

(b) The out-of-State license relied upon by an applicant for purposes of comity licensure in New Jersey must be current and in good standing. In the case of multiple state licensure, all out-of-state licenses obtained prior to applying for comity licensure in New Jersey must be in good standing whether active or inactive, in order for licensure pursuant to N.J.S.A. 45:8-35(1) (e) and (2)(d) to be granted.

(c) A record book from the National Council of Examiners for Engineering and Surveying (NCEES) shall be acceptable to the Board only if it is sent directly to the Board office from the National Council of Examiners for Engineering and Surveying. The applicant shall complete the personal data portion of the Board application form in its entirety. The record book shall meet the following requirements:

1. The book shall be labeled with the application number;
2. References over one year old will not be accepted; and
3. All references and transcripts shall be submitted to the Board in conformance with N.J.A.C. 13:40-2.4 through 2.13.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Recodified from N.J.A.C. 13:40-2.7 and amended by R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Rewrote (a) and (b); and in (c)3, changed N.J.A.C. reference.

13:40-2.17 Review of examination

(a) An applicant who has taken the fundamentals of engineering examination, fundamentals of land surveying examination, or the principles and practices of engineering and/or land surveying and the New Jersey Land Surveying examination, may request that his or her examination be hand-scored and review the score tabulations of the examination. The applicant may not personally review the exams.

(b) An applicant who has taken the principle and practices examination may request to review his or her solution pamphlet and the correct solution answers. The applicant may not retain or photocopy any of the materials provided during the review of the examination.

(c) All requests for scoring or review must be made in writing within 30 days of the postmark of the scores mailed to the applicant.

(d) An applicant may not appeal, or request a re-evaluation of any examination.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Recodified from N.J.A.C. 13:40-2.10 and amended by R.2000 d.195, effective May 15, 2000.

See: 31 N.J.R. 2459(a), 32 N.J.R. 1773(c).

Rewrote the section.

SUBCHAPTER 3. MISCONDUCT

13:40-3.1 Enumeration of prohibited acts

(a) Misconduct in the practice of professional engineering or land surveying shall include, without limitation:

1. Acting for his or her client or employer in professional matters otherwise than as a faithful agent or trustee; accepting any remuneration other than his or her stated recompense for services rendered.

2. Disregarding the safety, health and welfare of the public in the performance of his or her professional duties: preparing or signing and sealing plans, surveys or specifications which are not of a safe design and/or not in conformity with accepted standards. If the client or employer insists on such conduct, the licensee shall notify the proper authorities and withdraw from further service on the project.

3. Advertising his work or merit using claims of superiority which cannot be substantiated.

4. Engaging in any activity which involves him in a conflict of interest, including without limitation:

- i. A licensee shall inform his client or employer of any business connection, interest or circumstance which might be deemed as influencing his judgment or the quality of his services to the client or employer.

- ii. When in public service as a member, advisor or employee of a governmental agency, a licensee shall not participate in the deliberations or actions of such agency with respect to services rendered or to be rendered by the licensee or any firm or organization with which he is associated in private practice.

- iii. A licensee shall not solicit or accept a professional contract from a governmental agency upon which a principal, officer or employee of his firm or organization serves as a member, advisor or employee.

- iv. A licensee shall not accept compensation or remuneration, financial or otherwise, from more than one interested party for the same service or for services pertaining to the same work, unless there has been full disclosure to and consent by all interested parties.

- v. A licensee shall not accept compensation or remuneration, financial or otherwise, from material or equipment suppliers for specifying their product.

- vi. A licensee shall not accept commissions or allowances, directly or indirectly, from contractors or other persons dealing with his client or employer in connection with work for which he is responsible to the client or employer.

5. Affixing his or her *signature and* seal to any plans, specifications, plats or reports or surveys which were not prepared by him or her or under his or her supervision by his or her employees or subordinates.

6. Failure to comply with Federal, state or local laws, rules or regulations relating to the practice of the profession.

7. Permitting or allowing any person not appropriately licensed pursuant to N.J.S.A. 45:8-27 to act for or on behalf of the licensee as his representative, surrogate or agent while appearing before any public or private body for the purpose of rendering professional engineering or land surveyor services.

8. Failure to determine and document the identity of the client prior to commencing any work. All correspondence, contracts, bills shall be addressed to that client, unless expressly directed otherwise, in writing, by the client.

9. Failure to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

10. Failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions.

11. Failure of a licensee to respond in writing within 30 days to a written communication from the Board of Professional Engineers and Land Surveyors with respect to any investigative inquiry relating to the possible violation of any statute or regulation administered by the Board, and to make available any relevant records with respect to such an inquiry. The 30 day period shall begin on the day when such communication was sent from the Board by certified mail with return receipt requested to the address appearing on the last registration.

12. Rendering engineering or land surveying services and/or professional opinions when not qualified by training, education, and experience in the specific discipline of professional engineering and/or land surveying that is involved.

13. Engaging in any activity which results in suspension, revocation or surrender of a professional license or certification in another jurisdiction.

R.1970 d.67, eff. June 8, 1970.

See: 2 N.J.R. 35(a), 2 N.J.R. 55(g).

As amended, R.1976 d.228, eff. July 21, 1976.

See: 8 N.J.R. 250(a), 8 N.J.R. 402(a).

As amended, R.1983 d.16, eff. February 7, 1983.

See: 14 N.J.R. 1196(b), 15 N.J.R. 158(a).

Deleted reference to N.J.S.A. 45:8-38. Also deleted language concerning "practice likely to discredit or reflect unfavorably upon the dignity or honor of the profession." Also deleted limitations on listings.

As amended, R.1984 d.486, eff. November 5, 1984.

See: 16 N.J.R. 1321(a), 16 N.J.R. 3055(a).

Section recodified.

Amended by R.1987 d.355, effective September 8, 1987.

See: 19 N.J.R. 851(a), 19 N.J.R. 1649(a).

Added (a)8, 9 and 10.

Amended by R.1988 d.394, effective August 15, 1988.

See: 20 N.J.R. 736(a), 20 N.J.R. 2068(a).

Substantially amended.

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

Case Notes

License revocation. (Decided on statutory grounds). Hyland v. Ponzio, 159 N.J.Super. 233, 387 A.2d 1206 (App.Div.1978).

13:40-3.2 Reporting incidents of professional misconduct

If a licensee has knowledge or reason to believe that another person or firm may be in violation of or has violated any of the statutes or rules administered by the Board of Professional Engineers and Land Surveyors, he or she shall present such information to the Board in writing and shall cooperate with the Board in furnishing such information or assistance as may be required by the Board.

New Rule, R.1985 d.465, effective September 3, 1985.

See: 17 N.J.R. 799(a), 17 N.J.R. 2140(a).

SUBCHAPTER 4. GENERAL PROVISIONS

13:40-4.1 Notification of change of address; service of process

(a) A licensee of the Board of Professional Engineers and Land Surveyors shall notify the Board in writing of any change of address from that currently registered with the Board and shown on the most recently issued certificate. Such notice shall be sent to the Board by certified mail, return receipt requested, not later than 30 days following the change of address.

1. All addresses of licensees shall contain street names and numbers. Post office box numbers without street addresses shall not be acceptable.

(b) Failure to notify the Board of any change of address pursuant to (a) above may result in disciplinary action in accordance with N.J.S.A. 45:1-21(h).

(c) Service of an administrative complaint or other Board-initiated process at a licensee's address currently on file with the Board shall be deemed adequate notice for the purpose of N.J.A.C. 1:1-7.1 and the commencement of any disciplinary proceedings.

New Rule, R.1985 d.465, effective September 5, 1985.

See: 17 N.J.R. 799(a), 17 N.J.R. 2140(a).

Amended by R.1995 d.474, effective September 5, 1995.

See: 27 N.J.R. 1748(a), 27 N.J.R. 3370(a).

13:40-4.2 (Reserved)

SUBCHAPTER 5. LAND SURVEYORS; PREPARATION OF LAND SURVEYS

13:40-5.1 Land surveyors; preparation of land surveys

(a) The practice of land surveying includes surveying of areas for their correct determination and description and for conveyancing, and for the establishment or reestablishment of land boundaries and the plotting of lands and subdivisions thereof, and such topographical survey and land development as is incidental to the land survey.

(b) Prior to conducting a survey, the licensed land surveyor shall obtain all pertinent information and documentation in the client's possession relative to the property to be surveyed. Such information may include, but not be limited to, earlier surveys, record deeds, title reports, original tract maps, public records and State, county or municipal maps. When such information provided is not sufficient to meet the owner's needs, the surveyor shall make all reasonable efforts to obtain all information and documentation needed to render an accurate survey.

(c) When a property survey is to be performed, a field survey must be made of the property in question and such field survey shall include all measurements and recording of all data as may be necessary to perform an accurate survey. The licensed land surveyor shall either perform the field survey or exercise sufficient supervision of the work as necessary to fulfill adequately all professional responsibilities.

(d) Appropriate corner markers, such as stakes, iron pipes, cut crosses, monuments, and such other markers as may be authorized by (d)2 below, shall be set either by the licensed land surveyor or under the supervision of the licensed land surveyor. Such markers shall be set at each property corner not previously marked by a property marker, unless the actual corner is not accessible, or unless a written waiver signed by the ultimate user is obtained and retained for a period of six years by the surveyor performing the survey. A waiver obtained from a purchaser pursuant to this subsection shall be in the following format, or its substantial equivalent:

WAIVER AND DIRECTION NOT TO SET CORNER MARKERS

TO: _____
(Name, address and telephone number of Land Surveyor)
 FROM: _____
(Name, address and telephone number of Purchaser)
 RE: _____
Property (Lot & Block number, municipality or other identifier)

This is to advise that I/we have been made aware of my/our right to have corner markers set as part of a survey to be performed on property which is to be purchased by me/us. That right is hereby waived and you are directed to perform the land survey without the setting of corner markers as provided by the regulation of the New Jersey Board of Professional Engineers and Land Surveyors.

Dated: _____

 Purchaser(s)

For the purpose of this section "ultimate user" shall mean in the case of a transfer of title, the purchaser. In all instances other than the transfer of title, "ultimate user" shall mean the owner of the property. When a waiver is obtained to omit corner markers, a specific notation stating

that such omissions have been made by direction of the ultimate user shall be clearly displayed in the plat or plan of survey by the following notation or its equivalent:

Waiver of setting corner markers obtained from the ultimate user pursuant to the Board of Professional Engineers and Land Surveyors regulation, N.J.A.C. 13:40-5.1(d).

This notation must relate specifically to that plat or plan of survey and may not be included as a preprinted title block, standard form, or other reproducible medium.

1. All boundary or corner markers delineating the property surveyed, found or set, must be described on the plat of survey with data provided to show their relation to the property or corner or, if appropriate, to the boundary lines. When a property corner cannot be set because of physical constraints, a witness marker shall be set and so noted upon the plat of survey.

2. Markers for property corners set by licensed surveyors shall be composed of durable material and be of the minimum length practical to reasonably assure permanence, with a recommended length of 18 inches or more. These markers may include:

- i. Concrete monuments;
- ii. Iron pins, one-half inch O.D. or larger;
- iii. Reinforcing steel bars one-half inch O.D. or larger;
- iv. Iron pipes, one-half inch O.D. or larger;
- v. Commercially manufactured iron or aluminum monuments;
- vi. Brass discs (or similar metal), set in durable material;
- vii. Nails or spikes set in durable materials;
- viii. Drill holes in durable materials;
- ix. Plastic stakes.

The above described marker requirements do not apply to intermediate points set on line or for random traverse points.

3. The marker requirements in (d)2 above do not apply to intermediate points set on line or for random traverse points.

4. In all cases listed in (d)2 above the marker shall be identified with a durable cap, disc, shiner, or other appropriate identifier, bearing the name of the surveyor or firm responsible for setting the corner.

5. All markers set pursuant to (d)2 above shall be detectable with conventional instruments used to find ferrous or magnetic objects.

6. Paragraph 2 of subsection (d) does not apply to individual condominium units where same are composed totally of buildings.

7. Monuments required to be set pursuant to the "Map Filing Law" at N.J.S.A. 46:23-9.10 shall be:

i. Composed of concrete, containing ferrous material detectable with conventional metal detecting instruments;

ii. At least 30 inches long below finished grade with the top and bottom at least four inches square; and

iii. Identified with a durable cap, disc, or shiner bearing the name of the surveyor or firm responsible for setting the monument.

8. In the event a monument as specified in (d)7 above is impracticable to install due to physical conditions, the surveyor shall install the most appropriate material necessary to establish permanent, metal detectable monumentation.

9. In the event it is impossible to set a monument as specified in (d)7 above at the prescribed control points, an offset monument shall be set bearing a plate stamped with the word "offset."

10. In all cases listed in (d)8 and 9 above, the surveyor shall acknowledge in the monument installation certification, use of substituted material and/or the use of offset monumentation. Proper instrument sights shall be established and complete offset data shall be recorded with the monument certification to the municipality.

(e) A plat, also referred to as a plan of survey, shall be prepared either by the licensed land surveyor or under the supervision of the licensed land surveyor. Such plat shall show all matter relevant to a complete and clear exposition of the property.

(f) The items which must always be shown are:

1. Title block complying with N.J.A.C. 13:40-2.1 et seq.;

2. The State, county and municipality in which the property is located and specific data as provided by the owner identifying the property or other pertinent identifying data as deemed appropriate by the surveyor, including block, lot number and address;

3. North arrow (with reference used) and scale;

4. The point of beginning;

5. Metes and bounds of the property in question; all measurements are to be indicated in feet and decimals of a foot except when legal requirements or professional custom and usage require another form of measurement;

6. Property corner markers, both found and set, and the relation of existing markers to the property corner or, if appropriate, to the boundary lines;

7. Street and street names and widths when such streets abut or adjoin the property in question. If the street is not open, the survey should so indicate;

8. Encroachments of structures both on the premises in question and/or adjoining properties;

9. Fences, tree rows, hedges, streams, ditches, building locations, easements and any physical occupation influencing property line determination;

10. In all cases, survey work shall be performed in accordance with currently accepted accuracy standards, but such accuracy standards may be limited by contractual agreements. Such limitations shall be appropriately noted on the final drawing.

(g) Notwithstanding any other provisions of these rules to the contrary, the following items may be omitted where contractual agreements with the client so provide:

1. Areas of established city lots or recorded subdivision map lots, unless the area is recited in the record deed of the property in question;

2. Fences and streams and ditches, unless such fences, streams and ditches are on or in close proximity to the property lines or otherwise affect the property lines in question.

3. Sidewalks, driveways, walkways or other traveled ways, unless such ways affect the property lines in question.

4. Utility lines, easements of right-of-way lines, except when recited in the record deed or when such utility lines, easements of right-of-way lines affect the use of adjacent properties or the property in question;

5. Location and type of building and other structures on the property in question.

(h) When any of the various items listed above are omitted, the plat or plan of survey should indicate in a factual way that such omissions are made.

(i) Upon completing the plat or plan of survey, the licensed land surveyor shall provide the client an agreed upon number of prints of the survey drawing. Such print copies of the plat or plan of survey shall bear the signature and impression seal of the licensed land surveyor. Certification by the licensed land surveyor may be given when requested by the client.

1. The licensed land surveyor shall also supply a description of the property surveyed when the survey is to be used for conveyancing (title transfer or mortgage). This description must be suitable for use in a deed. The description may be by metes and bounds or by reference to a filed plan, block and lot. If a filed plan, block and lot is utilized, the entire title of the filed plan shall be set forth along with, the filed plan number and the date on which the plan was recorded in the office of the County Recording Officer. If there is any deviation from the filed plan to the completed survey, a description by filed plan, block and lot, shall not be utilized. The deed description shall be consistent with both the survey provided and the documentation upon which the survey was based and shall be written in such a manner as to define the boundary lines of real property unambiguous and sufficient for a surveyor to lay it out on the ground. This description may be reproduced on the survey plat itself or may be by separate document. If the deed description is provided on the survey plat, it must be titled "Deed Description." If a separate document is provided, the description shall be signed and sealed by the licensed land surveyor responsible for its preparation.

2. The term "referenced" shall not be utilized when referring to a filed plat when it is intended to meet the requirements of supplying the deed description listed in (i)1 above. It shall also be improper to use or reference a municipal tax map to comply with the requirements for deed description by reference to a filed plat. A tax map shall not be deemed a filed plan for the purpose of title transfer.

(j) No reproductions or photographic copies of a plan or survey shall be offered or issued by a licensee for use in any court, land transaction or filing in any public agency or office unless such copies shall bear the signature and impression seal of the licensed land surveyor.

(k) Tax assessment maps must be prepared by a licensed land surveyor, who is obligated to prepare such maps in full compliance with the legal requirements pertaining to such maps.

(l) Failure to comply with the provisions of this subchapter and with applicable State laws and local ordinances may subject the licensed land surveyor to disciplinary action in accordance with N.J.S.A. 45:8-38.

(m) Subdivision plats, whether classified as major or minor, preliminary or final, shall be prepared by a licensed land surveyor and shall be based on a new or existing current and accurate survey of the property being subdivided.

1. The licensee shall provide appropriate survey information, as set forth above, to permit a subsequent licensed land surveyor to accurately lay out newly described lots.

2. If a newly described lot will be adjacent to or abutting a perimeter line, the licensee shall ensure that the perimeter line is accurately established on the ground.

3. In all instances, including where deeds are used to record minor subdivisions and/or where an existing plat or plan of survey is used, only the licensee who prepared the boundary map on which the subdivision is based may provide the certification on the subdivision plat that the boundary survey is accurate and was prepared under his or her supervision, as required by the Map Filing Law, N.J.S.A. 46:23-9.11(m), and in accordance with N.J.A.C. 13:40-9, Responsible Charge of Engineering or Land Surveying Work.

(n) Maps prepared to show topographic data or planimetric data which also delineate property lines or street right-of-way lines thereon shall be prepared by a licensed land surveyor. Such survey information may be transposed to construction plans or other drawings if duly noted as to the date of the survey, by whom, and for whom it was prepared.

R.1977 d.160, effective May 5, 1977.
 See: 8 N.J.R. 560(b), 9 N.J.R. 290(a).
 As amended, R.1984 d.401, effective September 4, 1984.
 See: 15 N.J.R. 1834(a), 16 N.J.R. 2369, 16 N.J.R. 2824(a).
 Section substantially amended. Correction in (d): "corner not previously".
 Amended by R.1985 d.465, effective September 3, 1985.
 See: 17 N.J.R. 799(a), 17 N.J.R. 2140(a).
 Added text in (d)3: "including monuments set in accordance with the map filing law."
 Amended by R.1987 d.215, effective May 18, 1987.
 See: 18 N.J.R. 2367(b), 19 N.J.R. 881(b).
 Subsection (i) amended to clarify policies of the Board which may not have been expressly understood by all land surveyors.
 Amended by R.1988 d.45, effective January 19, 1988.
 See: 19 N.J.R. 1631(a), 20 N.J.R. 203(a).
 Added text to (d) defining the "ultimate user".
 Amended by R.1993 d.60, effective February 1, 1993.
 See: 24 N.J.R. 51(a), 24 N.J.R. 554(a), 25 N.J.R. 596(a).
 Revised (d).
 Amended by R.1994 d.77, effective February 7, 1994.
 See: 25 N.J.R. 5447(b), 26 N.J.R. 822(a).
 Amended by R.2002 d.322, effective October 7, 2002.
 See: 33 N.J.R. 3241(a), 34 N.J.R. 1768(a), 34 N.J.R. 3532(c).
 Rewrote (d); in (g), substituted "or otherwise" for "and" and inserted "lines" preceding "in question" in 2 and inserted "lines" preceding "in question" in 3; in (m), rewrote the introductory paragraph.

Statutory References

N.J.S.A. 45:8-28(e).

SUBCHAPTER 6. FEES

13:40-6.1 Fee schedule

(a) The following fees shall be charged by the Board:

- 1. Application fees:
 - i. Engineer-in-training \$30.00
 - ii. Professional engineer \$75.00

iii. Land surveyor-in-training	\$30.00
iv. Land surveyor	\$75.00
2. Examination fees:	
i. Engineer-in-training (fundamentals of engineering)	\$70.00
ii. Professional engineer:	
(1) Fundamentals	\$70.00
(2) Specialized training	\$85.00
iii. Land surveyor:	
(1) Fundamentals	\$70.00
(2) Specialized training (Principles of land surveying and New Jersey State portion)	\$150.00
3. Initial license fee:	
i. During the first year of a biennial renewal period	\$80.00
ii. During the second year of a biennial renewal period	\$40.00
4. Biennial renewal fee	\$80.00
5. Retired license fee	
6. Late renewal fee	\$50.00
7. Reinstatement fee	\$125.00
8. Reinstatement fee:	
i. Retired licensee	\$40.00
ii. No-fee retired licensee	\$80.00
9. Duplicate license fee	\$20.00

10. Replacement wall certificate	\$40.00
11. Continuing competency program review fee:	
i. For each program provider who seeks approval	\$100.00
ii. For each course for which a licensee seeks approval	\$10.00

12. All licensees, and the clerks of each municipality in the State, shall receive without charge one copy of the roster of licensed professional engineers and land surveyors. Additional copies, if and when available, may be purchased at a fee of \$20.00 each.

13. Fees shall be nonrefundable and nontransferable.

14. Any applicant who is required under N.J.A.C. 13:40-2 to have his or her degree evaluated must pay via certified check or money order the actual cost of the evaluation.

15. Any applicant who requests an exam review or score tabulation must pay via certified check or money order the actual cost of the review or tabulation.