

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 42 INTERIOR DESIGNERS
PART 4 COMPLAINTS AND DISCIPLINARY ACTIONS

16.42.4.1 ISSUING AGENCY: Regulation and Licensing Department.
[11/10/1997; 16.42.4.1 NMAC - Rn, 16 NMAC 42.4.1, 10/26/2002; A, 11/14/2009; A, 8/15/2014; A, 7/18/2023]

16.42.4.2 SCOPE: The provisions in Part 4 of Chapter 42 apply to all licensees, and applicants for licensure.
[11/10/1997; 16.42.4.2 NMAC - Rn, 16 NMAC 42.4.2, 10/26/2002; A, 7/18/2023]

16.42.4.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to the Interior Design Act, 61-24C-5; 61-24C-10; 61-24C-11 and 61-24C-12 NMSA 1978.
[11/10/1997; 16.42.4.3 NMAC - Rn, 16 NMAC 42.4.3, 10/26/2002; A, 7/18/2023]

16.42.4.4 DURATION: Permanent.
[11/10/1997; 16.42.4.4 NMAC - Rn, 16 NMAC 42.4.4, 10/26/2002]

16.42.4.5 EFFECTIVE DATE: November 10, 1997 unless a different date is cited at the end of a section of paragraph.
[11/10/1997; 16.42.4.5 NMAC - Rn, 16 NMAC 42.4.5, 10/26/2002]

16.42.4.6 OBJECTIVE: The objective of Part 4 is to establish the procedures for filing complaints against a licensee, the authority of the department regarding ground for denial, suspension, or revocation of a license.
[11/10/1997; 16.42.4.6 NMAC - Rn, 16 NMAC 42.4.6, 10/26/2002; A, 7/18/2023]

16.42.4.7 DEFINITIONS: [RESERVED]

16.42.4.8 COMPLAINTS: Disciplinary proceedings against a licensed interior designer may be initiated by a sworn complaint of any person. Complaint forms shall be obtained from the department or department website and must be filed with the department or online.
[11/10/1997; 16.42.4.8 NMAC - Rn, 16 NMAC 42.4.8, 10/26/2002; A, 7/18/2023]

16.42.4.9 DISCIPLINE: Unprofessional conduct is grounds for denial, suspension or revocation of a license under Subsection F of Section 61-24C-10 NMSA 1978, unprofessional conduct shall include, but is not limited to, violations of the code of professional conduct for interior design.
[11/10/1997; 16.42.4.9 NMAC - Rn, 16 NMAC 42.4.9, 10/26/2002; A, 11/14/2009; A, 7/18/2023]

16.42.4.10 POTENTIALLY DISQUALIFYING CRIMINAL CONVICTIONS: Convictions for any of the following offense, or their equivalents in any other jurisdiction, are disqualifying criminal convictions that may disqualify an applicant from receiving or retaining a license or certificate by the department.

- A. Physical harm to others:
 - (1) murder;
 - (2) manslaughter;
 - (3) assault;
 - (4) battery;
 - (5) abandonment of a child resulting in death or great bodily harm;
 - (6) abuse of a child;
 - (7) kidnapping;
 - (8) false imprisonment;
 - (9) sexual assault;
- B. Property damage:
 - (1) shooting at property;
 - (2) criminal damage to property;
 - (3) dangerous use of explosives;
 - (4) graffiti;

- (5) arson;
- C. Fraud:
 - (1) misrepresentation fraudulent statements or alterations of documents;
 - (2) improper sale, disposal, removal or concealing of encumbered property;
 - (3) tax fraud;
 - (4) conspiracy;
 - (5) Medicaid, Medicare or insurance fraud;
 - (6) money laundering;
- D. Theft:
 - (1) breaking and entering;
 - (2) larceny;
 - (3) robbery;
 - (4) burglary;
 - (5) shoplifting;
 - (6) I.D. theft;
 - (7) credit card or other financial information;
 - (8) receiving or transferring stolen property;
- E. Financial crimes:
 - (1) embezzlement;
 - (2) extortion;
 - (3) receiving stolen property;
 - (4) forgery;
 - (5) receiving illegal kickbacks;
 - (6) racketeering;
 - (7) falsification of documents;
 - (8) white collar crimes;
- F. Drug offenses:
 - (1) drug trafficking;
 - (2) possession;
 - (3) contributing to the delinquency of a minor;
- G. Sex crimes:
 - (1) distribution of pornography;
 - (2) human trafficking;
 - (3) criminal sexual penetration or contact;
 - (4) failure to register with the sex offender and notification act;
- H. Any crimes identified under Section 61-24C-10, NMSA 1978;
- I. Miscellaneous:
 - (1) felon in possession of a firearm;
 - (2) bribery of an official;
 - (3) accepting a bribe;
 - (4) gambling and gaming crimes;
 - (5) stalking;
 - (6) terrify, intimidate, threaten, harass, annoy or offend another;
 - (7) escape from incarceration;
 - (8) DWI;
 - (9) practicing a profession without a license or on a revoked or suspended license;
 - (10) violation of the subdivision act, mortgage foreclosure act, mortgage loan company act or uniform money services act;
 - (11) violation of the controlled substance act;
- J. The department shall not consider the fact of a criminal conviction as part of an application for licensure unless the conviction in question is one of the disqualifying criminal convictions listed in Section 16.42.4.10 NMAC.
- K. The department shall not deny, suspend or revoke a license on the sole basis of a criminal conviction unless the conviction in question is one of the disqualifying criminal convictions listed in 16.42.4.10 NMAC.

L. Nothing in this rule prevents the department from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Interior Designers Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in 16.42.4.10 NMAC.

M. In connection with an application for licensure, the department shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (1) an arrest not followed by a valid conviction;
- (2) a conviction that has been sealed, dismissed, expunged or pardoned;
- (3) a juvenile adjudication; or
- (4) a conviction for any crime other than the disqualifying criminal convictions listed in

16.42.4.10 NMAC

[16.42.4.10 NMAC - N, 3/12/2022; A, 7/18/2023]

HISTORY OF 16.42.4 NMAC:

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

IDB Rule 89-7, Complaints filed 12/19/1989.

IDB Rule 89-8, Denial, Suspension, Failure filed 12/19/1989.

History of Repealed Material: [RESERVED]