

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 30 ARCHITECTS
PART 4 CODE OF CONDUCT

16.30.4.1 ISSUING AGENCY: New Mexico Board of Examiners for Architects.
[16.30.4.1 NMAC - Rp, 16 NMAC 30.4.1, 9/6/2001]

16.30.4.2 SCOPE: Provisions for Part 4 apply to any person registered as an architect, or to anyone applying for registration as an architect in New Mexico.
[16.30.4.2 NMAC - Rp, 16 NMAC 30.4.2, 9/6/2001]

16.30.4.3 STATUTORY AUTHORITY: Subsection C of Section 61-15-4 NMSA 1978 prescribes that “The board...may make rules not inconsistent with law.”
[16.30.4.3 NMAC - Rp, 16 NMAC 30.4.3, 9/6/2001]

16.30.4.4 DURATION: Permanent.
[16.30.4.4 NMAC - Rp, 16 NMAC 30.4.4, 9/6/2001]

16.30.4.5 EFFECTIVE DATE: September 6, 2001, unless a different date is cited at the end of the section.
[16.30.4.5 NMAC - Rp, 16 NMAC 30.4.5, 9/6/2001]

16.30.4.6 OBJECTIVE: The objective of this rule is to clearly outline the standards of conduct expected to be upheld by an individual registered as a New Mexico architect.
[16.30.4.6 NMAC - Rp, 16 NMAC 30.4.6, 9/6/2001]

16.30.4.7 DEFINITIONS: [RESERVED]
[16.30.4.7 NMAC - Rp, 16 NMAC 30.4.7, 9/6/2001]

16.30.4.8 COMPETENCE:

A. In practicing architecture, an architect shall act with reasonable care and competence, and shall apply the technical knowledge and skill which is ordinarily applied by architects of good standing practicing in New Mexico.

B. In designing a project, an architect shall take into account all applicable state and municipal building laws, codes and regulations. While an architect may rely on the advice of other professionals, such as attorneys, engineers, and other qualified persons, as to the intent and meaning of such regulations, once having obtained such advice, an architect shall not knowingly design a project in violation of such laws, codes and regulations.

C. An architect shall undertake to perform professional services only when he or she, together with those whom the 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 architecture if, in the board’s judgment, such person’s professional competence is substantially impaired by physical or mental disabilities.
[16.30.4.8 NMAC - Rp, 16 NMAC 30.4.8.1, 9/6/2001]

16.30.4.9 CONFLICT OF INTEREST:

A. An architect shall not accept compensation for services from more than one party on a project unless the circumstances are fully disclosed to all interested parties in writing and agreed to in writing by all interested parties.

B. If an architect has any business association or direct or indirect financial interest which is substantial enough to influence his or her judgment in connection with the performance of professional services, the architect shall fully disclose in writing to his or her client or employer the nature of the business association or financial interest, and if the client or employer objects to such association or financial interest, the architect will either terminate such association or interest or offer to give up the commission or employment.

C. An architect shall not solicit or accept compensation from material or equipment suppliers in return for specifying or endorsing their products without full disclosure to the client.

D. When acting as the interpreter of building contract documents and the judge of contract performance, an architect shall render decisions impartially, favoring neither party to the contract.

E. An architect shall not pay or receive a finder's fee, commission or compensation for the referral of a client to another professional, including but not limited to, an engineer, surveyor, builder, realtor or another architect, unless the circumstances are fully disclosed to all interested parties in writing and agreed to in writing by all interested parties.

[16.30.4.9 NMAC - Rp, 16 NMAC 30.4.8.2, 9/6/2001]

16.30.4.10 FULL DISCLOSURE:

A. An architect, making public statements on architectural questions, shall disclose whether the architect is being compensated for making such a statement.

B. An architect shall accurately represent to a prospective or existing client or employer the architect's qualifications and the scope of the architect's responsibility in connection with work for which he or she is claiming credit.

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

(1) notify the employer or client in writing;

(2) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws, codes and regulations;

(3) refuse to consent to the decision; or

(4) in circumstances where the architect reasonably believes that such decisions will be taken notwithstanding the architect's objection, terminate the architect's services with reference to the project and have no liability to the architect's client or employer on account of the termination.

D. An architect shall not deliberately make a materially false statement or fail deliberately to disclose a material fact requested in connection with the architect's application for registration or renewal.

E. An architect shall not assist the application for registration of a person known by the architect to be unqualified in respect to education, training, experience or character.

F. An architect possessing knowledge of a violation of these rules by another architect or an applicant for registration shall report such knowledge to the board.

[16.30.4.10 NMAC - Rp, 16 NMAC 30.4.8.3, 9/6/2001; A, 9/15/2016]

16.30.4.11 COMPLIANCE WITH LAWS:

A. An architect, in the conduct of his or her architectural practice, shall not be convicted of any crime listed in Paragraph (4) of Subsection B of 16.30.3.8 NMAC.

B. An architect shall neither offer nor make any payment or gift 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 architect is interested.

C. An architect shall comply with the registration laws and regulations governing his or her professional practice in any jurisdiction.

[16.30.4.11 NMAC - Rp, 16 NMAC 30.4.8.4, 9/6/2001; A, 01/11/2022]

16.30.4.12 PROFESSIONAL CONDUCT:

A. Each office maintained for the preparation of architectural drawings, specifications, reports or other professional work shall have an architect regularly employed having direct knowledge and supervisory control of such work.

B. In providing architectural services, an architect shall confer with the client to assure that the client's program needs are met.

C. An architect shall not sign or seal drawings, specifications, reports or other professional work which was not prepared by the architect or under his or her responsible charge as defined in Subsection N of 16.30.1.7 NMAC. Responsible charge may be exercised through a third party who is not a registered architect, but the architect must maintain and make available to the board upon request for at least five years following sealing or signing, adequate and complete records demonstrating the extent of the architect's control over and detailed knowledge of such technical submissions throughout their preparation.

D. An architect shall neither offer nor make any gifts, other than gifts of nominal value, which may include reasonable entertainment and hospitality, with the intent of influencing the judgment of an existing or prospective client in connection with a project in which the architect is interested.

E. An architect shall not engage in conduct involving fraud or wanton disregard of the rights of others.

F. A registered architect shall not associate in a business venture offering architectural services with a person or firm where there is reason to believe that person or firm is engaging in activity of a fraudulent or dishonest nature or is violating board rules and regulations or statutes. A registered architect with such knowledge shall report such occasions to the board, and shall cooperate with any resulting investigations.
[16.30.4.12 NMAC - Rp, 16 NMAC 30.4.8.5, 9/6/2001; A, 9/16/2004; A, 6/10/2018]

16.30.4.13 MISREPRESENTATION OF PRIOR EXPERIENCE: Registered architects shall accurately represent to a prospective or existing client or employer their qualifications and the scope of their responsibility in connection with work for which they are claiming credit.

A. In presenting qualifications to prospective clients, both public and private, it shall be the responsibility of each registered architect to clearly and appropriately state prior professional experience of the architect and the firm the architect is representing. If an architect uses visual representations of prior projects or experience, the architect whose seal appears must be clearly identified.

B. An architect who has been an employee of another architectural practice may not claim unconditional credit for projects contracted for in the name of the previous employer. The architect shall indicate, next to the listing for each project, that the individual experience gained in connection with the project was acquired as an employee, and identify the previous architectural firm. The architect shall also describe the nature and extent of the architect's participation in the project.

C. An architect who was formerly a principal in a firm may legitimately make additional claims provided the architect discloses the nature of ownership in the previous architectural firm (example: stockholder or junior partner) and identifies with specificity the architect's responsibilities for the project.

D. An architect who presents a project that has received awards recognition must comply with the requirements of this rule with regard to project presentation to the public and prospective clients.

E. Projects which remain unconstructed and which are listed as credits should be listed as "unbuilt" or some similar designation.

[16.30.4.13 NMAC - Rp, 16 NMAC 30.4.8.6, 9/6/2001]

HISTORY OF 16.30.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

BEA 68-1, Architectural Law and Rules and Regulations, 7/1/1968.

BEA 69-1, Architectural Law and Rules and Regulations, 6/17/1969.

BEA 70-1, Architectural Law and Rules and Regulations, 7/28/1970.

BEA 74-1, Roster of Registered Architects Laws Rules Regulations, 8/30/1974.

BEA 78-1, Board of Examiners for Architects, 9/19/1978.

NMBEA 85-1, Architectural Act Rules and Regulations, 2/7/1985.

NMBEA 86-1, Architectural Act Rules and Regulations, 4/9/1986.

NMBEA 88-1, State of New Mexico Board of Examiners for Architects Rules and Regulations, 6/22/1988.

NMBEA 89-1, State of New Mexico Board of Examiners for Architects Rules and Regulations, 11/28/1989.

Regulation No. NMBEA 90-1, State of New Mexico Board of Examiners for Architects Rules and Regulations, 8/14/1990.

History of Repealed Material:

16 NMAC 30.4, Code of Conduct - Repealed, 9/6/2001.