



NCARB



Model Rules of Conduct

2018–2019

National Council of Architectural Registration Boards

Customer Service: 202-879-0520 | Main: 202-783-6500

www.ncarb.org

NCARB MISSION

The National Council of Architectural Registration Boards protects the public health, safety, and welfare by leading the regulation of the practice of architecture through the development and application of standards for licensure and credentialing of architects.

CORE VALUES

The National Council of Architectural Registration Boards believes in being:

OPEN

Our success depends upon working together. We earn the respect of others by actively partnering, engaging, and collaborating with them. By being transparent and sharing our expertise, approaches, and knowledge, we help create dynamic partnerships that achieve more.

RESPONSIVE

By being receptive and quick to react, we demonstrate our natural human desire to be helpful. Our dedication and determination to be straightforward and deliver outstanding service experiences give our customers confidence and drive satisfaction levels upward.

RESTLESS

We are sensitive to the diverse and changing needs of our stakeholders. By being proactively curious about new possibilities and the world around us, we advance our knowledge, simplify our processes, and refine our thinking for the benefit of all.

NCARB is a nonprofit corporation comprising the legally constituted architectural registration boards of the 50 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands as its members.

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2018-2019 MODEL RULES OF CONDUCT

FOREWORD

These *Model Rules of Conduct* are published by the National Council of Architectural Registration Boards (NCARB) as a recommended set of rules for Member Boards—the jurisdictional licensing boards—having the authority to promulgate and enforce rules of conduct applicable to those licensed in their jurisdiction.

INTRODUCTION

In July 1975, following a directive from delegates at its Annual Business Meeting, NCARB began to develop rules on professional conduct that it could recommend to its Member Boards. The committee conducted extensive research, produced several drafts, and conducted reviews with various governmental agencies and professional organizations in March 1976 and again in November 1976. In February 1977, the committee finalized the first version of NCARB's *Model Rules of Conduct* and subsequently gained their acceptance and approval by its Member Boards at the Annual Business Meeting in June 1977.

Over a two-year period, NCARB undertook a study of the conduct rules of various jurisdictions and other learned professions, held in-depth interviews with a number of government consumer affairs officials, and carried out other research inquiries. These efforts led to the formulation of NCARB's *Model Rules of Conduct*. Their substance was drawn from the following series of considerations:

- The *Rules*, which will serve as the basis for the regulating and disciplining of architects, should be mandatory rules and should not include aspirational rules that often comprise the codes of professional associations;
- The *Rules* should have as their objective the protection of the public and not the advancement of the interests of the profession of architecture;
- The architect should not be burdened unfairly with rules and expectations that are unreasonable. The public, however, expects to find an architect in a leadership position on a construction project to protect its interests. Consequently, while the architect is primarily enjoined to serve a client's best interests, the architect also has a supervening duty to the public; and
- The *Rules* are intended to set out those areas of behavior for which an architect risks being disciplined, including suspension or revocation of the privilege to practice, by a jurisdictional licensing board.

As a result of these considerations, NCARB's *Model Rules of Conduct*, as approved and recommended to its Member Boards who have the authority to promulgate such rules, center on five areas: competence, conflict of interest, full disclosure, compliance with laws, and signing and sealing documents. Over time, NCARB's *Model Rules of Conduct* have been revised to ensure they remain relevant to contemporary practice and to ensure the expected professional and ethical conduct of architects found in law remains focused on the protection of the health, safety, and welfare of the public.

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GUIDING PRINCIPLES FOR THE DEVELOPMENT OF NCARB'S MODEL RULES OF CONDUCT

- A. A set of rules of conduct, which will be the basis for regulating and disciplining members of the profession, should be mandatory rules and should not include those aspirational rules that are often found in a list of obligations promoted by a professional association.
- B. The objective of these *Model Rules of Conduct* is the protection of the public health, safety, and welfare. There are two general areas of concern. First, non-architects (beginning with the client and including all other members of the construction industry) dealing with an architect should be protected against misrepresentation, fraud, and deceit. Second, the users of a project on which the architect has worked must be protected from a building which is unsafe.
- C. These *Model Rules of Conduct*, when referenced to “law,” are concerned only with violations of U.S. law and not with violations of the laws of other nations. It would be extremely difficult for a jurisdictional licensing board to obtain suitable evidence of the interpretation of foreign laws and it is not unusual for such laws to be at odds with the laws of the United States.
- D. These *Model Rules of Conduct* address the conduct of the architect irrespective of the architect’s having been convicted under a criminal law. An architect is subject to discipline by the jurisdictional licensing board whether or not the architect has been convicted by a court of law.
- E. The public views the architect as the primary registered design professional involved in the planning and design of a building project and relies on the architect to help safeguard the public interest. While architects are obligated to defend vigorously the position of their clients, architects may be compelled to insist on positions that are not in their clients’ interest in order to protect the health, safety, and welfare of the public.
- F. The public expects that professions will be guided by a commonly accepted standard of conduct and that architects will assume a primary role in ensuring ethical conduct by their colleagues. For example, this principle is the foundation of the requirements to report violations found in Rule 3.9. An architect’s accountability in this regard extends to the actions of parties external to their practice and to their practice colleagues. Accordingly, for the purposes of these *Model Rules of Conduct*, any architect who, alone or with others, is in charge of a firm’s architectural practice will be deemed to have violated these rules if the firm has violated these rules.
- G. Architects who act as Architectural Experience Program (AXP) Supervisors of candidates for licensure play a critical role in the protection of the public and a central role in the training of future license holders. NCARB and the jurisdictional licensing boards rely on AXP Supervisors to both confirm that the expected experience has been gained and to serve as the primary “quality assurance” guarantor regarding the efficacy of the candidate’s experience. Accordingly, these *Model Rules of Conduct* include several provisions intended to protect the integrity of the experience verification process and other elements of the qualifications reporting system that jurisdictional licensing boards rely on when making licensure decisions.

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RULE 1 COMPETENCE

- 1.1 In practicing architecture, an architect's primary duty is to protect the public's health, safety, and welfare. In discharging this duty, an architect shall act with reasonable care and competence, and shall apply the knowledge and skill ordinarily applied by architects in good standing, practicing in the same locality.¹
- 1.2 In designing a project, an architect shall take into account the applicable federal, state, and local building laws and regulations. While an architect may rely on the advice of other professionals (e.g., attorneys, engineers, and other qualified persons) as to the intent and meaning of such laws and regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws and regulations.
- 1.3 An architect shall perform professional services only when the architect, together with those whom the architect may engage, has the necessary knowledge and skill in the specific technical areas involved.
- 1.4 An architect shall not be permitted to practice architecture if, in the Board's judgment, the architect's professional competence is substantially impaired. The assessment of impairment should be performed by an appropriately qualified professional.²

RULE 2 CONFLICT OF INTEREST

- 2.1 An architect shall not accept compensation in connection with services from more than one party on a project unless the circumstances are fully disclosed and waived in writing by all parties.
- 2.2 An architect shall not solicit or accept compensation from material or equipment suppliers for specifying or endorsing their products in connection with a project. As used herein, "compensation" shall not mean customary and reasonable business hospitality, entertainment, or product education.³
- 2.3 An architect shall not perform professional services in the face of a conflict of interest that is not fully disclosed and waived in writing by all parties. An architect has a conflict of interest when:
 - (a) the architect has or may acquire a financial or other interest in the project, someone participating in it, or any component of it; or
 - (b) the architect's judgment may be adversely affected by a relationship with another party.

¹ This rule is based on the common law "standard of care" that has been accepted by courts in this country for over 100 years in judging the performance of architects.

² This rule empowers the Board to act preemptively in the interest of public health, safety, and welfare when the Board becomes aware of an architect's impaired competence rather than waiting until the impaired competence causes harm.

³ Unlike Rule 2.1, this rule does not provide for waiver by agreement. Customary and reasonable business hospitality, entertainment, and product education may be determined by jurisdictional ethics laws, company policies, and tax guidelines.

- 2.4 An architect, when acting by agreement of the parties as the independent interpreter of building contract documents or as the judge of contract performance, shall render decisions impartially.⁴
- 2.5 An architect serving as an AXP Supervisor for a candidate for licensure shall not have, nor enter into, any relationship with the candidate that would interfere with the objectivity of the AXP Supervisor's certification of the candidate's experience.⁵

RULE 3 FULL DISCLOSURE

- 3.1 An architect shall not make statements that are misleading, deceptive, or false.
- 3.2 An architect making public statements on architectural matters shall disclose if the architect is being compensated for making such statements or has an economic interest in the issue.
- 3.3 An architect shall not misrepresent the architect's qualifications, capabilities, and experience or that of the architect's firm.
- 3.4 An architect shall not misrepresent or overstate the scope of the architect's responsibility in connection with work for which the architect or the architect's firm is claiming credit.
- 3.5 If, in the course of an architect's work on a project, the architect becomes aware of a decision made by the architect's employer or client, against the architect's advice, which violates applicable federal, state, or local building laws and regulations and which will, in the architect's judgment, materially and adversely affect the health and safety of the public, the architect shall:
 - (a) refuse to consent to the decision, and
 - (b) report the decision to the official charged with enforcement of building laws and regulations, and
 - (c) in circumstances where the architect reasonably believes that other such decisions will be taken notwithstanding the architect's objection, terminate the provision of services with reference to the project unless the architect is able to cause the matter to be resolved by other means.

⁴ This rule governs the construction industry relationship where the architect is to act impartially as the interpreter of building contract documents and/or the judge of contract performance, even though paid by the owner. The rule recognizes that these roles are not inevitable and that there may be circumstances (for example, where the architect has an interest in the owning entity) in which the architect may appropriately decline to act in either of these two roles.

⁵ AXP Supervisors are required to balance their duty to protect the public with their role in licensure candidate development. Balancing these duties makes the AXP Supervisors' objectivity critical.

⁶ In the circumstances described, the architect is compelled to report the matter to the appropriate building official even though to do so may adversely affect the client's interests. The rule specifically intends to exclude matters of safety during the course of construction that are the obligation of the contractor.

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- 3.6 An architect shall not make a false statement or fail to disclose accurately and completely a material fact lawfully requested by the Board in connection with the architect's application for licensure or renewal.
 - 3.7 An architect shall not knowingly sign any verification document related to licensure that contains false or misleading information and shall not assist in the application for licensure of a person known by the architect to be unqualified.
 - 3.8 An architect possessing knowledge of an licensure candidate's qualifications for licensure shall cooperate with the candidate, the Board, and/or NCARB by responding appropriately and in a timely manner regarding those qualifications.
 - 3.9 An architect possessing knowledge of a violation of the jurisdiction's laws or rules governing the practice of architecture by another shall report such knowledge to the Board. It is the professional duty of the architect to do so.
- 5.3 An architect of record may sign and seal prototypical building documents prepared by an architect licensed in any U.S. jurisdiction, but only if the architect of record determines that such documents are in compliance with the requirements of the project's jurisdiction and incorporates them into the architect of record's own technical submissions.

RULE 4 COMPLIANCE WITH LAWS

- 4.1 An architect shall not violate the law of the United States or any U.S. jurisdiction that in any material way relates to the conduct of the architect's practice.
- 4.2 An architect shall not engage in conduct involving fraud or deliberate disregard of the rights of others.
- 4.3 An architect shall comply with the licensing laws and regulations governing the architect's professional practice in any U.S. jurisdiction. An architect may be subject to disciplinary action if the architect is disciplined in any other U.S. jurisdiction.
- 4.4 An architect shall neither offer nor make any payment or gift with the intent of influencing an official's judgment in connection with a prospective or existing project in which the architect is interested.
- 4.5 An employer engaged in the practice of architecture found by a court or administrative tribunal to have violated the law of the United States or any U.S. jurisdiction protecting the rights of persons working for the employer, such as those pertaining to harassment, discrimination, and unfair compensation, shall be subject to discipline.

RULE 5 SIGNING AND SEALING DOCUMENTS

- 5.1 An architect shall sign and seal only those technical submissions that were prepared under the architect's responsible control except as noted in rule 5.2 and 5.3.
- 5.2 An architect of record may sign and seal technical submissions not required by law to be prepared by an architect including information supplied by manufacturers, suppliers, installers, contractors, or from the architect of record's consultants, when that information is intended to be incorporated into the architect of record's technical