DELAWARE PROFESSIONAL ENGINEERS' ACT

Authorized: July 7, 1972

Amended thru: September 30, 2026

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO THE DELAWARE PROFESSIONAL ENGINEERS' ACT

WHEREAS, because the field of engineering is highly technical and complex and the recipients of professional engineering services do not normally have adequate expertise by which they might be able to evaluate the services rendered by a professional engineer; and

WHEREAS, because of these complexities, the qualifications of a professional engineer should be established and evaluated by other engineers; and

WHEREAS, it is in the best interests of the public property, health, safety and welfare that the evaluation of an engineer and the control of the practice of engineering be vested in members of the engineering profession; and

WHEREAS, this Act constitutes a new departure and experience in the field of state regulatory procedure, being the first of its kind in the Nation, wherein the First State of the Nation delegates to a professional association the powers, duties and responsibilities of self- regulation;

NOW, THEREFORE,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 24 of the Delaware Code by deleting the existing Chapter 28 in its entirety and by substituting in lieu thereof, a new Chapter 28 to read as follows:

CHAPTER 28. PROFESSIONAL ENGINEERS

§2801. Short title.

This chapter shall be known and may be cited as the 'Delaware Professional Engineers Act.'

§2802. Declaration of purpose; unlawful practice.

In order to safeguard life, health, and property and to promote the public welfare, the practice of engineering in this State is hereby declared to be subject to regulation in the public interest. It shall be unlawful for any person to practice or to offer to practice engineering in this State; to use in connection with such person's name, by verbal claim, sign, advertisement, letterhead, card or to in any other way, represent himself or herself to be an engineer, a professional engineer or through the use of some other title imply that such person is a professional engineer licensed under this chapter; or to advertise any title or description tending to convey the impression that such person is a professional engineer unless such person has been duly licensed, authorized or exempted under this chapter. The right to engage in the practice of engineering shall be deemed a personal right based on the qualifications of the individual as evidenced by such person's certificate of licensure, which shall not be transferable.

§2802A. Exemption for expert testimony.

Nothing in §2802 of this title shall be construed as prohibiting an otherwise qualified engineer, duly licensed under the laws of a state other than Delaware, from offering expert testimony in any action or proceeding in the courts of this State, consistent with the requirements of Delaware Uniform Rule of Evidence 702.

§2803. Definitions.

The following words, terms, and phrases, when used in this chapter, shall have the meaning ascribed to them, except where the context clearly indicates a different meaning;

(1) "Active roster" shall mean the record of members, associate members, and holders of a certificate of authorization.

(2) "Adjunct member" shall mean an adjunct member of the Association, as defined in §2806(d) of this title.

(3) "Administrative Order" means an order issued by an Investigating Committee, with the prior approval of the Council pursuant to §2824(b)(1)g.1. of this title, which attempts to resolve a complaint of a violation under §2823 of this title. Administrative orders become final 14 days from the day the order is received by the accused but only if there is positive proof of service, such as a signed return receipt or an affidavit of personal service.

(4) "Affiliate member" shall mean an affiliate member of the Association, as defined in §2806 (c) of this title.

(5) "Applicant" shall mean a person who applies to become licensed as a professional engineer, applies to become certified as engineer intern, applies to become an adjunct member of the association, or applies for a certificate of authorization.

(6) "Associate member" shall mean an associate member of the Association, as defined in §2806 (b) of this title.

(7) "Association" shall mean the Delaware Association of Professional Engineers.

(8) "Bylaw" shall mean a bylaw of the Association.

(9) "Certificate of authorization" shall mean an authorization issued by the Council to engage in the practice of engineering.

(10) "Committee" shall mean a committee appointed by the Council.

(11) "Consent Order" means a voluntary agreement between parties attempting resolution of a complaint of a violation under §2823 of this title or a complaint of unlicensed practice under §2825 of this title. To become a final order, a consent order must be approved by Council pursuant to §2824(b)(1)g.2 of this title.

(12) "Continuing Professional Competency" shall mean and refer to compliance with or satisfaction of a published set of guidelines and requirements for the maintenance of professional competency in the practice of engineering.

(13) "Council" shall mean the Council of the Association.

(14) "Engineer" shall mean a person who, by reason of special knowledge and use of the mathematical, physical, and engineering sciences and the principles and methods of engineering analysis and design acquired by an engineering education, through graduation with a baccalaureate degree from a Council-approved 4-year educational program in engineering, in engineering technology or in science related to engineering, is qualified to begin the path to licensure.

(15) "Engineering corporations or partnerships" are corporations or partnerships who practice engineering to provide engineering services to the public.

(16) "Engineer Intern" shall mean a person certified as an engineer intern by the Council.

(17) "Examination" shall mean any qualifying examination or examinations required by this chapter.

(18) "Hearing Committee" means a committee of Council members to which the Council has delegated authority to adjudicate a complaint of a violation under §2823 of this title or allegations of unlicensed practice under §2825 of this title.

(19) “Incompetence” shall mean the failure to exercise appropriate professional judgment or the failure to utilize skill to a degree which shows a lack of general competence.

(20) “Investigating Committee” means a committee of the Council to which the Council has delegated authority to investigate a complaint of a violation under §2823 of this title or allegations of unlicensed practice under §2825 of this title.

(21) “Licensed” means licensure as a professional engineer under this chapter.

(22) “Licensee” shall mean a person licensed as a professional engineer under this chapter.

(23) “Member” shall mean a member of the Association, as defined in §2806 (a) of this title.

(24) “Misconduct” shall mean that conduct which is recognized to be unsafe or improper by the ethical and competent members of the profession. The term also includes general conduct that is dishonorable or unprofessional.

(25) “Negligence” shall mean an act or omission that deviates from accepted standards of practice or standard of care in the engineering community.

(26) “Practice of engineering” or “to practice engineering” includes any professional service performed for the general public such as consultation, investigation, evaluation, planning, design, or responsible supervision of construction or operation in connection with any public or private buildings, structures, utilities, machines, equipment, processes, works, or projects wherein the public welfare or the safeguarding of life, health or property is concerned or involved when such professional service requires the application of engineering principles and data, but it does not include the work ordinarily performed by persons who operate or maintain machinery or equipment, neither does it include engineering services performed by an employee of a firm or corporation that does not offer professional engineering services to the general public.

(27) “Professional engineer” shall mean a person who has been duly licensed as a professional engineer by the Council.

(28) “Responsible Charge” means a professional engineer’s supervision of, control over, and possession of detailed professional knowledge of an engineering work. A professional engineer is only considered to be in responsible charge of an engineering work if the professional engineer makes independent professional decisions regarding the engineering work without requiring instruction or approval from another authority and maintains control over those decisions by the professional engineer’s physical presence at the location where the engineering work is performed or by electronic communication with the individual executing the engineering work.

(29) “Retired Member” shall mean a person who has elected to claim retired status as defined in §2806(g) of this title.

(30) “Substantially related” shall mean the nature of the criminal conduct, for which the person was convicted, has a direct bearing on the fitness or ability to perform 1 or more of the duties or responsibilities necessarily related to the practice of engineering.

(31) “Successor professional engineer” shall mean a professional engineer, as defined in §2803(27), who assumes responsible charge, as defined in this section, of a project or component of a project and uses or relies upon the work, findings, or recommendations of the professional engineer who previously was in responsible charge and sealed pertinent documents. The successor professional engineer may assume responsible charge of a project or component of a project only when qualified to do so as detailed in §2817. A professional engineer who uses or relies upon work performed by another qualified engineer, associate, consultant, or employee is not a successor professional engineer and may sign and seal the documents for the total project. A professional engineer who uses or relies upon work such as, but not limited to, geotechnical reports, soil investigation reports, legal surveys, and other works that may be sealed by others, in order to assume responsible charge of a project, is not considered a successor engineer. The professional engineer shall not affix their professional engineer’s seal to any document not prepared under their supervisory control and review.

§2804. Delaware Association of Professional Engineers; Objectives.

There is hereby established the Delaware Association of Professional Engineers, an instrumentality of the State. The objectives of the Association and of this chapter are to regulate the practice of engineering, to provide for the registration of qualified persons as professional engineers and the certification of engineer interns, to define the terms “engineer”, “professional engineer”, “engineer intern” and “the practice of engineering”, to create an organization to regulate the practice of engineering, to provide and administer qualifying examinations and grant registration to qualified persons as professional engineers, to provide for the appointment and election of members to the governing body of this Association, to define the powers and duties of the Council, to set forth the minimum qualifications and other requirements for registration as a professional engineer, for certification as an engineer intern, and the granting of a certificate of authorization, to set rules for the establishment of fees, expiration requirements and renewal requirements, to establish continued professional competency guidelines and requirements, and to provide for the enforcement of this chapter together with penalties for violations of the provisions of this chapter.

§ 2805. Ownership and use of property.

The Association may purchase, acquire, or receive by gift or bequest for the purposes of the Association and furtherance of its objectives, but for no other purposes or objectives, any real or personal property, and may sell, mortgage, lease, or otherwise dispose of any said property.

§ 2806. Membership.

(a) All persons licensed as professional engineers on July 7, 1972 or hereafter licensed as professional engineers and who are residents of or are employed in or have a place of business within the State, and who subscribe to the code of ethics in accordance with §2816 of this title, are members of the Association. Members shall be entitled to vote as provided by this chapter.

(b) All other persons licensed as professional engineers, and who subscribe to the code of ethics in accordance with §2816 of this title, are associate members of the Association and shall not be entitled to vote.

(c) All persons certified as engineer interns within the State on July 7, 1972 or who are hereafter certified as engineer interns, and who subscribe to the code of ethics in accordance with §2816 of this title, are affiliate members of the Association and shall not be entitled to vote. Affiliate members may use the titles 'Engineer', 'Engineer Intern' or 'E.I.'

(d) All persons meeting the definition of engineer, as set forth in §2803(14) of this title, and who subscribe to the code of ethics in accordance with §2816 of this title, who are residents or employed in or have a place of business in the State, are adjunct members of the Association and shall not be entitled to vote. Adjunct members may use the title 'Engineer'.

(e) **Fees.**

(1) All fees for licensure, membership and renewals shall be in accordance with the bylaws, as approved by the members in accordance with this chapter.

(2) All fees required under the provisions of this section shall be nonreturnable and nontransferable.

(3) Reinstatement fees for professional engineers and holders of certificates of authorization shall be required for return from the inactive roster to the active roster. Reinstatement fees shall be established by bylaw and shall include any unpaid supplemental levies assessed prior to removal from the active roster.

(4) The Council may, whenever the Association has incurred an operating deficit, make a supplemental levy in order to eliminate such deficit. Each member, associate member and each holder of a certificate of authorization shall be assessed in direct proportion to their rate of annual renewal and the total amount assessed shall be the amount of the deficit. Fractional assessments shall be raised to the next highest even dollar amount. The amount assessed against any person pursuant to this paragraph shall not exceed the annual renewal fee paid by such person under this chapter. Such supplemental levy shall be a debt against those assessed and shall be billed only at the time when the annual renewal fees are billed and must be paid within 3 months. Those failing to pay within 3 months shall be declared ineligible to practice engineering in the State and shall be removed from the active roster. Reinstatement will not be allowed until the reinstatement fee has been paid in full.

(f) **Expiration and renewals.**

(1) Members, associate members, adjunct members, and holders of certificates of authorization shall be billed for renewal fees 60 days before expiration of the period for which fees have been paid. If fees are not paid by the expiration date, the member, associate member or holder of a certificate of authorization shall be declared ineligible to practice engineering in the State and shall be removed from the active roster.

(2) Any applicant, associate member, adjunct member, engineering corporation or partnership whose application is approved shall be billed for fees for the quarter-year in which approved and for any remaining full quarters in the Association's licensure period.

(3) Any member, associate member, or holder of certificate of authorization on the active roster who intends to withdraw from the practice of engineering in the State shall notify the Secretary of the Council in writing. That name will then be removed from the active roster and be placed in an inactive status file. That name may be reinstated to active status by a request for reinstatement, in writing, within 4 years of that removal from the active roster, to the Secretary of the Council, by payment of a reinstatement fee and by compliance with and satisfaction of the current Continuing Professional Competency guidelines and requirements. After the expiration of the 4-year period, reinstatement may be obtained only by reapplying for licensure pursuant to §2817 of this title or for a certificate of authorization pursuant to §2821 of this title. Any

member, associate member or holder of a certificate of authorization in inactive status shall be ineligible to practice engineering in the State.

(4) Any member, associate member, or holder of a certificate of authorization who has not given notice of withdrawal and whose name has been removed from the active roster because of a delinquency in payment of fees, may be reinstated upon petition to the Council within 2 years of the removal from the active roster and by payment of the reinstatement fees plus any delinquency fees. After the expiration of the 2-year period, reinstatement may be obtained only by reapplying for licensure pursuant to §2817 of this title or for a certificate of authorization pursuant to §2821 of this title.

(g) Any member, associate member or adjunct member in good standing on the active roster who intends to retire from the practice of engineering in the State shall notify the Secretary of Council in writing on a form provided to such Member by Council at such member's request. Following the filing of this form with the Secretary of Council, the member's name will be removed from the active roster and placed in a retired status file. Retired members shall not be required to pay their biennial membership fee and shall be exempted from any Continuing Professional Competency requirements. Any member, associate member or adjunct member in retired status shall be ineligible to practice engineering in the State, however, a retired member shall be entitled to utilize the term "P.E. (ret.)" in any signature and shall be entitled to vote provided they are residents of the State and subscribe to the code of ethics in accordance with §2816 of this title. After being placed on the retired status file, the retired member may not apply for reinstatement.

§2807. Council of the Delaware Association of Professional Engineers.

(a) There shall be a Council which will be the governing board of the Association. The Council shall consist of 15 voting members, 12 of whom shall be elected, and 3 of whom shall be appointed by the Governor. The immediate past president, if not an elected member of Council, shall be a nonvoting member of Council. A quorum of the Council shall be a majority of the seated members of the Council.

(b) The 12 elected members shall be elected and hold office on the basis of the following constituencies:

(1) One shall be from each of the following 5 engineering disciplines: civil, chemical, electrical, mechanical and any other;

(2) One shall be from each of the following fields of employment: government, industry, private consulting practice and education: and

(3) One shall be from each of the 3 counties: New Castle, Kent and Sussex.

(c) Of the 3 appointed members, 1 shall be from each of the three counties: New Castle, Kent and Sussex.

(d) (1) A person elected as a Council member shall, at the time of election, and during the term of office, be a citizen of the United States of America, a resident of the State, a member of the Association and be qualified to represent the constituency from which the person was elected.

(2) A person appointed as a Council member shall, at the time of appointment, and during the term of office, be a citizen of the United States of America and a resident of the State and of the county for which the appointment is designated.

(e) The term of office for members of Council shall, unless otherwise specified, be 4 years. A member of Council, whether appointed or elected, may not serve more than 2 consecutive terms on the Council.

(f) Three members of Council shall be elected each year for a 4 year term to fill vacancies in the field of discipline, field of employment and county of residence. Each Council vacancy will be designated by discipline, field of employment or county of residence in accordance with the constituency designation specified in subsection (b) of this section and each designated vacancy will be voted upon separately by members of the Association. A candidate for Council must announce at the time of nomination or petition the vacancy for which that candidate is seeking election and the candidate must be qualified by discipline, field of employment or residence to fill the vacancy for which that candidate is seeking election. For purposes of election, the candidate discipline shall be that shown on the roster, the field of employment shall be that held by the candidate and the county of residence shall be that of the candidate at the time of nomination or petition as well as at the time of election. The terms of office for Council members shall commence on September 1 of the year elected or appointed and shall expire on August 31, of the year ending the term.

§2808. Council election and appointment procedure.

(a) The schedule for the election of the 12 elected members shall be as follows:

(1) Three members representing the constituencies of: civil engineering, industry and New Castle County shall be elected in 1978 and every 4 years thereafter.

(2) Three members representing the constituencies of: electrical engineering, private consulting practice and Kent County shall be elected in 1979 and every 4 years thereafter.

(3) Three members representing the constituencies of: mechanical engineering, education and Sussex County shall be elected in 1980 and every 4 years thereafter.

(4) Three members representing the constituencies of: chemical engineering, government and any other engineering discipline not previously designated shall be elected in 1981 and every 4 years thereafter.

(b) The schedule for the appointment of the 3 appointed members shall be as follows:

(1) One member from New Castle County shall be appointed in 1994 and every 4 years thereafter.

(2) One member from Kent County shall be appointed in 1993 and every 4 years thereafter.

(3) One member form Sussex County shall be appointed in 1991 and every 4 years thereafter.

(c) All appointments to the Council shall be made by the Governor in accordance with the above schedule and with the requirements of §2807 of this title. Each term of office of the appointed Council members shall expire on the date specified in the appointment, however, the Council member shall remain eligible to participate in Council proceedings unless and until replaced by the Governor.

(d) The 12 Council members shall be elected by members of the Association through the procedure determined by Council, including, without limitation, electronic voting. The members in contest for each elected Council position receiving a plurality of votes from those voting within the prescribed time for that Council position shall be declared elected to that Council position.

§2809. Annual election of officers.

The President, Vice-President, Secretary and Treasurer of the Council shall be elected annually from among the Council members by vote of the Council. No Council President or Vice-President may serve more than 2 consecutive 1-year terms in office.

§2810. Powers of the Council.

(a) The Council, under the head of the Council President or the President's designee and seal of the Council, may issue subpoenas for named respondents, witnesses, documents, physical evidence or any other source of evidence needed during the investigation of the complaint and/or for a public hearing on the complaint and/or in a matter involving an application for licensure, the revocation of licensure, or practicing or offering to practice without licensure, or any other matter pursuant to the provisions of this chapter. If the party or person subpoenaed fails to comply, the Council may compel compliance with said subpoena by filing a motion to compel in the Superior Court which shall have jurisdiction. The Superior Court may order costs, attorney's fees and/or a civil fine not to exceed $5,000 if the motion to compel is granted.

(b) Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(c) The records of the Council shall be prima facie evidence of the proceedings of the Council set forth therein. A transcript thereof, duly certified by the Secretary of the Council under seal, shall be admissible in evidence with the same force and effect as if the original were produced.

(d) Except as provided for in §2804 of this title the Council may not create or promulgate rules or regulations to extend, modify, or in any way supplement the provisions of this chapter governing the regulation or the practice of engineering or the qualification, certification, or licensure of engineers, professional engineers, or engineer interns.

(e) The Council may, in its sole discretion, delegate its authority to investigate allegations of licensee or applicant violations under §2823 of this title or allegations of unlicensed practice under §2825 of this title to an Investigating Committee.

(f) The Council may, in its sole discretion, delegate its authority to adjudicate allegations of licensee or applicant violations under §2823 of this title or allegations of unlicensed practice under §2825 of this title to a Hearing Committee in accordance with §2824(b)(2) of this title.

§2811. Council vacancies.

(a) Where any member of Council is absent from 3 consecutive meetings of the Council without suitable or acceptable reason or becomes incapacitated, the office may be declared vacant by the Council.

(b) When any member of Council resigns, dies, moves that member's residence from the State or otherwise ceases to be a member, or in the case of an elected member who changes that member's engineering discipline in the roster if elected to fill a discipline position on the Council, or in the case of an elected member who changes that member's field of engineering employment if elected to fill a field of engineering employment position on the Council, or in the case of an elected or an appointed member who changes that member's county of residence if elected to fill a county residency position, the office shall be declared vacant.

(c) A declared vacancy of an appointed Council position shall be filled for the unexpired term by appointment by the Governor of the State of a person meeting the qualifications required to hold that appointed Council seat. A declared vacancy of an appointed Council position may, upon a majority vote of Council, be temporarily filled by the former Council member until a new person meeting the qualifications required to hold that appointed Council seat is appointed by the Governor.

(d) A declared vacancy of an elected Council seat shall be temporarily filled either by the former Council member or by a member meeting the qualifications required to hold that Council seat by virtue of a discipline or employment or county of residence, upon the vote of a majority of the Council, until the next annual election when a member shall be elected to fill any remainder of the unexpired term.

§2812. Administration.

The Council may appoint or employ such administrative officials as it deems fit.

§2813. Immunity of Council and committees.

(a) The Council and the members of any committees appointed by the Council are immune from any claim, suit, liability, damages, or any other recourse, civil or criminal, arising from any act, omission, proceeding, decision, or determination undertaken or performed, or from any recommendation made, so long as the Council or committee member acted in good faith and without gross negligence in carrying out the responsibilities, authority, duties, powers, and privileges conferred by law upon them, with good faith being presumed.

(b) The Attorney General's office shall represent the Council, Council members, Council officials, any committee created by Council or committee member, and at the express request of the Council, any person appointed or employed by the Council in a civil action for damages arising from duties and services performed, or powers to be exercised for the State. If the Attorney General's office determines it would be improper or unlawful to undertake such representation, then representation of such parties should proceed in accordance with §3925 of Title 10.

§2814. Bylaws of the Association.

(a) The Council shall prepare for approval by the membership the following bylaws related to the administrative and domestic duties of the Association:

(1) Prescribing procedures for the nomination of members of Council by a nominating committee and by the nomination by members;

(2) Prescribing procedures for the election of members of the Council;

(3) Prescribing procedures for the nomination and election of Council President, Vice-President, Secretary and Treasurer by the Council;

(4) Prescribing the duties of members of the Council and rules governing their conduct;

(5) Respecting the remuneration and reimbursement of members of the Council;

(6) Respecting the calling, holding and conducting of meetings of the Council and of the Association;

(7) Respecting the management of the property of the Association;

(8) Providing for the borrowing of money on the credit of the Association and the charging, mortgaging or pledging of the real or personal property of the Association to secure any money borrowed or other debt or other obligation or other liability of the Association;

(9) Respecting the receipt and disbursement of the funds of the Association and the investment of funds in a savings account which must be in a bank located within the State for the purpose of earning interest on the investment;

(10)Respecting the establishment of a reserve fund within a year of the initial election of Council for emergency or unforeseen expenses;

(11)Providing for an annual independent audit of the accounts of the Association;

(12)Providing for the appointment of committees of the Council and defining their composition, functions, remuneration and reimbursement;

(13)Providing for the closing of the roster and the registration of recorded changes of addresses or disciplines of the registrants for a period of 20 calendar days immediately preceding any meeting of the Association or any mailing of ballots for vote or election by the membership;

(14)For maintaining a system for the recording of registrants, their disciplines, their residence and business addresses and the counties in which they are resident, recording of the names and addresses of official representatives of engineering corporations and partnerships, and other pertinent data. The official roster of the Association shall be printed at least biannually and be available to the membership;

(15)Fixing and providing for the levying and collection or remitting of annual or other fees approved by the members in accordance with this chapter;

(16)Prescribing applications, certificates, and seals and providing for their issuance and use;

(17)Concerning bonding of officers of the Council and employees of the Association;

(18)Respecting all other things that are deemed necessary or convenient for the attainment of the objectives of the Association and the efficient conduct of its business.

§2815. Bylaw approval by members.

A bylaw is effective when approved by the members. Proposed bylaws or changes shall be submitted to the members for approval by means of a letter ballot returned by not less than 20 percent of the members within 30 days after the mailing thereof. Affirmative votes by the majority of members voting within the prescribed time shall constitute approval by the members.

§2816. Code of Ethics.

(a) The Council shall prepare and publish a code of ethics designed for the protection of the public.

(b) All applicants, members, associate members, affiliate members, adjunct members, and holders of certificate of authorization must subscribe to and follow this code of ethics in the practice of professional engineering, or in seeking to register as a professional engineer or seeking certification as an Engineer Intern.

(c) The Code of Ethics is available on the Delaware Association of Professional Engineers' website.

§2817. Requirements for licensure.

(a) The following requirements for the 3 essential components of education, experience, and examination shall be considered as the minimum satisfactory evidence that an applicant is qualified for licensure as a professional engineer:

(1) Graduates from an engineering educational program approved by the Engineering Accreditation Commission (EAC) of ABET, Inc. (formerly the Accreditation Board for Engineering and Technology), or from an ABET recognized foreign accreditation agency approved educational program, or an engineering educational program approved by an accrediting agency that is a signatory to the Washington Accord.

a. Graduation with a baccalaureate degree from an engineering educational program accredited by the EAC of ABET, Inc., or by a foreign educational program accreditation agency adjudged by ABET to use substantially equivalent accreditation procedures or by an accrediting agency that is a signatory to the Washington Accord; and

b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 4 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

c. Successful passing of an examination approved by the Council; and

d. Meeting the additional requirements of paragraph (7) of this section.

(2) Graduates from non-EAC of ABET accredited engineering programs, from engineering technology programs or from science programs related to engineering.

a. Graduation with a baccalaureate degree from a Council approved 4-year educational program in engineering that is not EAC of ABET accredited, in engineering technology or in science related to engineering; and

b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 8 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

c. Successful passing of an examination approved by the Council; and

d. Meeting the additional requirements of paragraph (7) of this section.

(3) Graduates from non-EAC of ABET accredited engineering programs, from engineering technology programs or from science programs related to engineering who hold master's degrees in engineering from institutions that offer EAC of ABET-accredited engineering programs, or the equivalent:

a. Graduation with a baccalaureate degree from a Council approved 4-year educational program in engineering that is not EAC of ABET accredited, in engineering technology or in science related to engineering; and

b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 5 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

c. Successful passing of an examination approved by the Council; and

d. Meeting the additional requirements of paragraph (7) of this section.

(4) Graduates from non-EAC of ABET accredited engineering programs, from engineering technology programs or from science programs related to engineering who hold doctoral degrees in engineering from institutions that offer EAC of ABET-accredited engineering programs, or the equivalent:

a. Graduation with a baccalaureate degree from a Council approved 4-year educational program in engineering that is not EAC of ABET accredited, in engineering technology or in science related to engineering; and

b. Professional experience in engineering work of a character satisfactory to the Council in the amount of 4 years or more, such experience indicating that the applicant is competent to practice as a professional engineer; and

c. Successful passing of an examination approved by the Council; and

d. Meeting the additional requirements of paragraph (7) of this section.

(5) **Engineering Experience and Examination (licensure without degree).**

a. Professional experience in engineering work of a character satisfactory to the Council, consisting of 15 years or more of lawful practice and indicating that the applicant is competent to practice as a professional engineer; and

b. Successful passing of an examination approved by Council; and

c. Meeting the additional requirements of paragraph (7) of this section.

(6) **Comity.**

a. The Council may, upon application and payment of the required fee and without further examination, issue a license as a professional engineer to any person holding a current, valid certificate of registration or a license as a professional engineer issued to that person by a proper authority of a state, territory, or possession of the United States, the District of Columbia, or other Council-approved foreign jurisdiction, provided the applicant's certificate or license is in good standing as defined in paragraph (9) of this section, and the applicant's qualifications meet at least 1 of the following:

1. The professional engineering qualifications of the applicant on the effective date of such certificate of registration or a license would have satisfied the requirements for licensure in this State on that date.

2. The professional engineering qualifications of the applicant at any time subsequent to the effective date of such certificate of registration or a license would have satisfied the requirements for licensure in this State in effect at that time. A personal interview may be required by Council to ascertain the facts in the case.

4. The professional engineering qualifications of the applicant include a minimum of 5 years of continuous and verifiable experience as a professional engineer. The applicant must meet the additional requirements of paragraph (7)a. of this section.

5. An applicant holding a valid NCEES Council Record issued by the National Council of Examiners for Engineering and Surveying, whose qualifications meet the requirements of this chapter, may be registered by Council as a professional engineer upon receipt from the National Council of Examiners for Engineering and Surveying of a certified copy of such registration Record.

6. An applicant who has been designated as a "Model Law Engineer" by the National Council of Examiners for Engineering and Surveying. Such person may be issued a license administratively without Council review.

b. The Council may, upon application and payment of the required fee, issue a license as a professional engineer to an applicant who is an International Professional Engineer (IntPE) registrant under the International Engineering Alliance (IEA) International Professional Engineers Agreement (IPEA). The applicant's IntPE registration must be current and in good standing as defined in paragraph (9) of this section. Such applicant must also have a minimum of 5 years of continuous and verifiable experience as a professional engineer obtained after receipt of the applicant's IntPE registrant status. The applicant must meet the additional requirements of paragraph (7)a. of this section.

c. If the person who has been licensed in Delaware pursuant to paragraph (6) a. or b. of this section has that person's license to practice revoked in the state in which the person was registered or licensed at the time licensure in Delaware through comity was sought, then the authorization issued in Delaware shall be automatically revoked followed 30 days' written notice from the Council unless the person makes application to the Council for consideration for retaining the Delaware authorization and the Council acts favorably on such application.

(7) **Additional requirements.**

a. Every applicant shall give not less than 5 references, people who state that in their opinion and by their personal knowledge the applicant is qualified to practice as a professional engineer. At least 3 such references shall be registered or licensed professional engineers in this or any other state or territory or possession of the United States, the District of Columbia, other Council-approved foreign jurisdiction, or an IntPE registrant under the IEA.

b. An applicant, otherwise qualified, shall not be required to be actively practicing the applicant's profession at the time of applicant's application.

c. Every applicant must demonstrate knowledge of the Delaware Professional Engineers' Act and the Code of Ethics to the satisfaction of the Council.

d. The required examination shall consist of a Fundamentals of Engineering examination and a Principles and Practice of Engineering examination furnished by, and scored by, the National Council of Examiners for Engineering and Surveying, or other nationally normed examinations which are approved by the Council.

e. There is no requirement as to when the examination in the Fundamentals of Engineering is taken, other than it is required to be successfully passed before licensure, except for applicants exempt under §2817(a)(8); or as specified under §2817(a)(7)f.

f. The examination in Principles and Practice of Engineering shall not be taken until after the satisfactory completion of the educational requirements as outlined in paragraphs (1)-(4) of this section or the experience requirements of paragraph 5 of this section. Applicants that are using the engineering experience and examination pathway (licensure without degree) under paragraph (5) of this section must pass the Fundamentals of Engineering examination prior to taking the Principles and Practice of Engineering examination.

(8) Applicants for licensure as a professional engineer shall be exempt from the requirement to pass the Fundamentals of Engineering Examination, if they are qualified as follows:

a. An individual holding an earned doctoral degree in engineering from a university, which has an undergraduate program, accredited by ABET or by an accrediting agency that is a signatory to the Washington Accord, in that discipline at the time that individual earned the doctoral degree, providing that doctoral degree required the passing of a Ph.D. qualifying examination from that university; or,

b. An individual holding a baccalaureate degree from a Council-approved 4 year engineering educational program, who has at least 15 years of professional experience in the lawful practice of engineering of a character satisfactory to the Council, and which indicates that the applicant is competent to practice as a professional engineer.

(9) The Council may refuse an applicant for licensure if the Council finds that the applicant has:

a. Been convicted of a crime that is substantially related to the practice of engineering; or

b. Misstated or misrepresented a fact in connection with the applicant's application; or

c. Been found guilty of a violation of this chapter or of the Delaware Association of Professional Engineers' Code of Ethics; or

d. Engaged in the practice of engineering in this State without being licensed as a professional engineer. Notwithstanding such a finding, the Council may allow licensure of such applicant if the applicant presents to the Council suitable evidence of reform; or

e. Used improper means to gain information usable by the applicant on or in connection with an examination taken by the applicant to obtain licensure as a professional engineer or certification as an Engineer Intern; or

f. Been disciplined by another jurisdiction, state, territory, or possession of the United States, the District of Columbia, foreign country, the United States government, or any other governmental entity, if at least 1 of the grounds for discipline is the same or substantially equivalent to those contained in §2823 of this title; or

g. Voluntarily surrendered an engineering license in order to avoid disciplinary action by another jurisdiction, state, territory, or possession of the United States, the District of Columbia, foreign country, the United States government, or any other governmental entity, if at least 1 of the grounds for discipline is the same or substantially equivalent to those contained in §2823 of this title.

(10) Where an application of a person has been refused or rejected, and such applicant feels that the Council has acted without justification, has imposed higher or different standards for that person than for other applicants, or has in some other manner contributed to or caused the failure of such application, the applicant may appeal to the Superior Court.

§2818. Experience and educational equivalence.

(a) For applicants holding a baccalaureate degree in engineering as described in §2817(1)a. of this title, the experience of a full-time faculty member teaching advanced engineering subjects in an ABET-accredited, or CEAB-accredited engineering curriculum may be accepted as part of the professional experience specified in §2817(1) or (2) of this title.

(b) For applicants holding a baccalaureate degree in engineering as described in §2817(1)a. of this title, the award of a master's degree in engineering involving 1 year or more of post graduate study in an engineering educational program approved by the Council may be accepted as 1 year of professional experience required in §2817 of this title; or

(c) For applicants holding a baccalaureate degree in engineering as described in §2817(1)a. of this title, the award of a doctorate, with or without a master's degree, involving full-time post-graduate study in an engineering educational program approved by the Council may be accepted as 2 years of professional experience required in §2817 of this title.

§2819. Requirements for certification as an Engineer Intern.

The following shall be considered as minimum satisfactory evidence that the applicant is qualified for certification as an engineer intern:

(1) Graduation with a baccalaureate degree from an engineering educational program accredited by the Accreditation Board of Engineering and Technology (ABET), or by a foreign educational program accreditation agency adjudged by ABET to use substantially equivalent accreditation procedures, or from a Council-approved educational program in engineering not accredited by ABET or an ABET-approved foreign educational program accreditation agency, engineering technology or science related to engineering; and

(2)a. Council-approved professional experience of 15 years or more; or

b. Successful passing of a Fundamentals of Engineering examination.

§ 2820. Qualifications for a temporary permit [Repealed].

§ 2821. Certificate of authorization.

(a) An engineering corporation or partnership must have a certificate of authorization in order to practice, or offer to practice, engineering as defined in this chapter.

(b) The practice of or offer to practice engineering for the public by an engineering corporation or partnership which has been issued a certificate of authorization is permitted, provided that 1 of the officers or 1 of the employees of the said engineering corporation or partnership:

(1) is designated as being in responsible charge of the engineering activities and engineering decisions of the said corporation or partnership; and

(2) is a licensee.

(c) All personnel of any such engineering corporation or partnership who practice engineering on its behalf shall be licensees. The requirements of this chapter shall not prevent an engineering partnership or corporation and its employees from performing engineering services for the said engineering partnership or corporation or its subsidiaries or for affiliated corporations.

(d) An engineering corporation or partnership desiring a certificate of authorization shall file with the Council an application listing the names and addresses of all officers, board members and principals of the engineering corporation or partnership and also of any licensee who shall be in responsible charge of the practice of engineering through the said engineering corporation or partnership, together with any other information required by the Council. The same information must accompany the annual renewal fee. In the event there shall be a change in any of these persons during the year, such change shall be filed with the Council within 30 days after the effective date of such change. If all the requirements of this section are met, the Council shall issue a certificate of authorization to such engineering corporation or partnership, and such engineering corporation or partnership shall be authorized to contract for and to collect fees for furnishing engineering services.

(e) The Council may refuse or reject an applicant if, the Council finds that the applicant has practiced engineering without being authorized under this section. Notwithstanding such a finding, the Council may allow licensure of such applicant if the applicant presents to the Council suitable evidence of reform.

(f) No such engineering corporation or partnership shall be relieved of responsibility for the conduct or acts of its agents, employees or officers by reason of this compliance with the provisions of this section, nor shall any individual practicing engineering be relieved of responsibility for engineering services performed by reason of this employment or relationship with such corporation or partnership.

(g) Applicants for a certificate of authorization must comply with the applicable state tax laws of Chapter 23 of Title 30. Proof of such compliance is required by the Council prior to the issuance of a certificate of authorization.

(h) A licensee who practices, or offers to practice, engineering under a name other than that person's licensed name is required to obtain a Certificate of Authorization, or to practice under a Certificate of Authorization.

§ 2822. Public works.

(a) The State, its political subdivisions, agencies, commissions, and authorities shall not solicit or receive proposals for, or engage in, the construction of public works involving the practice of engineering as defined in this chapter, unless:

(1) The engineer, partnership or corporation which will perform and/or take responsibility for all engineering work, as identified in the proposal, is authorized to practice engineering under this chapter at the time of submission of the proposal; and

(2) The engineering study, drawings, specifications, and estimates are prepared by, and the construction is executed under the responsible charge or direct supervision of a licensee.

(b) Any contract executed in violation of this section shall be null and void.

§2823. Grounds for discipline; appeals.

(a) Applicants, adjunct and affiliate members, and any person licensed under this chapter shall be subject to disciplinary penalties set forth in §2824(c) of this title, if, after a hearing, the person is found to violate any of the following:

(1) The practice of any fraud or deceit in the attempt to obtain any authorization to practice engineering in this State;

(2) Any negligence, gross negligence, pattern of negligence, incompetence, or misconduct in the practice of engineering;

(3) Violation of the code of ethics promulgated by the Council;

(4) A crime that is substantially related to the practice of engineering;

(5) a. An activity resulting in discipline by another jurisdiction, state, territory, or possession of the United States, foreign country, the District of Columbia, the United States government, or any other governmental agency, if at least 1 of the grounds for discipline is the same or substantially equivalent to those contained in this section;

b. The voluntary surrendering of an engineering license in order to avoid disciplinary action by another jurisdiction, state, territory, or possession of the United States, foreign country, the District of Columbia, the United States government, or any other governmental agency, if at least 1 of the grounds for discipline is the same or substantially equivalent to those contained in this section.

(6) The failure to report instances of out-of-state discipline, as set forth in the immediately preceding paragraph, to the Executive Director of the Delaware Association of Professional Engineers within 60 days of the final order imposing discipline;

(7) Aiding or abetting another person in violating any provision of this chapter;

(8) Signing, affixing the licensee's seal, or permitting the licensee's seal or signature to be affixed to any specification, report, drawing, plan, plat, design information, construction document or calculation, or revision thereof, that has not been prepared by the licensee or those under the licensee's responsible charge; or

(9) Failure to comply with and satisfy the Continuing Professional Competency guidelines and requirements.

(b) The Council shall have the power to review the actions of any applicants sitting for any examination that is conducted by, or on behalf of, the Association to determine the applicant's qualification for licensure as a professional engineer or certification as an Engineer Intern.

(1) An examinee may be dismissed from examination and subject to disciplinary or other Council action for conduct, including:

a. Cheating on an examination;
b. Giving assistance to, or receiving assistance from another person;
c. Compromising the integrity of the examination;
d. Disruptive or abusive behavior;
e. Participating in any form of violation of exam policies or procedures during an examination.

(2) Evidence of failing to comply with an examination administrator's policies and procedures subsequent to an examination may also be cause for action by the Council. An examinee who does not fully comply with the examination administrator's policies and procedures during or after an examination may be subject to having those examination results invalidated and being prohibited from taking the examination again for a period determined by the Council. Examinations taken and passed in other jurisdictions while barred from taking that examination in Delaware will not be accepted for licensing purposes in Delaware.

(c) The Council, after receipt of a complaint in accordance with §2824(c) of this title associated with the practice of engineering in Delaware, shall have the power to review the actions and representations of individuals, corporations or partnerships not authorized by this chapter to engage in the practice of engineering in Delaware. Upon notice, hearing and review afforded by subchapters III and V of the Administrative Procedures Act, Chapter 101 of Title 29, the Council may issue a cease and desist order to an individual, corporation or partnership found to be engaged in the unauthorized practice of engineering, notwithstanding that the individual's, corporation's or partnership's license has lapsed, expired or has been suspended or revoked.

(d) Subject to notice, hearing and review afforded by subchapters III and V of the Administrative Procedures Act, Chapter 101 of Title 29, the Council may fine any person who violates a cease and desist order not less than $100 or more than $1000. Each day a violation continues may be deemed a separate offense in the Council's discretion.

(e) When disciplinary action requires the successful completion of additional training or education courses, Council shall determine the conditions of the additional training or education courses on a case-by-case basis, including, but not limited to, the type and number of hours of training or education. All training or education courses shall be related to the engineering profession and must be approved by Council.

(f) Any individual, corporation or partnership aggrieved by any disciplinary decision by Council may appeal such decision to the Superior Court. The appeal shall be filed within 30 days of the day the notice of the decision was mailed. The appeal shall be on the record without a trial de novo. If the Court determines that the record is insufficient for its review, it shall remand the case to the Council for further proceedings on the record. The Court, when factual determinations are at issue, shall take due account of the experience and specialized competence of the Council and of the purposes of the Delaware Professional Engineers' Act under which Council has acted. The Court's review, in the absence of actual fraud, shall be limited to determination of whether the Council's decision was supported by substantial evidence on the record before it.

(g) When an action is brought in the Court for review of a Council decision, enforcement of such decision may be stayed by the Court only if it finds, upon a preliminary hearing, that the issues and facts presented for review are substantial and the stay is required to prevent irreparable harm.

(h) No appeal for relief of the Court shall be considered as having been taken or made until it has been filed with the Prothonotary and served upon the Council in accordance with the rules of the Court.

§2824. Disciplinary action; procedure.

(a) Whether prompted by receipt of an accusation of wrongdoing by a third party or upon its own initiative, the Council may review the actions and representations of applicants, adjunct and affiliate members, and any person licensed as a professional engineer under this chapter for alleged violations of §2823 of this title or for unlicensed practice pursuant to §2825 of this title.

(b) Complaint Investigation and Prosecution.

(1) Upon receipt of a written accusation alleging a violation of §2823 of this title or alleging the unlicensed practice of professional engineering in violation of §2825 of this title, the Council may assign the matter to its Investigating Committee for possible prosecution. The Investigating Committee may also initiate the prosecution process based upon firsthand knowledge acquired by a member or upon a member's information and belief whether the accusation of wrongdoing is written or oral. Members of the Investigating Committee shall maintain strict confidentiality of the facts of its investigations and shall not discuss any issues of fact or law relating to an investigation with anyone except other Investigating Committee members, potential witnesses, the target of the investigation, or the target's legal representative.

(a) If any allegations are not supported by the facts stated in the complaint, the Investigating Committee shall submit a written recommendation to the Council for dismissal of the unsupported allegations. The recommendation must recite the complaint allegations that are recommended for dismissal, indicating the Investigating Committee's reasoning for recommending dismissal of each allegation. By majority vote of the members present at a properly convened Council meeting, the Council shall approve or reject the Investigating Committee's written recommendation based only on the information contained in and included with the written recommendation. The Council shall reject the Investigating Committee's recommendation only if it decides that the Investigating Committee's recommendation is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If Council does not approve the Investigating Committee's recommendation, the matter must be remanded to the Investigating Committee with the Council's written reasons for withholding its approval. If all allegations in a complaint are dismissed by the Council, the complaint is dismissed.

(b) If the Investigating Committee believes a complaint does state sufficient facts to support one or more allegations, the Investigating Committee shall investigate the allegations and send a copy of the complaint by certified mail with return receipt requested to the last address of record of the accused.

(c) The accused is entitled to submit a written answer to the complaint to the Investigating Committee within 20 calendar days after receiving the complaint.

(d) If, at any time before commencement of a hearing 1 or more allegations are found to be unsupported, the Investigating Committee shall submit a written recommendation to the Council for dismissal of the unsupported allegations. The recommendation must recite verbatim all complaint allegations that are recommended for dismissal, indicating the Investigating Committee's reasoning for recommending dismissal of each allegation. By majority vote of the members present at a properly convened Council meeting, the Council shall approve or reject the Investigating Committee's written recommendations based only on the information contained in and included with the written recommendation. The Council shall reject the Investigating Committee's recommendation only if it decides that the Investigating Committee's recommendation is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If Council does not approve the Investigating Committee's recommendation, the matter must be remanded to the Investigating Committee with the Council's written reasons for withholding its approval. If all allegations in a complaint are dismissed by the Council, the complaint is dismissed.

(e) If, during the course of an investigation, the Investigating Committee finds evidence that there may have been violations in addition to those contained in the complaint or those which formed the basis for an internally-initiated investigation, the Investigating Committee may add additional allegations as appropriate.

(f) The Investigating Committee shall issue a final written report at the conclusion of its investigation. The report must list the evidence reviewed and the witnesses interviewed, cite the law alleged to have been violated, and list all facts supporting one or more allegations.

(g) The Investigating Committee shall resolve supported allegations in one of the following ways:

(1) The Investigating Committee may submit a written recommendation to the Council that an Administrative Order be issued. The written recommendation must include a copy of the proposed order. The proposed order must recite all complaint allegations the Investigating Committee believes are supported by its findings, a brief recitation of those findings, and the proposed penalty or penalties. By majority vote of the members present at a properly convened Council meeting, the Council shall approve or reject the Investigating Committee's written recommendation based only on the information contained in and included with the written recommendation. The Council shall reject the Investigating Committee's recommendation only if it decides that the Investigating Committee's recommendation is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If Council does not approve the Investigating Committee's recommendation, the matter must be remanded to the Investigating Committee with the Council's written reasons for withholding its approval. If the Council approves the recommendation, the order shall be served on the accused by certified mail with return receipt requested to the last address of record of the accused or by personal service. The order must indicate that it will become final unless the accused, within 14 days after receipt of the order, objects

to the proposed order and requests a hearing. Administrative orders become final 14 days from the day the order is received by the accused but only if there is positive proof of service, such as a signed return receipt or an affidavit of personal service. Administrative Orders are limited to imposing the following penalties, individually or in combination: warning, public reprimand, censure, or requiring completion of training or education courses. If the accused gives notice to the Investigating Committee that the allegations are contested, the Investigating Committee shall proceed in accordance with paragraph (b)(1)g.3. of this section.

(2) The Investigating Committee is entitled to negotiate a Consent Order with the accused. Consent Orders must be approved by Council before becoming final. By majority vote of the members present at a properly convened Council meeting, the Council shall approve or reject Consent Orders, after considering the Investigating Committee's written recommendation regarding an order, based only on the information contained in and included with the Consent Order and written recommendation. The Council shall reject Consent Orders only if it decides that a Consent Order is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If the Council approves a Consent Order, the Consent Order must be served on the accused by certified mail with return receipt requested to the last address of record of the accused or by personal service. If the Council does not approve the Consent Order, the matter must be remanded to the Investigating Committee with the Council's written reasons for withholding its approval.

(3) The Investigating Committee, with the concurrence of the Department of Justice, is entitled to forward the complaint, along with its final investigative report, to the Council with a written recommendation to prosecute the complaint before a Hearing Committee. By majority vote of the members present at a properly convened Council meeting, the Council shall approve or reject the Investigating Committee's written recommendation based only on the information contained in and included with the written recommendation. The Council shall reject the Investigating Committee's recommendation only if it decides that the Investigating Committee's recommendation is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If Council does not approve the Investigating Committee's recommendation, the matter must be remanded to the Investigating Committee with the Council's written reasons for withholding its approval. If the Council approves the recommendation, the Council shall convene a Hearing Committee if it has not already done so, and assign the matter to the Hearing Committee for further proceedings. The time and place for the hearing must be fixed by the Hearing Committee within 90 days of receipt of the formal complaint.

(2) At a properly convened Council meeting, the Council President shall nominate at least 3 Council members to serve on a Hearing Committee. Nominees must be approved by a majority vote of Council members present at a properly convened Council meeting. The Council President shall designate 1 member of a Hearing Committee to serve as the Hearing Committee Chair. Hearing Committees shall consist of Council members only. Members of the Investigating Committee may not be members of the Hearing Committee, but Investigating Committee members are entitled to assist in the prosecution of the complaint before a Hearing Committee.

(3) The Hearing Committee shall properly notice and conduct the hearing. The Delaware Rules of Evidence do not apply to the presentation or admissibility of evidence in hearings. A record must be kept of all public hearings, a transcript of which must be provided at cost upon a party's request. Decisions of the Hearing Committee must be made by majority vote of the Hearing Committee's members. Decisions must be based on the evidence presented at the hearing and must be supported by substantial evidence in the record. Decisions must not be based exclusively on hearsay.

(a) If the Hearing Committee determines that no violation under §2823 of this title or that no unlicensed practice under §2825 of this title has occurred, it shall issue an order dismissing the complaint.

(b) If the Hearing Committee determines that a violation under §2823 of this title or that an unlicensed practice under §2825 of this title has occurred, it shall issue an order stating its findings of fact, conclusions of law, and penalties.

(c) If the accused fails or refuses to appear, the Hearing Committee may proceed to hear the charges and render a decision by default.

(d) Orders issued by the Hearing Committee are not final until approved by Council. After a quorum has been established at a properly convened Council meeting, by majority vote of the members present who are not recused from the matter, the Council shall approve or reject the hearing committee's written order based only on the information contained in that order. The Council shall overturn the decision of a Hearing Committee only if it decides that a Hearing Committee decision is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If Council does not approve the Hearing Committee's order, the matter must be remanded to the Hearing Committee for further proceedings in accordance with the Council's written reasons for withholding its approval. Final orders are appealable to Superior Court within 30 days of the date of mailing. Copies of orders must be served personally or by registered or certified mail to each party.

(c) Disciplinary penalties and guidelines.

(1) Disciplinary violations under §2823(a) of this title are punishable by the following penalties, or any combination thereof: levy fines up to $5,000; require the successful completion of additional training or education courses; issue warnings, public reprimands, and censure; refuse or revoke licensure; impose probation with appropriate terms and conditions; impose suspension of license not to exceed 2 years; and refuse to renew any authorization issued to use the term “engineer” or practice engineering in Delaware. All fines must be paid to Council within 90 days of the date of mailing of an order. All fines collected by the Council must be deposited in the General Fund of the State through the Division of Revenue, provided that the Council may first deduct from the fines an amount equal to the administrative and other direct expenses incurred by the Council, its Hearing Committee, and its Investigating Committee, in the prosecution of the complaint.

(2) The Council shall prepare and publish a chart of Disciplinary Penalty Guidelines (“Guidelines”) indicating the minimum and maximum penalties available for each basis for discipline in §2823 of this title. Penalties must be imposed according to the Guidelines after taking into consideration any aggravating or mitigating circumstances in each case. The Guidelines shall be provided to each Association member, associate member, affiliate member, and adjunct member, and shall be available free of charge to the public. Copies of the Guidelines must also be made available to prospective applicants as a part of their application materials.

(d) Any person who files a complaint, provides information, or testifies as a witness in a matter alleging a violation under §2823 of this title or a violation under §2825 of this title must be afforded the protections of the Delaware Whistleblowers' Protection Act as codified in Chapter 17 of Title 19.

(e) The Council may, upon petition of an adjunct member, affiliate member, individual licensee, engineering corporation, or partnership holding a certificate of authorization, reissue authorization to use the term “engineer,” a license or certificate of authorization; provided, however, that a majority of the seated members of the Council vote in favor of such issuance.

§2825. Unlicensed practice.

(a) Persons or engineering corporations or partnerships not licensed, not authorized by Council, or not holding a certificate of authorization may not:

(1) Practice engineering as defined in this chapter.

(2) Use any name, title, description of designation, either orally or in writing, that will lead to the belief that such person is entitled to practice engineering as defined in this chapter, including without limitation the words “engineer” or “engineering” or any modification or derivative of those words.

(3) Advertise or hold oneself or conduct oneself in any way or in any such manner as to lead to the belief that such person is entitled to practice engineering.

(c) Whoever practices or offers to practice engineering in this State without being licensed in accordance with the provisions of this chapter shall be in violation thereof.

(d) Whoever presents or attempts to use as that person’s own license, certificate of authorization, or the seal of a professional engineer not that person’s own shall be in violation of the provisions of this chapter.

(e) Whoever gives any false or forged evidence of any kind to the Council or to any member thereof in obtaining authorization to use the term “engineer,” a license, or a certificate of authorization, shall be in violation of the provisions of this chapter.

(f) Whoever falsely impersonates any other adjunct member, affiliate member, licensee, or holder of a certificate of authorization with a similar or different name shall be in violation of the provisions of this chapter.

(g) Whoever attempts to use an expired or revoked authorization to use the term “engineer,” license, or certificate of authorization shall be in violation of the provisions of this chapter.

(h) Any applicant who misstates or misrepresents any fact in connection with the application or any such applicant who uses improper means to gain information usable by such applicant on or in connection with an examination taken by the

applicant to obtain licensure as a professional engineer or certification as an Engineer Intern shall be in violation of the provisions of this chapter.

(i) Each partner of a partnership and each officer or director of a corporation which practices engineering in violation of this chapter shall also be liable jointly and severally with and to the same extent as such partnership or corporation unless such partner, officer or director who is so liable sustains the burden of proof that the partner, officer, or director did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the violation is alleged to exist.

(j) This chapter shall not be construed to prevent or to affect:

(1) The work of an employee or a subordinate of a licensee, provided such work is done under the direct responsibility, checking and supervision of a licensee, or

(2) The practice of professional engineering by an architect legally licensed in this State when such practice is incidental to what may be properly considered an architectural project.

(k) Whether prompted by receipt of a complaint or upon its own initiative, the Council or its Investigating Committee may review allegations of unlicensed practice of engineering.

(l) Complaints of unlicensed practice must be investigated and prosecuted in accordance with the administrative hearing procedures in § 2824(b) of this title, except that Administrative Orders are not available for cases of unlicensed practice.

(m) Unlicensed practice is punishable by a fine up to $5,000 and a cease and desist order that shall include a reasonable date certain for compliance.

(n) Cease and Desist Orders

(1) The Investigating Committee may submit a written recommendation to the Council that a cease and desist order be issued. The written recommendation must include a copy of the proposed order. The proposed order must recite verbatim all complaint allegations the Investigating Committee believes are supported by its findings, brief recitation of those findings, and include a reasonable date certain deadline for the accused to comply with the order. The order must also indicate that the accused may request a hearing in writing any time before passage of the compliance deadline, and that the order will become final and enforceable after passage of the compliance deadline.

(2) By majority vote of the members present at a properly convened Council meeting, the Council shall approve or reject the Investigating Committee's written recommendation based only on the information contained in and included with the written recommendation. The Council shall reject the Investigating Committee's recommendation only if it decides that the Investigating Committee's recommendation is contrary to a specific state or federal law or regulation, is not supported by substantial evidence, or is arbitrary or capricious. If Council does not approve the Investigating Committee's recommendation, the matter must be remanded to the Investigating Committee with the Council's written reasons for withholding its approval. If the Council approves the recommendation, the order must be served on the accused by certified mail with return receipt requested to the last address of record of the accused or by personal service.

(3) Cease and desist orders become final after passage of the compliance deadline only with positive proof of service, such as a signed return receipt or an affidavit of personal service. If the accused requests a hearing in writing to the Investigating Committee, the Investigating Committee shall proceed in accordance with §2824(b)(1) g.3. of this title.

(4) The Council may seek injunctive relief as provided in this Chapter to enforce cease and desist orders.

(o) Violations of a cease and desist orders must be investigated and prosecuted in accordance with the procedures in §2824(b) of this title, except that Administrative Orders are not available. Violation of a cease and desist order is punishable by a fine up to $5,000 for each day a violation occurs.

§2826. Injunctive relief.

Whenever it appears to the Council that any person has engaged or is about to engage in any act or practice constituting a violation of any provisions of this chapter, it may in its discretion bring an action in the Court of Chancery to temporarily restrain or to enjoin the acts or practices and to enforce compliance with this chapter. Any permanent injunction granted by the Court of Chancery pursuant to this section shall include an award for the costs of the action and reasonable attorneys' fees to be paid by the defendant, with multiple defendants being jointly and severally liable for such costs and fees. The Court shall not require Council to post a bond.

§2827. Annual reports.

The Association shall submit annually to the Governor and the State Auditor an annual report, certified by a certified public accountant, detailing its income, expenses, assets and liabilities, as well as pertinent statistical and narrative information summarizing its regulatory activities, changes in modus operandi and progress made within its area of responsibility. The Association shall send notice to the General Assembly that such report was submitted to the Governor and the State Auditor.

§2828. Applicability of Freedom of Information Act.

(a) The Association, the Council, and its committees shall each be deemed a "public body" as that term is used in the Freedom of Information Act, Chapter 100 of Title 29, and for purposes of this section only, all references to "the Council" shall be understood as referring to the Association and committees as well.

(b) In addition to the records which are not deemed public by reason of §10002(d) of Title 29, the following records shall not be deemed to be public records:

(1) The application of any person to practice engineering in the State together with all records relating thereto;

(2) Records, reports, correspondence and other documents received by the Council relating to charges against any person that could lead to disciplinary action by the Council; and

(3) All examination materials and related documents.

(c) In addition to the purpose for which a public body may go into executive session pursuant to the Freedom of Information Act, the Council may conduct an executive session for the following purposes:

(1) Consideration of the application of any person for authorization to practice engineering in the State which consideration involves matters of qualification, recommendations, education, experience or testing of the applicant.

(2) Consideration of any charges which could result in disciplinary action by the Council.

(d) For purposes of this section, the term "application" shall mean any application or filing with the Council for the purpose of obtaining authorization to use the term "engineer," licensure, a certification of authorization, or certification as an engineer intern.

§2829. Seals, stamps and signature.

(a) Each licensee shall obtain a seal of the design authorized by the Council, bearing the licensee's name, license number and the legend "professional engineer." The seal format may be embossing, rubber stamp or digital. All new licensees must submit proof of their Delaware seal to the Council office no later than 6 months after the licensee's application approval date, and failure to do so will result in the licensee being placed by the Council in delinquent status.

(b) In addition to the embossing seal required by the foregoing provisions of this section,

(1) Licensees may procure and use a stamp containing the same data as the embossing seal, or

(2) Licensees may use a seal, signature, and date that can be created or transmitted electronically.

§2830. Dating, signing and sealing.

(a) All final drawings, specifications and documents involving the practice of engineering as defined in this chapter when issued or filed for public record shall be dated and bear the signature and seal of the licensee or licensees who prepared or approved them.

(b) If original tracings are sealed or stamped, the date of sealing or stamping must appear under the signature.

§2831. Continuing Professional Competency.

The Council shall prepare and publish guidelines and requirements for the maintenance of professional competency to further Council's charge to safeguard life, health and property, and to promote the public welfare. All

active members shall be required to comply with and satisfy all Continuing Professional Competency guidelines and requirements approved by Council.

§2832. Procedures for successor professional engineer using or relying upon the work of previous engineer.

(a) In situations where the professional engineer in responsible charge of an engineering project is unable to complete the project for any reason, or when the project is a site-specific adaption of a previous design, a successor professional engineer may assume responsible charge of that portion of the project if the successor professional engineer meets the following requirements:

(1) Performs or has responsible charge over all professional engineering services related to that portion of the project.

(2) Has direct control and personal supervision over the engineering work and the signed, dated, and sealed originals of all documents over which the successor professional engineer has taken responsible charge.

(3) Dates, signs, and seals the final drawings, specifications, reports and documents involving the practice of engineering as defined in this chapter in compliance with §2830 of this chapter.

(4) Performs sufficient review and calculation to ensure that all standards of practice required of professional engineers are met.

(b) A successor professional engineer must notify the previous professional engineer in responsible charge of their intention to use the previous engineer's work. Notification shall be by certified mail, or other verifiable communication, to the last known physical or electronic address of the previous professional engineer. The previous engineer's approval is not required for the successor professional engineer to use the previous engineer's sealed work.

(c) A successor professional engineer assumes full professional responsibility by signing and affixing the successor professional engineer's seal to the assumed documents. Such documents will be treated as though they are the successor professional engineer's original project.