

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 30 ARCHITECTS
PART 5 ENFORCEMENT

16.30.5.1 ISSUING AGENCY: New Mexico Board of Examiners for Architects.
[16.30.5.1 NMAC - Rp, 16 NMAC 30.5.1, 9/6/2001]

16.30.5.2 SCOPE: Provisions for Part 5 apply to any person registered as an architect, or to anyone applying for registration as an architect in New Mexico.
[16.30.5.2 NMAC - Rp, 16 NMAC 30.5.2, 9/6/2001]

16.30.5.3 STATUTORY AUTHORITY: Subsection C of Section 61-15-4 NMSA 1978 prescribes that “The board...may make rules not inconsistent with law.”
[16.30.5.3 NMAC - Rp, 16 NMAC 30.5.3, 9/6/2001]

16.30.5.4 DURATION: Permanent.
[16.30.5.4 NMAC - Rp, 16 NMAC 30.5.4, 9/6/2001]

16.30.5.5 EFFECTIVE DATE: September 6, 2001, unless a different date is cited at the end of the section.
[16.30.5.5 NMAC - Rp, 16 NMAC 30.5.5, 9/6/2001]

16.30.5.6 OBJECTIVE: The objective of this rule is to clearly describe violations and the complaint process.
[16.30.5.6 NMAC - Rp, 16 NMAC 30.5.6, 9/6/2001]

16.30.5.7 DEFINITIONS: All terms defined in this section shall have the same meaning as terms defined in the Parental Responsibility Act, Sections 40-5A-1 through 13 NMSA 1978.

- A. “HSD”** means the New Mexico human services department.
 - B. “Statement of compliance”** means a certified statement from HSD stating that an applicant or registrant is in compliance with a judgment and order for support.
 - C. “Statement of non-compliance”** means a certified statement from HSD stating that an applicant or registrant is not in compliance with a judgment and an order for support.
- [16.30.5.7 NMAC - Rp, 16 NMAC 30.5.7, 9/6/2001; A, 01/11/2022]

16.30.5.8 COMPLAINTS:

- A.** Disciplinary proceedings against a registered New Mexico architect, applicant, or unlicensed individual may be initiated by a complaint of any person, including members of the board, that is signed under penalty of perjury. Complaint forms shall be obtained from the board office or the board’s website and shall be reviewed by the enforcement subcommittee of the rules and regulations committee.
 - B.** Complaint forms shall be confidential pursuant to Subsection D of Section 61-15-5 NMSA 1978. Complaints admitted as evidence during a formal disciplinary hearing are no longer confidential pursuant to Subsection D of Section 61-15.5 NMSA 1978, and may be subject to public inspection.
 - C.** The enforcement subcommittee shall have the authority to initiate investigations and determine whether sufficient evidence exists to support the recommendation for the issuance of a notice of contemplated action to the full board for a vote. If the enforcement subcommittee deems the alleged action did not amount to a violation or was a minor violation, it may close the matter with an advisory letter.
 - D.** a report of all complaints filed shall be provided to the board at each regular board meeting.
- [16.30.5.8 NMAC - Rp, 16 NMAC 30.5.8, 9/6/2001; A, 9/15/2016; A, 6/10/2018; A, 01/11/2022]

16.30.5.9 SETTLEMENT AGREEMENTS: For all non-parental responsibility actions:

- A.** The enforcement subcommittee may negotiate a proposed settlement agreement at any time prior to the issuance of a notice of contemplated action. The proposed settlement agreement is subject to approval by vote of the board and consent of the respondent.
- B.** The board may require an acknowledgement of disciplinary action for any violation.
- C.** The board may require an admission of guilt in a settlement agreement for any non-minor violation.

D. The board may report the settlement agreement to the relevant computer database(s).
[16.30.5.9 NMAC - N, 9/6/2001; A, 9/16/2004; A, 5/4/2008; A, 9/15/2016]

16.30.5.10 NATIONAL COUNCIL OF ARCHITECTURAL REGISTRATION BOARDS (“NCARB”) CERTIFICATE REVOCATION: The board shall have the right to review and to suspend or revoke a New Mexico registration granted on the basis of NCARB certification should the certification be revoked by NCARB as a result of a disciplinary action. The individual shall have the right to apply for reinstatement of New Mexico registration of and when the NCARB certification has been restored.
[16.30.5.10 NMAC - Rp, 16 NMAC 30.3.10.13, 9/6/2001]

16.30.5.11 VIOLATIONS: A person using any designation tending to imply to the public that the individual is registered under the Architectural Act to practice architecture; such as architect, architectural services, or words to that effect, is in violation of Section 61-15-10 NMSA 1978.
[16.30.5.11 NMAC - Rp 16 NMAC 30.5.9, 9/6/2001; A, 9/15/2016]

16.30.5.12 PARENTAL RESPONSIBILITY ACT:

A. Disciplinary action: If an applicant or registrant is not in compliance with a judgment and order for support, the board:

- (1) shall deny an application for registration;
- (2) shall deny the renewal of a registration; and
- (3) has grounds for suspension or revocation of the registration.

B. Certified list: Upon receipt of HSD’s certified list of obligors not in compliance with a judgment and order for support, the board shall match the certified list against the current list of board registrants and applicants. Upon the later receipt of an application for registration or renewal, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to HSD the names of board applicants and registrants who are on the certified list and the action the board has taken in connection with such applicants and registrants.

C. Initial action: Upon determination that an applicant or registrant appears on the certified list, the board shall:

- (1) commence a formal proceeding under Subsection D of 16.30.5.12 NMAC to take appropriate action under Subsection A of 16.30.5.12 NMAC; or
- (2) for current registrants only, informally notify the registrant that the registrant’s name is on the certified list and that the registrant must provide the board with a subsequent statement of compliance from HSD by the earlier of the date of application for registration renewal or a specified date not to exceed 60 days; if the registrant fails to provide this statement, the board shall commence formal proceedings under Subsection D of 16.30.5.12 NMAC.

D. Notice of contemplated action: Prior to taking any action specified in Subsection A of 16.30.5.12 NMAC, the board shall serve upon the applicant or registrant a written notice stating that:

- (1) the board has grounds to take such action, and that the board shall take such action unless the registrant or applicant mails a letter (certified mail, return receipt requested) within 20 days after service of the notice requesting a hearing; or provides the board within 30 days of the date of the notice, with a statement of compliance from HSD.
- (2) if the applicant or registrant disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or registrant should contact the HSD child support enforcement division.

E. Evidence and proof: In any hearing under 16.30.5.12 NMAC, relevant evidence is limited to the following:

- (1) statement of non-compliance is conclusive evidence that requires the board to take action under Subsection A of 16.30.5.12 NMAC, unless:
- (2) the applicant or registrant provides the board with a subsequent statement of compliance which shall preclude the board from taking action under this rule.

F. Order: When a disciplinary action is taken under this rule solely because the applicant or registrant is not in compliance with a judgment and order for support, the order shall state the application or registration shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for re-applications or reinstatement of lapsed registrations.

G. Procedures: Procedures under 16.30.5.12 NMAC shall be governed by the Uniform Licensing Act, Sections 61-1-1 through -33 NMSA 1978.
[16.30.5.12 NMAC - Rp, 16 NMAC 30.5.10, 9/6/2001]

HISTORY OF 16.30.5 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.

NMBEA Rule 4, NCARB Examinations, 6/23/1980.

History of Repealed Material:

16 NMAC 30.5, Enforcement - Repealed, 9/6/2001.