 2023 meeting, would be August 2, 2023, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the April 2023 meeting, effective April 18, 2023, for the preservation of the general welfare to immediately conform the Commissioner's regulations to Chapter 465 of the Laws of 2021, which became effective April 6, 2022.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the July 2023 Regents meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making. However, since the emergency action will expire

before the July 2023 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the June 2023 Regents meeting.

Bill Number	Status	Summary Text
S1576/ A3445	Referred to Finance (S) Referred to Education (A)	Establishes the For Inspiration and Recognition of Science and Technology ("FIRST") robotics competition; Appropriates funds for the grant program to fund high school participation in the competition and to encourage study in the fields of science, technology, engineering and math.
S03295/ A03389	Referred to economic development (A) / Referred to Consumer Protection (S)	Establishment of the water-based fire protection licensure act. Establishes the water-based fire protection licensure act, setting forth licensure requirements for contractors engaged in the business of the layout, installing, repairing, inspecting, testing, or maintaining of water-based fire protection systems and components.
S01818/ A04870	Referred to higher education (S) / Referred to higher education (A)	Relates to the practice of professional geology. Adds practice of geology to grandfathered corporations.
S01049/ A05051	Referred to higher education (S) / Referred to higher education (A)	Engineering Technology Experience Requirements. Provides that an applicant with a bachelor's degree or higher in engineering technology and an applicant with a bachelor's degree or higher in engineering shall have the same number of education and experience credit requirements, shall have the same eligibility for an identification card as "an engineer in training", as well as examination and examination eligibility requirements.
A00087/ S00290	Referred to higher education (S) / Referred to higher education (A)	Establishes Engineering College in Yonkers. Provides for the trustees of the state university of New York to establish a four-year college of engineering and applied sciences in the city of Yonkers within the state university system.
A00864/S1761A	Referred to cities (A) / Referred to cities (S)	Qualifications Based Selection (QBS) .Requires qualification-based criteria for awarding certain contracts for services to an entity that submits a statement of qualifications in response to a request for qualifications when an authorized entity utilizes a one-step method.
A04549	Referred to higher education (A)	Provides statute of limitations (Repose) for design professions. Repeals and reenacts statute of limitation provisions on wrongful death, personal injury and property damage actions against professional engineers, architects, landscape architects, land surveyors and construction contractors to provide for a limitations period of ten years after completion of improvement to real property; "completion", which constitutes the accrual date for the limitations period, is defined; provides for a one year extension for injuries to person or property or wrongful death which occur during the tenth year after completion.
A04202/ S5614	Referred to local government (A) / Referred to local government (S)	Self-Certification Authorizes a city, town or village to establish a program whereby a building permit may be issued based upon certification by a registered architect or professional engineer.
S05614 / A04202	Referred to local government (A) / Referred to local government (S)	Relates to building permits. Authorizes a city, town or village to establish a program whereby a building permit may be issued based upon certification by a registered architect or professional engineer.
S / A	Not yet introduced	Requires certain engineering plans that could pose a material risk to public safety to bear a stamp of approval of a professional engineer. Establishes a program where a municipal department of buildings may accept certain construction documents for code compliance. Establishes a program where a municipal department of buildings may accept certain construction documents for code compliance Establishes a program where a municipal department of buildings may accept construction documents required to be filed in relation to code compliance prior to issuance of a certificate of occupancy with less than a full examination by such municipal department of buildings based on a professional certification of an applicant who is an architect or professional engineer; makes related provisions
S / A	Not yet introduced	Requires certain engineering plans that could pose a material risk to public safety to bear a stamp of approval of a professional engineer. Requires certain engineering plans or specifications for engineering work or services that could pose a material risk to public safety to bear a stamp of approval of a professional engineer and authorizes the public service commission to promulgate rules and regulations relating to such requirement.
A /	Not yet introduced	Interior Design/State Contracting. Adds interior design services as a type of contract that can be entered into and negotiated by the state
A/	Not yet introduced	Licensing consequences for serious abuse of self-certification privileges. Relates to licensing consequences for architects or engineers who seriously abuse their selfcertification privileges
A / S	Not yet introduced	New York Emergency Responder Act. Enacts the New York emergency responder act limiting the liability of certain emergency responders.
A / S	Not yet introduced	NYC DoB False Documents. Relates to false statements in documents submitted to the department of buildings of the city of New York
A /	Not yet introduced	Increases to \$50,000 for cost of construction threshold. Increases to \$50,000 the cost of the construction of a building, structure or public work, above which an engineer, land surveyor or architect must be utilized
S /	Not yet introduced	Requires Public Authorities to negotiate with QBS. Requires public authorities to negotiate with most qualified architectural and engineering professional firms before negotiating with other firms

Former Legislation of Interest

No Bill Number Yet	N/A	Ag / Markets Defining Farm Conservation. Directs the department of agriculture and markets and the state soil and water conservation committee to review and define farm conservation practices which are within the professions of engineering, land surveying and architecture
No Bill Number Yet	N/A	Interior Desing Continuing Education. Mandating continuing education for certified interior designers Relates to mandating continuing education for certified interior designers
No Bill Number Yet	N/A	Good Samaritan Act. Enacts the engineers', architects', landscape architects' and land surveyors' good samaritan act
No Bill Number Yet	N/A	Land Surveyor Designing Approved Sewage Disposal Systems. Provides that where a nitrogen-reducing sewage disposal system approved by the county department of health is designed by a land surveyor for an individual residential lot or is designed by a person who holds a valid license from the county to design sewage disposal systems for replacement or retrofit on an individual lot, such persons are exempt from the provisions of section 7208 of the education law; relates to qualifications for the design of a nitrogen-reducing sewage disposal system in a county of one million or more which draws its primary source of drinking water for a majority of county residents from a designated sole source aquifer.
No Bill Number Yet	N/A	Relates to the Liability of Design Professionals. Relates to the liability of design professionals; prohibits broad indemnification of a state or local agency or political subdivision involving public work for contracts executed on or after January 1, 2020.
No Bill Number Yet	N/A	Malpractice Insurance. Requires engineers and architects to maintain malpractice insurance in the amount of \$1,000,000
No Bill Number Yet	N/A	Land Surveying Definition. Relates to the definition of the practice of land surveying
No Bill Number Yet	N/A	Professional Certification for Nassau and Suffolk Counties. Establishes procedures authorizing certain municipalities to grant building permits upon certification by a licensed professional engineer or a registered architect
No Bill Number Yet	N/A	Relates to the practice of certified interior design; repealer Regulates the practice of certified interior design including the use of proper seals and construction documents; adds CE requirement for CID's
No Bill Number Yet	N/A	Self-Certification. Grants cities authority to review plans for the construction of structures proposed to be made within its boundaries