

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 30 ARCHITECTS
PART 1 GENERAL PROVISIONS

16.30.1.1 ISSUING AGENCY: New Mexico Board of Examiners for Architects.
[16.30.1.1 NMAC - Rp, 16.30.1.1 NMAC, 9/26/2023]

16.30.1.2 SCOPE: Provisions for Part 1 apply to any person registered as an architect, or to anyone applying for registration as an architect in New Mexico.
[16.30.1.2 NMAC - Rp, 16.30.1.2 NMAC, 9/26/2023]

16.30.1.3 STATUTORY AUTHORITY: Subsection C of Section 61-15-4 NMSA 1978 prescribes that “The board...may make rules not inconsistent with law.”
[16.30.1.3 NMAC - Rp, 16.30.1.3 NMAC, 9/26/2023]

16.30.1.4 DURATION: Permanent.
[16.30.1.4 NMAC - Rp, 16.30.1.4 NMAC, 9/26/2023]

16.30.1.5 EFFECTIVE DATE: September 26, 2023, unless a different date is cited at the end of the section.
[16.30.1.5 NMAC - Rp, 16.30.1.5 NMAC, 9/26/2023]

16.30.1.6 OBJECTIVE: The objective of this rule is to clearly define terminology used within Sections 61-15-1 to -13 NMSA 1978.
[16.30.1.6 NMAC - Rp, 16.30.1.6 NMAC, 9/26/2023]

16.30.1.7 DEFINITIONS:

A. “Architect” means an architect registered in New Mexico as defined in Section 61-15-2 NMSA 1978.

B. “Architect-of-record” means the architect licensed by the state who is in responsible charge of the project, who designs and prepares the construction documents from which the building is constructed, and who signs and seals the required documents.

C. “Architectural services” means services for projects located in New Mexico that shall be performed by a registered architect or under the architect’s responsible charge as defined in Section 61-15-2 NMSA 1978.

D. “Competence” means:

(1) in the practice of architecture, an architect shall act with reasonable care and competence and shall apply the technical knowledge and skill that is ordinarily applied by architects of good standing practicing in New Mexico;

(2) an architect shall undertake to perform professional services only when the architect, together with those whom the architect may engage as consultants, is

qualified by education, training and experience or ability in the specific technical areas involved; and

(3) an architect shall take into account all applicable state and municipal building codes, laws and regulations; an architect may rely on the opinion of others (example: attorneys, engineers, building officials) as to the intent and meaning of the codes, laws and regulations.

E. **“Consulting associate architect”** means an architect who is acting in an advisory capacity to a registered architect, and whose present position is subordinate to the registered architect as described in Paragraph (1) of Subsection A of Section 61-15-8 NMSA 1978.

F. **“Felony conviction”** means conviction of a felony with a copy of the record of conviction, certified by the clerk of the court entering the conviction, serving as conclusive evidence.

G. **“Gross negligence”** means:

(1) being habitually guilty of neglect toward professional responsibilities in the practice of architecture as determined by the board; or

(2) being found extremely careless and lacking in ordinary care and concern in the practice of architecture; should the board not discipline an architect for a single act of gross negligence, the board does not waive the right to invoke sanctions against the architect for repeated acts of gross negligence.

H. **“Incidental practice of architecture and engineering”** means:

(1) architectural work incidental to engineering shall be that architectural work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than 50;

(2) engineering work incidental to architecture shall be that engineering work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than 50;

(3) all buildings and related structures within the regulatory provisions of the New Mexico Building Codes General, Title 14, Chapter 7 NMAC will require the proper authentication of the building construction documents by all participating disciplines in accordance with their respective governing acts on projects with a building construction value greater than six hundred thousand dollars (\$600,000) or having a total occupant load greater than 50, with the exception of:

(a) single-family dwellings not more than two stories in height;

(b) multiple dwellings not more than two stories in height containing not more than four dwelling units of wood-frame construction; provided this paragraph shall not be construed to allow a person who is not registered under the Architectural Act to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four dwelling units on any lawfully divided lot;

(c) garages or other structures not more than two stories in height which are appurtenant to buildings described in Subparagraphs (a) and (b) above; or

(d) nonresidential buildings, as defined in the New Mexico Building Codes General, Title 14, Chapter 7 NMAC or additions having a total occupant load of 10

or less and not having more than two stories in height, which shall not include E-3 day care, H (hazardous) or I (institutional) occupancies;

(e) alterations to buildings or structures which present no unusual conditions, hazards or change of occupancy.

(4) the owner, user or using agency shall select the prime design professional (architect or engineer) for any project based on the requirements and nature of the project.

(5) occupant load shall be defined and determined by the method set forth in the current, adopted code.

I. "Incompetency" means:

(1) being adjudicated mentally incompetent by a court; or

(2) engaging in conduct which evidences a lack of knowledge, ability or fitness to discharge the duty and responsibility owed by the architect to a client and to the public in order to safeguard life, health and property and to promote public welfare.

J. "Intern architect" is a person who is actively pursuing completion of the requirements for diversified training in accordance with rules of the board.

K. "Misconduct" means:

(1) knowingly preparing or stamping construction documents in violation of applicable codes, laws or regulations;

(2) stamping and signing construction documents, specifications, reports or other professional work not prepared under the architect-of-record's responsible charge, as defined herein;

(3) engaging in any conduct involving fraud or deceit related to the business or practice of architecture;

(4) making any false statement or giving any false information in connection with an application for registration or for renewal of registration;

(5) being convicted of a crime related to the practice of architecture with a copy of the record of the conviction, certified by the clerk of the court entering the conviction, serving as conclusive evidence;

(6) violating federal or state statute or rule that directly relates to the practice of architecture;

(7) being unable to practice architecture with reasonable skill and safety to clients by reason of use of alcohol, drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition;

(8) making any substantial misrepresentation in the course of practice including, but not limited to, false, misleading or deceptive advertising or fraudulent or misleading claims;

(9) using or altering material prepared by another person without the knowledge and consent of that person;

(10) using the professional seal of another person without the knowledge and consent of that person;

(11) engaging in conduct in conflict with the Code of Conduct for Architects (16.30.4 NMAC);

(12) engaging in conduct that the architect knows or should know through professional knowledge or experience is not within the acceptable standard for professional conduct that is ordinarily applied by architects of good standing practicing in the state of New Mexico or that is set forth in the board's Minimum Standards for the Practice of Architecture in New Mexico, (16.30.6 NMAC);

(13) violating the Architectural Act, Sections 61-15-1 through 13 NMSA 1978, the rules and regulations of the board, or the architectural laws of any other state or jurisdiction;

(14) incurring a prior disciplinary action in another state or jurisdiction based upon acts or conduct by the registrant which if committed in this state would subject the registrant to disciplinary action by the board; certified copies of the record of disciplinary action shall be conclusive evidence thereof; and

(15) failing to report to the board any adverse action taken against the registrant by the licensing board of another jurisdiction or the national council of architectural registration boards (NCARB) for acts or conduct that would constitute grounds for disciplinary action by the board.

(16) Knowingly allowing an unauthorized person to use the architect's seal.

L. "NCARB" means the national council of architectural registration boards.

M. "Practice of architecture" as defined in Section 61-15-2 NMSA 1978, means rendering or offering to render architectural services. "Offering to render" is defined as soliciting or executing architectural services as defined in Section 61-15-2 NMSA 1978.

N. "Project" means the building or a group of buildings and the space within the site surrounding the buildings as defined in the construction documents (Subsection H of Section 61-15-2 NMSA 1978). Architectural and engineering stamps are required for any subsequent and physically linked construction to a project which, when seen together with the original construction, would have required architectural and engineering seals.

O. "Responsible charge" means that all architectural services have been or will be performed under the direction, guidance and restraining power of a registered architect who has exercised professional judgment with respect thereto. An architect's placing of the architect registration seal and signature on a document certifies that the architect has exercised direction, guidance and judgment on all issues pertaining to the health, safety and general welfare of the public, and accepts all legal responsibility for all architectural matters embodied within the document which shall meet the acceptable standards of architectural practice in the state of New Mexico as put forth by the board (Subsection I of Section 61-15-2 NMSA 1978).

P. "Signature" shall mean handwritten or electronic as follows:

(1) a handwritten identification that represents the act of putting one's name on a document to attest to its validity; the handwritten identification must be:

- (a) original and written by hand;
- (b) permanently affixed to the original document(s) being certified;
- (c) applied to the document by the identified registrant; or

(2) an electronic identification that is attached to or logically associated with an electronic document; the electronic identification must be:

- (a) unique to the person using it;
- (b) under the sole control of the registrant using it;
- (c) linked to a document in such a manner that the electronic identification is invalidated if any data in the document is changed.

[16.30.1.7 NMAC - Rp, 16.30.1.7 NMAC, 9/26/2023]

HISTORY OF 16.30.1 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.

NMBEA Rule 5, Definitions, 6/23/1980.

History of Repealed Material:

16 NMAC 30.1, General Provisions - Repealed, 9/6/2001.

History of 16.30.1 NMAC:

16.30.1 NMAC – General Provisions, filed 9/6/2001, was repealed and replaced by 16.30.1 NMAC – General Provisions, effective 9/26/2023.