

CHAPTER 4
RULES OF PROFESSIONAL CONDUCT AND DISCIPLINE PROCEDURES

[Prior to 3/9/88, see Landscape Architectural Examiners Board[540] Ch 4]

193D—4.1(544B,17A) Rules of conduct. Failure by a licensee to adhere to the provisions of Iowa Code chapters 272C and 544B and rules implementing either chapter shall be grounds for disciplinary action.

4.1(1) Definitions. The following definition applies as used in Iowa Code chapter 544B and this chapter, unless the context otherwise requires.

“*Official copy*” means technical submission for purposes of required approval.

4.1(2) Competence.

a. When practicing landscape architecture, a professional landscape architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by a landscape architect of good standing practicing in the same locality.

b. When designing a project, a professional landscape architect shall take into account all applicable state and municipal building laws and regulations. While professional landscape architects may rely on the advice of other professionals (e.g., attorneys, architects, engineers and other qualified persons) as to the intent and meaning of the regulations, once such advice is obtained, a landscape architect shall not knowingly design a project in violation of these laws and regulations.

c. A professional landscape architect shall undertake to perform professional services only when the professional landscape architect together with those whom the professional landscape architect may engage as consultants are qualified by education, training and experience in the specific technical areas involved.

d. No person shall be permitted to practice landscape architecture if, in the board’s judgment upon receipt of medical testimony or evidence, the person’s professional competence is substantially impaired by physical or mental disabilities or substance abuse.

4.1(3) Conflict of interest.

a. A professional landscape architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed and agreed to (such disclosures and agreement to be in writing) by all interested parties.

b. If a professional landscape architect has any business association or direct or indirect financial interest which is substantial enough to influence judgment in connection with the professional landscape architect’s performance of professional services, the professional landscape architect shall fully disclose, in writing, to the client or employer the nature of the business association or financial interest. If the client or employer objects to the association or financial interest, the professional landscape architect shall either terminate such association or interest or offer to give up the commission or employment.

c. A professional landscape architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing the products.

d. When acting as the interpreter of building contract documents and the judge of contract performance, a professional landscape architect shall render decisions impartially, favoring neither party to the contract.

4.1(4) Full disclosure.

a. A professional landscape architect making public statements on landscape architectural questions shall disclose when compensation is being received for making the statements.

b. A professional landscape architect shall accurately represent to a prospective or existing client or employer the professional landscape architect’s qualifications and the scope of the professional landscape architect’s responsibility in connection with work for which the professional landscape architect is claiming credit.

c. If, in the course of work on a project, a professional landscape architect becomes aware of an action taken by the employer or client against the professional landscape architect’s advice which violates applicable state or municipal building laws and regulations and which will, in the professional landscape architect’s judgment, adversely affect the safety to the public of the finished project, the professional landscape architect shall:

(1) Report the decision to the local building inspector or other public official charged with enforcement of the applicable state or municipal building laws and regulations,

(2) Refuse to consent to the decision, and

(3) In circumstances when the professional landscape architect reasonably believes that other actions will be taken, notwithstanding the landscape architect's objection, terminate the professional landscape architect's services with reference to the project. In the case of a termination in accordance with this clause, the professional landscape architect shall have no liability to the professional landscape architect's client or employer on account of such termination.

d. A professional landscape architect shall not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with application for licensure or renewal of license.

e. A professional landscape architect shall not assist in the application for licensure of a person known by the professional landscape architect to be unqualified with respect to education, training, experience or character.

f. A professional landscape architect possessing knowledge of a violation of these rules by another professional landscape architect shall report the knowledge to the board.

4.1(5) *Compliance with laws.*

a. A professional landscape architect shall not, in the conduct of landscape architectural practice, knowingly violate any state or federal criminal law.

b. A professional landscape architect shall neither offer nor make any payment to a government official (whether elected or appointed) with the intent of influencing the official's judgment in connection with a prospective or existing project in which the professional landscape architect is interested.

c. A professional landscape architect shall comply with the licensure laws and regulations governing the landscape architect's professional practice in any United States jurisdiction.

4.1(6) *Professional conduct.*

a. Each office maintained for the preparation of drawings, specifications, reports or other professional work shall have a professional landscape architect regularly employed in or assigned to that office who has responsible control of such work.

b. A professional landscape architect shall not sign or seal drawings, specifications, reports or other professional work for which the landscape architect does not have direct professional knowledge and direct supervisory control; provided, however, that in the case of the portions of professional work prepared by the landscape architect's consultants, licensed under this or another professional licensure law of this jurisdiction, the professional landscape architect may sign or seal that portion of the professional work if the landscape architect has reviewed that portion, has coordinated its preparation and intends to be responsible for its adequacy.

c. A professional landscape architect shall neither offer nor make any gifts to any public official with the intent of influencing the official's judgment in connection with a project in which the professional landscape architect is interested. Nothing in this rule shall prohibit a professional landscape architect from providing landscape architect services as a charitable contribution.

d. A professional landscape architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

4.1(7) *Seal and certificate of responsibility.*

a. Each professional landscape architect shall procure a seal with which to identify all technical submissions issued by the professional landscape architect for use in Iowa as provided in Iowa Code section 544B.12.

b. Description of seal. The diameter of the outside circle shall be approximately 1¼ inches. The seal shall include the name of the professional landscape architect and the words "Professional Landscape Architect, State of Iowa." The professional landscape architect's Iowa license number shall be included. The seal shall substantially conform to the sample shown below:



- c. A legible rubber stamp, an electronic image or other facsimile of the seal may be used.
- d. Each technical submission to a client or any public agency, hereinafter referred to as the official copy, shall contain an information block on its first page or on an attached cover sheet with application of a seal by the professional landscape architect in responsible charge and an information block with application of a seal by each professional consultant contributing to the technical submission. The seal and original signature shall be applied only to a final technical submission. Each official copy of a technical submission shall be stapled, bound or otherwise attached together so as to clearly establish the complete extent of the technical submission. Each information block shall display the seal of the individual responsible for that portion of the technical submission. The area of responsibility for each sealing professional shall be designated in the area provided in the information block, so that responsibility for the entire technical submission is clearly established by the combination of the stated seal responsibilities. The information block shall substantially conform to the sample shown below:

SEAL	<p>I hereby certify that the portion of this technical submission described below was prepared by me or under my direct supervision and responsible charge. I am a duly licensed professional landscape architect under the laws of the state of Iowa.</p> <hr/> <p>Printed or typed name or secure electronic signature</p> <hr/> <p>Signature</p> <hr/> <p>Pages or sheets covered by this seal:</p> <hr/>
License Expires:	<hr/> <hr/>

- e. The information requested in each information block must be typed or legibly printed in permanent ink or digital signature as defined in or governed by Iowa Code chapter 554D on each official copy. An electronic signature as defined in or governed by Iowa Code chapter 554D meets the signature requirements of this rule if it is protected by a security procedure, as defined in Iowa Code section 554D.103(14), such as digital signature technology. It is the licensee’s responsibility to ensure, prior to affixing an electronic signature to a landscape architecture document, that security procedures are adequate to (1) verify that the signature is that of a specific person and (2) detect any changes that may be made or attempted after the signature of the specific person is affixed. The seal implies responsibility for the entire technical submission unless the area of responsibility is clearly identified in the information accompanying the seal.
- f. It shall be the responsibility of the professional landscape architect who signed the original submission to forward copies of all changes and amendments to the technical submission, which shall

become a part of the official copy of the technical submission, to the public official charged with the enforcement of the state, county or municipal building code.

g. A professional landscape architect is responsible for the custody and proper use of the seal. Improper use of the seal shall be grounds for disciplinary action.

h. The seal appearing on any technical submission shall be prima facie evidence that said technical submission was prepared by or under the responsible control of the individual named on that seal.

4.1(8) Communications. A professional landscape architect shall, when requested, respond to communications from the board within 30 days of the mailing of such communication by certified mail. Failure to respond to such communication may be grounds for disciplinary action against the professional landscape architect.

[ARC 3097C, IAB 6/7/17, effective 7/12/17; ARC 5571C, IAB 4/21/21, effective 5/26/21]

193D—4.2(544B,17A) Receipt of complaints. The board shall receive and review all complaints which the board reasonably believes indicate that a licensee may have committed an act that is cause for disciplinary action.

4.2(1) Complaints. Any person may file a complaint with the board charging that a licensee may have committed an act that is in violation of applicable law or rules. The complaint shall be written and signed by the complainant and accompanied with substantial evidence indicating when, where, and how the licensee committed the violation. All complaints filed with the board shall be privileged and held confidential pursuant to Iowa Code section 272C.6(4) by all board members, peer review committee members and staff. A person filing a complaint shall receive immunities in accordance with Iowa Code section 272C.8.

4.2(2) Board-instigated complaints. Upon presentation of evidence by a board member, the board's staff, or other state agency, the board may determine that a complaint should be opened and an investigation begun to determine if a licensee may have committed an act that is in violation of applicable law or rules.

[ARC 3097C, IAB 6/7/17, effective 7/12/17]

193D—4.3(544B,17A) Peer review committee. At any point during the complaint procedure or the investigatory procedure and prior to determining whether probable cause exists that a violation has occurred, the board may appoint a peer review committee to assist the board in reaching its decision by conducting an investigation(s) of the complaint.

4.3(1) Makeup of the peer review committee. The committee shall consist of one or more professional landscape architects who are selected for their knowledge and experience in the particular aspect of landscape architecture involved in the complaint. The following are ineligible for membership:

- a. Members of the board.
- b. Close relatives of the alleged violator(s) or complainant.
- c. Individuals employed by the same firm or governmental unit as the alleged violator or complainant.

4.3(2) Authority. The committee's investigation shall be limited to interviewing of complainants, the alleged violator, individuals with knowledge of the alleged violation, and individuals with knowledge of the alleged violator's reputation in the community. The committee may not hire legal counsel, investigators, secretarial help or any other assistants without written authorization from the board.

4.3(3) Compensation. Committee members may receive per diem compensation equal to that received by board members for performing board duties. Committee members may be paid reasonable and necessary expenses that are incurred for travel, meals and lodging while performing committee duties within a budget limitation established by the board.

193D—4.4(544B,272C) Investigation report of complaints.

4.4(1) Board consideration of report to determine further action. Upon completion of the investigation, the investigator(s) shall prepare for the board's consideration a report containing the

position or defense of the licensee so the board may determine what further action is necessary. The board may:

- a. Order the matter be further investigated.
- b. Allow the licensee who is the subject of the complaint an opportunity to appear before the designated discipline committee for an informal discussion regarding the circumstances of the alleged violation.
- c. Determine there is no probable cause to believe that a violation has occurred and close the case.
- d. Determine there is probable cause to believe that a violation has occurred.

4.4(2) Informal discussion.

a. An informal discussion is intended to provide a licensee an opportunity to share the licensee's account of a complaint in an informal setting before the board determines whether probable cause exists to initiate a disciplinary proceeding. A licensee is not required to attend an informal discussion. Because disciplinary investigations are confidential, the licensee may not bring other persons to an informal discussion, but licensees may be represented by legal counsel.

b. Unless disqualification is waived by the licensee, board members or staff who personally investigate a disciplinary complaint are disqualified from making decisions or assisting the decision makers at a later formal hearing. Because board members generally rely upon investigators, peer review committees, or expert consultants to conduct investigations, the issue rarely arises. An informal discussion, however, is a form of investigation because it is conducted in a question-and-answer format. In order to preserve the ability of all board members to participate in board decision making and to receive the advice of staff, a licensee who desires to attend an informal discussion must therefore waive the right to seek disqualification of a board member or staff based solely on the board member's or staff's participation in an informal discussion. A licensee would not waive the right to seek disqualification on any other ground. By electing to attend an informal discussion, a licensee accordingly agrees that participating board members or staff are not disqualified from acting as a presiding officer in a later contested case proceeding or from advising the decision maker.

c. Because an informal discussion constitutes a part of the board's investigation of a pending disciplinary case, the facts discussed at the informal discussion may be considered by the board in the event the matter proceeds to a contested case hearing and those facts are independently introduced into evidence.

[ARC 3097C, IAB 6/7/17, effective 7/12/17]

193D—4.5(544B,272C) Dispensation. The board shall make findings of fact and conclusions of law and may take one or more of the following actions:

1. Dismiss the charges.
2. Revoke the professional landscape architect's license.
3. Suspend the professional landscape architect's license as authorized by law.
4. Impose civil penalties, the amount of which shall be set at the discretion of the board but shall not exceed \$1000. Civil penalties may be imposed for any of the disciplinary violations of Iowa Code section 544B.15 and Iowa Code sections 272C.9(2), 272C.9(3), and 272C.10, and these rules or for repeated offenses.
5. Impose a period of probation, either with or without conditions.
6. Require reexamination, using one or more parts of the examination given to professional landscape architectural licensee candidates.
7. Require additional professional education, reeducation, or continuing education.
8. Issue a citation or warning.
9. Issue a consent order.
10. Accept voluntary surrender of license. Voluntary surrender of a license is considered a disciplinary action.

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These rules are intended to implement Iowa Code chapters 17A, 544B and 272C.

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