

4733-1-01

**Notice for change of rule.**

- (A) Before a new rule is adopted or an existing one amended or rescinded, the ~~Ohio~~ state board of registration for professional engineers and surveyors shall, at least thirty days prior to the date set for a hearing, as provided by section 119.03, of the Revised Code, give public notice of such hearing by ordering the publication of its intention to consider the adoption, amendment, or rescission of such rule or rules by posting such notice on the website for the register of Ohio and the website for the ~~Ohio~~ state board of registration for professional engineers and surveyors. Such notice will provide the date, time and place of the proposed hearing. The text of the proposed rule, amendment, or rule to be rescinded shall be made available on the website for the register of Ohio.

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4733-1-02

**Name.**

The name of this board as fixed by Sec. 4733.03 R.C. is the STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS. For the purpose of brevity in the succeeding by-laws, this organization shall be subsequently referred to as the "Board."

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4733-1-03

**Headquarters.**

The headquarters of the Board shall be at Columbus, Ohio.

4733-1-04

**Board seal.**

The seal of the Board shall be as follows: an embossed circular seal two and one-fourth inches in diameter consisting of two concentric circles, the outer circle to be two and one-eighth inches in diameter, the inner one to be one and three-eighths inches in diameter and containing the great seal of the State of Ohio, "State Board of Registration for Professional Engineers and Surveyors."

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4733-3-01

**The chairperson.**

The chairperson shall, when present, preside at all meetings and shall appoint all committees and shall otherwise perform all duties pertaining to the office of chairperson and shall sign all certificates and other official documents.

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4733-3-02

**The vice-chairperson.**

The vice-chairperson shall, in the absence or incapacity of the chairperson, exercise the duties and shall possess all the powers of the chairperson.

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4733-3-03

**The secretary.**

The secretary shall be the overall supervisor of the office of the board and have general charge of all functions of its operation as carried out under the direct supervision of the executive director. The secretary shall sign all certificates and other official documents.

4733-3-04

**The executive director.**

The executive director shall be directly responsible to the secretary and shall conduct and care for all correspondence in the name of the board and shall record and file all applications, certificates of registration, examinations, registrations and revocations; keep a record of all meetings and shall maintain a proper account of all the business of the board; shall receive and account for all monies and transfer same to the state treasurer; shall present to the board upon request~~annually at the September meeting~~ a report of the transactions of the board of the preceding fiscal year, and a complete statement of the receipts and expenditures of the board,~~and upon its being approved by the board shall transmit the same to the governor.~~

The executive director shall assemble all necessary information required for preparation of an electronic roster showing the name and address of each registered professional engineer and each registered professional surveyor, as required by law.

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4733-3-05

**Vacancies.**

If for any reason vacancies shall occur in the office of chairperson, vice-chairperson and/or secretary, the office or offices shall be filled by an election of the board members either at a regular stated meeting or a special meeting called for that purpose. Any officers so elected shall receive not less than three affirmative votes.

4733-5-02

**Notice of meeting.**

- (A) A notice and proposed agenda of each meeting of the board shall be sent to each member of the board, by the executive director, and shall be deemed full and proper notice thereof. A copy of the minutes of the previous meeting shall accompany the agenda for review prior to approval at the next meeting.
- (B) Any person may ascertain the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by:
- (1) Writing to the following address: "The State Board of Registration for Professional Engineers and Surveyors, 50 West Broad Street, 18th Floor, Columbus, Ohio 43215."
  - (2) Calling the following telephone number during normal business hours: (614) 466-3651.
  - (3) Any person may receive notice of all meetings of the board. The executive director shall maintain a list of all persons who have requested such notification.
- (C) Any representative of the news media may obtain notice of all special meetings by requesting in writing that such notice be provided. Such notice will only be given, however, to one representative of any particular publication or radio or television station."
- The request shall provide the name of the individual media representative to be contacted, the mailing address and a maximum of two telephone numbers where the representative can be reached. The executive director shall maintain a list of all representatives of the news media who have requested notice of special meetings pursuant to this rule.
- (D) In the event of a special meeting not of an emergency nature, the executive director shall notify all media representatives on the list of such meeting by doing at least one of the following:
- (1) Sending written notice, which must be sent no later than four calendar days prior to the day of the special meeting;
  - (2) Notifying such representatives personally or by telephone no later than twenty-four hours prior to the special meeting; such telephone notice shall be complete if a message has been left for the representative.

- (E) In the event of a special meeting of an emergency nature, the executive director shall notify all media representatives on the list of such meeting by notifying the clerk of the state house press room. In such event, however, the notice need not be given twenty-four hours prior to the meeting but shall be given as soon as possible.
  
- (F) In giving the notices required by paragraph (C) of this rule the executive director may rely on assistance provided by any member or employee of the board and any such notice is complete if given by such member or employee in the manner provided in paragraph (C) of this rule.

4733-9-01

**Experience and examinations.**

- (A) The phrase "~~“Graduation from a college curriculum in engineering of four years or more that is not approved by the engineering accreditation commission of the accreditation board for engineering and technology”~~ used in division (A)(2)(a) of section 4733.11 of the Revised Code is interpreted by the board to mean: "A “a baccalaureate degree in engineering not accredited by ABETthe ~~engineering accreditation commission of the accreditation board for engineering and technology~~ such as those programs recently developed or programs offered by foreign schools evaluated by the board as being substantially equivalent to those which have been accredited.””
- (B) The board shall consider applications from persons possessing one of the following qualifications:
- (1) Professional engineer - A graduate of an approved engineering curriculum of four academic years or more from a school or college approved by the board, and who has had four or more years of experience of a type satisfactory to the board.
  - (2) Professional engineer - A graduate of an engineering curriculum of~~Having satisfactorily completed~~ four academic years or more from a college curriculum in engineering that is not ~~accredited~~approved by ABET, but is evaluated by the Board as meeting the national council of examiners for engineering and surveying education standard and found to be of a high quality essentially equal to the curricula which are accredited~~the “Education Accreditation Commission/Accreditation Board for Engineering and Technology (EAC/ABET)”~~, or in engineering technology and who has eight years or more of progressive experience in engineering work indicating that the applicant is competent to be placed in responsible charge of such work.
  - (3) As a professional surveyor after December 31, 1992, either by:
    - (a) Graduation from an approved curriculum in surveying of four years or more in a recognized school or college, and a specific record of an additional four years or more of surveying office and field experience of a character acceptable to the board, with at least two of these years in responsible charge of this work under the direct supervision of a professional surveyor, and passing the prescribed ~~written, or written and oral~~ examination;
    - (b) Graduation from an approved curriculum in civil engineering of four years or more in a recognized school or college, successful completion of at least sixteen semester~~twenty-four quarter~~ hours, or equivalent

~~quarter~~~~semester~~ or trimester hours, of approved surveying courses in surveying directly and mapping arts and sciences, except that courses successfully completed as prior studies may be credited by the board toward this requirement, of which at least ~~six semester~~~~eight quarter~~ hours, or equivalent ~~quarter~~~~semester~~ or trimester hours, are in property surveying, and a specific record of an additional four years or more of surveying office and field experience of a character acceptable to the board, with at least two of these years in responsible charge of this work under the direct supervision of a professional surveyor, and passing the prescribed ~~written, or written and oral~~ examination.

- (C) Cut-off date for new or renewed applications for each examination is one hundred twenty days before the examination date. All experience or education and experience requirements must be met one hundred twenty days before the examination date.

4733-9-02

**Acceptable engineering experience defined.**

- (A) Satisfactory engineering work shall be of a nature such that its adequate performance requires engineering education, training, or experience and must be demonstrated through the application of the mathematical, physical and engineering sciences. Satisfactory engineering experience shall include but not be limited to, an acceptable combination of the following types of engineering activities:
- (1) Design or conceptual design of engineering works, products, or systems;
  - (2) Development or optimization of plans and specifications for engineering works, products, or systems;
  - (3) Analysis, consultation, investigation, evaluation, planning or other related services for engineering works, products, or systems;
  - (4) Planning the use or alteration of land, water, or other resources;
  - (5) Engineering for development of operating and maintenance manuals;
  - (6) Engineering for construction, or inspection of construction for the purpose of assuring compliance with drawings or specifications;
  - (7) Engineering for materials testing and evaluation;
  - (8) Any other work of a mechanical, electrical, electronic, chemical, hydraulic, pneumatic, geotechnical, or thermal nature that requires engineering education, training or experience for its adequate performance;
  - (9) Teaching experience, to be creditable, must be in engineering or engineering-related subjects at an advanced level in a college or university offering an engineering program of four years or more that is approved by the board.
  - (10) Experience gained in engineering research and design projects by members of an engineering faculty where the program is approved by the board is creditable.
- (B) Experience shall not be obtained in violation of the licensure act.
- (C) Experience gained in the armed services, to be creditable, shall be of a character equivalent to that which would have been gained in the civilian sector doing similar

work. Normally, it would be expected that the applicant while in the armed services served in an engineering or engineering-related group.

- (D) Experience shall be gained under the supervision of a licensed professional engineer or, if not, an explanation shall be made showing why the experience should be considered acceptable. Experience gained under the technical supervision of an unlicensed individual shall be considered if the appropriate credentials of the unlicensed supervisor are submitted to the board.
- (E) For sales experience to be creditable, it shall be demonstrated that engineering principles were required and used in gaining the experience.
- (F) Experience in construction, to be creditable, must demonstrate the application of engineering principles.
- (G) Successful completion of graduate study leading to the master's degree in engineering which has followed a baccalaureate degree in engineering from an accredited program may be used for credit for one year's experience. If the Ph.D. in engineering is completed under the same conditions, two years total experience may be credited. The two years credit includes the one year for the master's degree. If the Ph.D. is obtained without the master's degree, the credit for experience may be two years. Credit for work experience and for undergraduate or graduate study, occurring within the same period, shall not exceed the elapsed calendar time during which this occurs.
- (H) In the review of engineering experience, the board shall consider whether the experience was sufficiently complex and diverse, and of an increasing standard of quality and responsibility and whether the quality of engineering work shows minimum technical competency.

4733-9-04

**Examinations and minimum grades and intern certificates.**

(A) The board shall administer or direct the administration of examinations prepared and furnished by the national council of examiners for engineering and surveying or other provider approved by the board.

~~(A)~~(B) Examinations for surveyors and engineers will be held ~~two times each year~~ on dates set by the national council of examiners for engineering and surveying and approved by the board.

~~(B)~~(C) The language of the examination will be in English.

~~(C) The written examination required for original registration will be given in two days, of eight hours each.~~

(D) Locations at which the examinations are given are designated by the board.

(E) In determining an applicant's qualifications for registration by ~~written~~ examination, the following minimum grades will be required:

(1) For ~~stage one of the written examination, covering~~ the fundamentals of engineering examination or fundamentals of surveying examination, a passing grade as set by the national council for examiners of engineering and surveying and approved by the board is required.

(2) For ~~stage two of the written examination, covering~~ the principles and practice of engineering examination, a passing grade as set by the national council of examiners for engineering and surveying and approved by the board is required.

(3) For ~~stage two of the written examination, covering~~ the principles and practice of surveying, the applicant must pass both the ~~six-hour national~~ national council of examiners for engineering and surveying principles and practice examination and the two hour professional practice examination devoted to the laws and practices of this state. A passing grade as set by the national council of examiners for engineering and surveying and approved by the board is required for the six hour national principles and practice examination and a minimum passing grade ~~of seventy~~ as set and approved by the board is required for ~~passing~~ the two hour professional practice examination devoted to the laws and practice of this state.

~~(F) Recent graduates or currently enrolled students may apply to take the "Fundamentals of Engineering or Fundamentals of Surveying" examination by submitting a letter from an authorized college or university representative instead of submitting an~~

~~official curriculum transcript. For the purposes of this section, a "recent graduate" is a person who has graduated but cannot produce an official transcript ninety days before the examination. Currently enrolled students must anticipate graduation within six months after the next scheduled examination.~~

~~(1) For the "Fundamentals of Engineering" examination, the board will only consider Ohio EAC/ABET accredited engineering curricula or Ohio TAC/ABET accredited engineering technology curricula.~~

~~(2) For the "Fundamentals of Surveying" examination the board will only consider Ohio ASAC/ABET accredited surveying curricula or Ohio board approved surveying curricula.~~

~~(G)~~(F) Upon successful completion of the fundamentals examination, and after the candidate has provided evidence that the candidate has graduated from an approved engineering or surveying program of four years or more, a certificate as an engineer intern or surveyor intern will be issued by the board. Such certificate as an engineer intern or surveyor intern does not allow the holder of such a certificate to perform, offer to perform or contract for engineering or surveying services or to use the initials P.E. or P.S. with their name.

~~(H)~~(G) A person who has passed the ~~NCEES~~ national council of examiners for engineering and surveying fundamentals of engineering examination or fundamentals of surveying ~~examinations~~ examination from another state, territory of the United States, or District of Columbia, and who meets the requirements for registration pursuant to the Ohio Revised Code, will not need to again pass said examinations in Ohio.

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4733-9-05

**Compliance with examination policies and procedures.**

(A) Examinees shall abide by the examination administrator's published examination policies and procedures. An examinee who does not fully comply with the examination administrator's requirements may, in addition to any action by the board, be subject to dismissal from the remainder of the examination.

4733-9-06

**Noncompliant conduct in association with examinations.**

(A) An examinee may be dismissed from the examination and subject to disciplinary or other board action for conduct including, but not limited to:

(1) Cheating on the examination;

(2) Giving assistance to, or receiving assistance from, another person;

(3) Compromising the integrity of the examination;

(4) Disruptive or abusive behavior;

(5) Participating in any form of violation of examination policies or procedures during examination.

4733-9-07

**Consequences of noncompliant conduct with examination policies and procedures.**

(A) Evidence of failing to comply with the examination administrator's policies and procedures subsequent to an examination may also be cause for action by the board. An examinee who does not fully comply with the examination administrator's policies and procedures during and after an examination will be subject to having their examination results invalidated and being prohibited from taking the examination(s) for a period of time as determined by the Board.

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4733-9-08

**Comity applications for noncompliant examinees.**

(A) Any licensure examination taken and passed in another state or jurisdiction while barred from taking an examination in Ohio will not be acceptable for licensure purposes in Ohio.

4733-13-01

**Comity and temporary registration.**

- (A) Every state requires registration for engineers and surveyors who engage in professional practice within its borders. A person who desires to accept employment in another state should know how to continue practicing there in a legal manner.
- (B) The national council of examiners for engineering and surveying has endeavored for many years to develop a plan for registration by comity, but every state must measure the qualifications of each individual to whom it grants a professional license. The **Ohio** board will grant registration to a licensee of another state when the applicant has met the standards equal to those specified in the law of this state at the time his certificate of registration was received. However, the person applying for registration as a professional surveyor by comity in Ohio, shall be required to pass the final ~~two-hour~~ professional surveying examination, devoted to the laws and practices peculiar to the state of Ohio.
- (C) The **Ohio** board cannot guarantee that an Ohio registrant will be granted a license elsewhere merely because of registration in this state.
- (D) An Ohio registrant desiring registration in another state should contact the board of the state in which the registrant is interested, for an application and instructions. The **Ohio** board will be contacted by the other state board relative to the applicant's record, and will furnish the information promptly.
- (E) Division (A) of section 4733.18 of the Revised Code permits a registered engineer or surveyor of another state to practice temporarily in Ohio until permanent registration is granted. It is conditioned on the provisions that such person is legally qualified by registration to practice the said profession in the applicant's own state or U.S. territory and that the qualifications under which said applicant obtained registration in said state meet the requirements of section 4733.11 and section 4733.19 of the Revised Code, which are prerequisite for becoming registered in Ohio by all applicants.
- (F) In order to enable the board to ascertain if a person requesting temporary registration is qualified, it shall be necessary to file with the board an application for a temporary permit along with an affidavit showing the state or states or U.S. territory in which the applicant is registered and the qualifications by which the applicant obtained such registration.
- (G) If the request for a temporary registration is made under the provisions of section 4733.18 of the Revised Code, an application for permanent Ohio registration shall accompany such request.

- (H) If, after examination of said request for a temporary permit and verification of the pertinent information, it is found that the applicant meets the requirements as set forth above, the executive director of the board is authorized to issue and sign the requested permit. The applicant may then legally practice in this state under the terms and conditions set forth in said permit.

4733-17-01

**Form of application.**

Applications for registration shall be made only on forms issued by the board. No applications made otherwise than on such form will be accepted by the board. In the event that forms issued by the board do not contain sufficient space for evidence to be submitted, the applicant may attach additional sheets to said form to any extent desired by applicant, but such attached sheets shall for convenience of filing be of the same size as the forms and shall be securely attached thereto.

The board requires an official transcript of degrees subsequent to high school. It is the duty of the applicant to see that such a record is enclosed with application when submitted, since no action will be taken by the board until such information is received.

All foreign language documentation submitted with the completed application must be accompanied by certified English translations. The translation report shall be sent directly from the translator to the board for review.

Those applicants who, for political or other valid reasons, are unable to obtain their college transcripts shall be processed on a case-by-case basis by the board.

The board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States or has graduated from an unaccredited engineering program. Such evaluation shall be done through an organization approved by the board and shall be done at the expense of the applicant. Such evaluation may be waived if the applicant has received a graduate degree from a United States institution which has a bachelor's degree program accredited by EAC/ABET in the discipline of the applicant's graduate degree and, in the judgment of the board, has completed the equivalent of an EAC/ABET undergraduate program.

A photograph of the applicant shall appear in the space provided upon the application form. It shall be an unretouched photograph taken within six months of the date of application, and the face shall be portrayed not less than three-fourths inch in width.

4733-19-01

**Application, examination, registration and renewal fees.**

- (A) The board shall establish and publish a fee schedule which will be available for all applicants and registrants.
- (B) The appropriate nonrefundable application fee must accompany each examination or reexamination request.
- (C) Make all checks payable to: "Treasurer, State of Ohio" and submit to the board office.
- (D) If an applicant is not eligible or does not schedule for the applied examination, the application fee will be retained to cover the cost of processing the application.
- (E) Unless otherwise stipulated by the board the payment of the registration fee will constitute payment of the license fee for the remainder of the licensing period in which the certificate of registration was issued. Upon successfully passing both examinations a certificate of registration will be issued by the board authorizing applicant to practice as a professional engineer or professional surveyor.
- (F) A nonrefundable renewal fee for all certificates of registration is due and payable on or before December thirty-first of each licensing period for the ensuing licensing period (See section 4733.15 of the Revised Code).
- (G) Use of the "UserID" and password issued for electronic renewals is solely the responsibility of the licensee to whom it is issued and may not be transferred, distributed, or shared with any other person. The licensee assumes responsibility for all entries and user of the "UserID" and password. The "UserID" and password shall constitute the legally recognized signature for the purpose of this rule.
- (H) Completion of the paper application for renewal shall be signed by the licensee.
- (I) Any person who knowingly makes a false statement on the renewal application form is guilty of falsification under section 4733.20 of the Revised Code.
- (J) The renewal applicant shall demonstrate in a manner prescribed by the board that the applicant has met the continuing professional development requirements for the license that the applicant holds.
- (K) A licensee is exempt from the continuing professional development requirement during the first calendar year of registration. ~~Each licensee thereafter must earn fifteen hours of continuing professional development.~~ If the licensee obtains registration during the first calendar year of the biennial renewal period, the

[licensee must complete fifteen hours of continuing professional development before the end of the current renewal cycle.](#)

- (L) If a registrant fails to renew a certificate of registration by December thirty-first of the licensing period, the fee to be paid for renewal after December thirty first, but within the following twelve months, shall be increased by fifty percent. A registrant who fails to renew a certificate of registration for a period greater than twelve months shall be assessed a reinstatement fee which shall equal the number of renewal fees that have not been paid multiplied by three times the current renewal fee. The registrant shall submit proof of completion of fifteen hours of continuing professional development for each lapsed year.
  
- (M) As permitted by the provisions of section 4733.15 and section 4733.151 of the Revised Code, the board may upon request waive the payment of the renewal fees and/or the continuing professional development requirement of a registrant during the time the registrant is on active duty in connection with any branch of the armed forces of the United States.

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4733-20-01

**Voluntary certificate ceremony.**

Applicants, who have met examination requirements, may attend a certificate presentation ceremony where certificates of registration will be presented with the administration of the creed being a part of the ceremony.

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4733-21-01

**Certificate of registration.**

Professional engineers or professional surveyors shall keep their certificates of registration issued by the board posted conspicuously in their places of business where the public could examine said certificates.

4733-23-01

**Registrant's seal.**

- (A) Each registrant may upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "Registered Professional Engineer," or "Registered Professional Surveyor." Plans, specifications, plats, reports and all other engineering or surveying work product issued by a registrant shall be stamped with the said seal and be signed and dated by the registrant, or bear a computer generated seal and electronic signature and date. No person shall stamp or seal any document with said seal after the certificate of the registrant named thereon has expired, or suspended, or has been revoked, unless said certificate of registration shall have been renewed or reissued.
- (B) Each registrant is charged with the safeguarding of their personal seal.
- (C) By affixing their seal to any document, the registrant certifies to the accuracy and completeness of the information contained in the sealed document, and by such action, assumes full responsibility thereof.
- (D) Plans, specifications, plats, reports and all other engineering or surveying work product bearing a computer generated seal and electronic signature and date shall have an electronic authentication process attached to or logically associated with the electronic document. The electronic signature must be unique to the person using it; capable of verification; under the sole control of the person using it; linked to a document in such a manner that the electronic signature is invalidated if any data in the document is changed.

4733-25-01

**Reinstatement of an expired certificate of registration.**

Any registrant whose certificate of registration has expired for non-payment of renewal fees pursuant to division (A) of section 4733.15 of the Revised Code may apply in writing for reinstatement. The application so filed must be supported with a detailed notarized experience statement covering all experience subsequent to the date of expiration. This statement shall describe the nature of work performed, degree of responsibility, and dates of each engagement. This statement must also show how the applicant maintained competency in his field during the period since expiration. The application so filed must also include proof of completion of fifteen hours of continuing professional development for each lapsed year. Upon receipt of the application the board will review it and determine the steps required for reinstatement. If more than four consecutive years have elapsed since the date of expiration, the applicant shall be required to take and pass the ~~"Principles and Practice of Engineering examination" and/or "Principles and Practice of Surveying examination"~~principles and practice of engineering examination and/or principles and practice of surveying examination as a condition of reinstatement unless the applicant has maintained continuous, uninterrupted registration in any other state or United States territory. The amount of the reinstatement fee shall be as prescribed in paragraph (L) of rule 4733-19-01 of the Administrative Code. Payment of reinstatement fees does not validate any illegal practice performed during the period between expiration and reinstatement. Reinstatement shall require a majority affirmative vote of the board at a board meeting where the reinstatement application is considered.

4733-29-01

**Principles and practice examinations.**

- (A) When an applicant has completed a record showing the required number of calendar years of education and experience, the applicant is eligible to request admission to the principles and practice examination for completion of registration as a professional. The board must be sent a completed application. This application shall describe the nature of work performed, degree of responsibility, and dates of each engagement. Each segment of experience must be verified by including the supervisor's signature and contact information. If an applicant claims credit for experience in the armed forces of the United States or civilian war services, the applicant must outline the nature and extent of the assignments. Experience may be acquired in Ohio or elsewhere. Credit for experience is not limited to the branch specified in the original application.
- (B) If the experience is approved by the board, it will be necessary for the applicant to demonstrate his or her practical knowledge by passing the principles and practice examination as outlined in section 4733.13 of the Revised Code. Applicants are not eligible for this examination until their practical experience has been completed and approved by the board one hundred twenty days prior to the examination date.

4733-31-01

**Surveying defined.**

- (A) Surveying shall mean any professional service performed for the purpose of determining land areas, the monumenting of property boundaries, the platting and layout of lands and sub-divisions thereof, including the topography, the alignment and the preliminary grades of streets, the preparation of: maps, record plats, field note records and property descriptions representing such surveys.
  
- (B) The adequate performance of such work involves the application of special knowledge of the principles of mathematics, the related physical and applied sciences and the relevant requirements of law for adequate evidence to the act of measuring, and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings, and on the beds of bodies of water.

4733-33-01

**Examinations for surveyors.**

- (A) All applicants for registration as a professional surveyor must pass the fundamentals of surveying examination, the principles and practice of surveying examination and a two hour examination devoted to the laws and practice of surveying in Ohio.
  
- (B) Candidates must know how the original surveys were conducted. They must know the rules governing the restoration of obliterated monuments and must be able to re-establish lost monuments, and must have had enough actual experience in land surveying work to make them familiar with the proper methods of retracing the original surveys.
  
- (C) Candidates must know what discrepancies to expect in retracement work and how to use evidence in the restoration of obliterated land lines and monuments. They must understand the laws governing riparian rights, accretions, adverse possession. They must also be familiar with the ethics of the profession.

4733-35-01

**Preamble.**

In order to safeguard the life, health, property and welfare of the public and the state of Ohio, to maintain integrity and high standards of skills and practice in the professions of engineering and surveying, the following rules of professional conduct, promulgated in accordance with Chapter 4733. of the Revised Code, shall be binding upon every person holding a certificate of registration as a professional engineer or as a professional surveyor.

The engineer or surveyor, who holds a certificate of registration from the Ohio state board of registration for professional engineers and surveyors, is charged with having knowledge of the existence of the reasonable rules and regulations hereinafter provided for his or her professional conduct as an engineer or surveyor, and also shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering, or of surveying, is a privilege, as opposed to a right, and the registrant shall be forthright and candid in statements or written responses to the board or its representatives on matters pertaining to professional conduct.

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4733-35-02

**Integrity.**

The engineer or surveyor is obligated to act with complete integrity in professional matters for each client or employer as a faithful agent; shall be honest and impartial, and shall serve the public, client and employer with devotion.

4733-35-03

**Responsibility to the public.**

The engineer or surveyor shall:

- (A) Protect the safety, health and welfare of the public in the performance of professional duties. Should the case arise where the engineer or surveyor faces a situation where the safety, health and welfare of the public is not protected, the engineer or surveyor shall:
  - (1) Sever the relationship with the employer or client;
  - (2) Refuse to accept responsibility for the design, report or statement involved;
  - (3) Notify the proper authority if, in his or her opinion, the situation is sufficiently important.
- (B) Undertake to perform assignments only when the registrant's consulting support are qualified by training and experience in the specific technical fields involved. In the event a question arises as to the competence of an engineer or surveyor to perform an engineering or surveying assignment in a specific technical field of engineering or surveying which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the engineer or surveyor or by its own volition, may require the engineer or surveyor to submit to an appropriate inquiry by or on behalf of the board;
- (C) Be completely objective in any professional report, statement or testimony and shall include all relevant and pertinent information in the report, statement or testimony when the result of omission would, or reasonably could, lead to a fallacious conclusion;
- (D) Express an opinion as a technical or expert witness before any court, commission or other tribunal, only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his or her testimony.

**Public statements and certifications.**

- (A) The engineer or surveyor will issue no statements, criticisms or arguments on engineering or surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the engineer or surveyor has prefaced his or her remarks by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf the engineer or surveyor is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matters.
- (B) The engineer or surveyor will publicly express no opinion on an engineering or surveying subject unless it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his or her testimony.
- (C) The engineer or surveyor shall decline to sign and/or seal any form of certification, warranty, or guaranty that ~~(1) relates to matters beyond his or her technical competence, (2) involves matters which are beyond the scope of services for which he or she was retained, or (3) relates to engineering or surveying work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility. "Certification" shall mean a statement signed and/or sealed by an engineer or surveyor representing that the engineering or surveying services addressed therein have been performed, according to the engineer or surveyor's knowledge, information and belief, in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.~~

(1) relates to matters beyond his or her technical competence.

(2) involves matters which are beyond the scope of services for which he or she was retained, or

(3) relates to engineering or surveying work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility.

"Certification" shall mean a statement signed and/or sealed by an engineer or surveyor representing that the engineering or surveying services addressed therein have been performed, according to the engineer or surveyor's knowledge, information and belief, in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.

4733-35-05

**Conflict of interest.**

- (A) The engineer or surveyor shall conscientiously avoid conflict of interest with the employer or client, but, when unavoidable, the engineer or surveyor shall forthwith disclose the circumstances to the employer or client.
- (B) The engineer or surveyor shall promptly inform the client or employer of any business association, interests, or circumstances which could influence his or her judgment or the quality of services to the client or employer.
- (C) The engineer or surveyor shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties or their duly authorized agents.
- (D) The engineer or surveyor shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (E) The engineer or surveyor shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents or other parties dealing with his client or employer in connection with work for which he or she is responsible.
- (F) As an elected, retained or employed public official, an engineer or a surveyor (in the capacity as a public official) shall not review or approve work that was performed by himself, or under his direction, on behalf of another employer or client.

4733-35-06

**Solicitation of employment.**

- (A) The engineer or surveyor shall not pay, solicit nor offer, directly or indirectly, any bribe or commission for professional employment with the exception of payment of the usual commission for securing salaried positions through licensed employment agencies.
- (B) The engineer or surveyor shall seek professional employment on the basis of qualifications and competence for proper accomplishment of the work.
- (C) The engineer or surveyor shall not falsify or permit misrepresentation of academic or professional qualifications and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments.
- (D) Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint-ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.

4733-35-07

**Improper conduct.**

- (A) The engineer or surveyor shall not sign and/or seal professional work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility. This is interpreted by the board to mean that an engineer or surveyor shall not sign and/or seal professional work unless that work was prepared under his/her supervision and direction. The engineer or surveyor shall be involved in the project and must be closely involved in the preparation of the work product.
- (B) The engineer or surveyor shall not knowingly associate with, or permit the use of his or her name or firm name in, a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.
- (C) If the engineer or surveyor has knowledge or reason to believe that another person or firm is guilty of violating any of the provisions of Chapter 4733. of the Revised Code, or any of these rules of professional conduct, he or she shall present this information to the board in writing.
- (D) If a professional engineer or professional surveyor is found guilty of a felony or had his or her registration revoked or suspended by another jurisdiction, the professional engineer or professional surveyor shall notify the board in writing within sixty days.

4733-35-08

**Other jurisdiction.**

Conviction of a felony without restoration of civil rights, or the revocation, voluntary surrender, or suspension of a professional engineer's or surveyor's license by another jurisdiction, if for a cause which in the state of Ohio would constitute a violation of Ohio Revised Code Chapter 4733. or of these rules, shall be grounds for a charge of violation of these rules.

4733-35-09

**Records.**

Each registrant or certificate of authorization holder shall keep a true and correct record in the English language of all of the business transactions in the registrant's or holder's office relevant to enforcement of Chapter 4733. of the Revised Code. Such records shall be available at all reasonable hours for inspection and copying by the Ohio state board of registration for professional engineers and surveyors.

Each registrant or licensee shall cooperate with the board in its investigation of complaints or possible violations of Chapter 4733. of the Revised Code. This cooperation shall include responding timely to written communications from the board, providing information or documents requested within thirty days of the date on which the communication was mailed, and appearing before the board or its designee upon request.

4733-37-01

**Preamble.**

These rules are intended to be the basis for all surveys relating to the establishment or retracement of property boundaries in the state of Ohio. When the case arises where one or more provisions herein must be abridged due to local condition, the abridgement shall be clearly indicated on plats and/or legal descriptions and reports. Where local or other prescribed regulations exist which are more restrictive than these rules, the survey shall conform to all local and state regulatory standards. When a client desires only a portion of his property surveyed, and this portion can be clearly isolated from the remainder of the property without affecting the interests of adjoining owners, these rules shall apply to the survey of only the desired portion.

4733-37-02

**Research and investigation.**

- (A) The surveyor shall consult deeds and other documents, including those for adjacent parcels, in order to assemble the best possible set of written evidence of every corner and line of the property being surveyed.
  
- (B) After all necessary written documents have been analyzed, the survey shall be based on a field investigation of the property. The surveyor shall make a thorough search for physical monuments, and analyze evidence of monumentation and occupation. In addition, the surveyor shall, when necessary, confer with the owner(s) of the adjoining property and the owner(s) of the property being surveyed.

4733-37-03

**Monumentation.**

- (A) The surveyor shall set boundary monuments so that, upon completion of the survey, each corner of the property and each referenced control station will be physically monumented.
  
- (B) When it is impossible or impracticable to set a boundary monument on a corner, the surveyor shall set a reference monument, similar in character to the boundary monument and preferably along one of the property lines which intersect at that corner. When such a reference monument is used, it shall be clearly identified as a reference monument on the plat of the property and in any new deed description which may be written for the property.
  
- (C) Every boundary monument and/or reference monument set by the surveyor shall, when practicable:
  - (1) Be composed of a durable material.
  
  - (2) Have a minimum length of thirty inches.
  
  - (3) Have a minimum cross-section area of material of 0.21 square inches.
  
  - (4) Be identified with a durable marker bearing the surveyor's Ohio registration number and/or name or company name.
  
  - (5) Be detectable with conventional instruments for finding ferrous or magnetic objects.
  
- (D) When a case arises, due to physical obstructions such as pavements, large rocks, large roots, utility cables, etc., so that neither a boundary monument nor a reference monument can be conveniently or practicably set in accordance with paragraph (C) of this rule, then alternative monumentation, which is essentially as durable and identifiable (e.g., chiselled "X" in concrete, drill hole, etc.) shall be established for the particular situation.

4733-37-04

**Measurement specifications.**

All measurements shall be made in accord with the following specifications:

- (A) The surveyor shall keep all equipment used in the performance of surveying in proper repair and adjustment.
- (B) Every determination of distance shall be made either directly or indirectly in such a manner that the linear error in the distance between any two points (not necessarily adjacent points) shall not exceed the reported distance divided by ten thousand (allowable linear error = reported distance divided by ten thousand) and every angular measurement shall be made in such a manner that the allowable (directional) error, in radians, shall not exceed the allowable linear error divided by the reported distance (allowable (directional) error = allowable linear error divided by reported distance). When the reported distance is less than two hundred feet, the linear error shall not exceed 0.02 feet. The reported distance is the distance established by the survey.
- (C) In all new descriptions and plats of survey, the lengths and directions of the lines shall be specified so that the mathematical error in closure of the property boundary does not exceed 0.02 feet in latitudes and 0.02 feet in departure.
- (D) Surveys performed using metric measurements shall utilize the metric equivalents based upon the U.S. survey foot conversion factor.

4733-37-05

**Plat of survey.**

- (A) The surveyor shall prepare a scale drawing of every individual survey, or drawings comprising all of the surveys when they are contiguous, in which the surveyor retraces previously established property lines or establishes new boundaries.
- (B) A copy of this drawing shall be given to the client. When required, another copy shall be filed with the appropriate public agencies.
- (C) The surveyor shall include the following details:
  - (1) A title such that the general location of the survey can be identified. The title shall include, but not be limited to: state, county, civil township or municipality, and original land subdivision description.
  - (2) A north arrow with a clear statement as to the basis of the reference direction used.
  - (3) The control station(s) or line cited in the description and the relationship of the property to this control must be referenced to an established monumented point of beginning such as, but not limited to: centerline intersection of streets or highways record, section or quarter section corners, Virginia military survey corners or lines, or platted lot corners. The type of monuments set or found at the control stations shall be noted.
  - (4) A notation at each corner of the property stating that the boundary monument specified in the deed description was found, or that a boundary monument was set, or a legend of the symbols used to identify monumentation. In addition, there shall be a statement describing the material and size of every monument found or set.
  - (5) A general notation describing the evidence of occupation that may be found along every boundary line or occupation line.
  - (6) The length and direction of each line as specified in the description of the property or as determined in the actual survey if this differs from what is stated in the deed description by more than the tolerance specified in paragraph (B) of rule 4733-37-04 of the Administrative Code. The length and direction shall be stated as follows:
    - (a) Bearings expressed in degrees, minutes and seconds and distances expressed in feet and decimal parts thereof on each course. If a metric equivalent distance is stated, it shall be stated to the third decimal place.

- (b) All curved lines shall indicate the radius, central angle, curve length, chord bearing and chord distance.
  - (c) Each course shall show other common lines such as centerline of roads, rivers, streams, section lines, quarter section lines, half section lines or other pertinent common lines of record.
- (7) A citation of pertinent documents and sources of data used as a basis for carrying out the work. The citation shall include, but not be limited to: current deeds as of the date of the survey, prior deeds or other documents of record, and available deeds of record for adjoining parcels along each boundary line of the survey. If the adjoining parcel is a recorded subdivision, only the subdivision name, recording information and lot numbers need to be shown.
- (8) The written and graphical scale of the drawing.
- (9) The date of the survey.
- (10) The surveyor's printed name and Ohio registration number, signature and seal (in a form which may clearly reproduce on any copies which may be made of the original drawing).
- (11) The area contained within the perimeter of the surveyed parcel.
- (12) All references to roads or railroads contiguous to the surveyed parcel shall use current names or names of record and applicable right of way widths, if available.
- (13) All references to rivers or streams shall use current names of record, if available.

4733-37-06

**Descriptions.**

- (A) When a surveyor is called upon to prepare a new description, either to replace an existing description which is inadequate or to create a new piece of property, said description shall include the following items:
- (1) Sufficient caption so that the property can be adequately identified.
  - (2) A relationship between the property in question and clearly defined control station(s).
  - (3) The basis of the bearings.
  - (4) A citation to the public record of the appropriate prior deed(s).
  - (5) The surveyor's name, Ohio registration number and date of writing and/or survey.
- (B) A metes and bounds description shall include, in addition to paragraph (A) of this rule:
- (1) A description of the boundary monument used as the initial point of the description.
  - (2) A series of calls for successive lines bounding the parcel, each of which specifies:
    - (a) The intent in regards to adjoiners or other existing features.
    - (b) The direction of the line relative to the direction of the basis of bearing.
    - (c) The length of the line.
    - (d) A description of the boundary monument (or reference monument) and whether found or set to identify the end of the particular line.
    - (e) All curved lines shall indicate the radius, central angle, curve length, chord bearing, chord length and direction of the curve.
    - (f) The reported boundary data shall meet the closure requirements of paragraph (C) of rule 4733-37-04 of the Administrative Code.

- (3) The area of the parcel.
  
- (C) Descriptions other than metes and bounds descriptions may be a reference to a recorded survey plat or a parcel on a recorded survey plat and shall include sufficient and adequate legal and technical wording so that the property can be definitely located and defined.
  
- (D) A statement shall appear indicating that either: the description was made in accordance with a recent survey and the date thereof, or the description was made based on a previous survey, of a certain date, and date of description, or the description was not based on a survey.
  
- (E) When the surveyor knows a new description is to be used for a fee transfer, the surveyor shall base the description on a current or updated survey of the property.

4733-37-07

**Subdivisions.**

When a subdivision is created from a piece of property, or several adjoining pieces, the following rules shall apply:

- (A) Rule 4733-37-02 of the Administrative Code shall apply to the original tract(s) of land prior to being subdivided.
- (B) Rule 4733-37-03 of the Administrative Code shall apply to the outside perimeter of the original tract(s) of land and to the outside perimeter of the newly created subdivisions. All newly created lots, blocks, rights of way, angle points, points of curvature and points of tangency shall be monumented according to local regulations. Street rights of way may be monumented with monuments on the centerline instead of right of way monuments. Centerline or right of way monuments shall be set at all intersections, angle points, points of curvature and points of tangency.
- (C) All newly created subdivisions shall comply with rules 4733-37-04 and 4733-37-05 of the Administrative Code.
- (D) All easements within a newly created subdivision shall be accurately dimensioned so that each easement line can be reproduced without ambiguity.

4733-38-01

**Preamble.**

These standards are intended to be the minimum requirements for mortgage location surveys in the state of Ohio.

A "mortgage location survey" shall be defined as an instrumentality, common to the mortgage lending industry, whereby substantial proof is submitted to the mortgage lender and/or title insurer that the building(s) and/or other improvements are actually located on the land covered by the legal description in the mortgage and that said mortgage location survey is a professional service provided by professional surveyors solely for the intent of and use by the mortgagee and/or title insurer. The mortgage location survey does not constitute an improvement to the property, and is only a professional opinion which these parties may use as a guide to arrive at any decisions they may wish to make concerning said real property.

4733-38-02

**Research and investigation.**

- (A) The professional surveyor shall use the description furnished by the client to perform the mortgage location survey. If the professional surveyor determines the description to contain apparent incompleteness or insufficiencies, the professional surveyor shall so advise the client.
  
- (B) After all necessary written documents, as furnished by the client, have been analyzed, the survey shall be based on a field investigation of the property. The professional surveyor shall make a thorough search for physical monuments and analyze evidence of occupation.

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4733-38-03

**Monumentation.**

The professional surveyor need not set boundary monumentation under the provision herein unless the client requests boundary monumentation be set. If requested to set boundary monumentation, the professional surveyor shall conform to all provisions of rule 4733-37-03 of the Administrative Code.

4733-38-04

**Measurement specifications.**

All measurements shall be made in accordance with the following specifications:

- (A) The professional surveyor shall keep his equipment in such repair and adjustment as to conform to the provisions of paragraph (A) of rule 4733-37-04 of the Administrative Code.
- (B) Every measurement of distance shall be made either directly or indirectly in such a manner that the linear error in the reported distance shall not exceed:
  - (1) Two-tenths of a foot for major improvements [see paragraph (G) of rule 4733-38-05 of the Administrative Code].
  - (2) One-half of a foot for major improvement location [see paragraph (J) of rule 4733-38-05 of the Administrative Code].

When a case arises wherein a greater linear error will not create ambiguity of locations (i.e., tracts where the improvements are located substantial distances from boundaries), then the professional surveyor may use a greater linear error, provided the tolerance is clearly indicated on the survey plat (e.g., 500 feet +/- 5 feet).

4733-38-05

**Mortgage location survey plat.**

The professional surveyor shall include the following information on the mortgage location survey plat.

- (A) A title such that the general location of the survey can be identified.
- (B) A north arrow.
- (C) The boundary lines as cited in the legal description, including pertinent references therein.
- (D) The written and graphical scale of the drawing.
- (E) The date of survey.
- (F) The professional surveyor's name, registration number, signature, and seal in accordance with paragraph (C)(10) of rule 4733-37-05 of the Administrative Code.
- (G) Major improvements (permanent structures) shall be shown with dimensions and description (e.g., residence, garages, outbuildings with foundation, in-ground pools, and the like).
- (H) Easement limits and building set-back lines as indicated on the recorded plat or as supplied by the client.
- (I) Visible utility facilities requiring an easement and located outside known easements, crossing the subject property and serving others, such as, though not limited to: pole lines, manholes, inlets and pedestals and the like.
- (J) Major improvement locations shall be shown with dimensions to the nearest property lines, with a minimum of two dimensions shown, and shall be sufficient to locate the structure (offsets shall be shown perpendicular to straight property lines and radially to curved property lines).
- (K) Apparent encroachments shall be noted and shown in an obvious manner.
- (L) The address posted on the building(s), if available.
- (M) Observed problems of ingress and egress and joint drive.
- (N) Fences or other evidence of possession when not in substantial conformance with the

legal description.

(O) A statement shall appear on the plat indicating that the survey is a mortgage location survey prepared in accordance with Chapter 4733-38 of the Administrative Code, and is not a boundary survey pursuant to Chapter 4733-37 of the Administrative Code.

(P) Number each page showing individual page numbers along with number of pages.

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4733-39-01

**Preamble.**

Pursuant to section 4733.16 of the Revised Code, these rules shall be implemented to define the filing requirements for a firm, partnership, association, limited liability company or corporation to obtain a “Certificate of Authorization” to practice professional engineering and/or professional surveying in the state of Ohio.

4733-39-02

**Definitions.**

As used in this rule:

- (A) **"Responsible charge"** means being in control of, accountable for and in either direct or indirect supervision of the engineering and/or surveying activities of the business enterprise.
- (B) **"Fulltime"** as stated in division (D) of section 4733.16 of the Revised Code means working more than thirty hours per week or working substantially all the engineering or surveying hours for a firm, partnership, association, limited liability company or corporation that holds a certificate of authorization.
- (C) **"Corporation"** or **"domestic corporation"** means a corporation for profit formed under the laws of this state as defined in section 1701.01 of the Revised Code or **"foreign corporation"** as defined by division (B) of section 1703.01 of the Revised Code which has obtained a license from the secretary of state of Ohio and has complied with all the provisions of Chapter 1703. of the Revised Code.
- (D) **"Partnership"** means an association of two or more persons to carry on as co-owners of a business for profit as defined in section 1775.05 of the Revised Code.
- (E) **"Limited partnership"** is a partnership formed by two or more persons under the provisions of section 1781.02 of the Revised Code, having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by obligation of the partnership as defined in section 1781.01 of the Revised Code.
- (F) **"Limited partnership association"** means when any number of persons, not less than three nor more than twenty-five form a limited partnership association as defined by Chapter 1783. of the Revised Code.
- (G) **"Professional association"** means any association organized under sections 1785.01 to 1785.08 of the Revised Code, for the sole purpose of rendering one of the professional services authorized under Chapters 4703. and 4733. of the Revised Code.
- (H) **"Limited liability company"** means any company organized under Chapter 1705. of the Revised Code.

4733-39-03

**Applications and filing requirements.**

- (A) Under provisions of section 1701.03 of the Revised Code, a corporation formed under Chapter 1701. of the Revised Code after November 14, 1982 may offer architectural, landscape architectural, professional engineering or professional surveying services or any combination thereof provided these corporations file with the appropriate board and meet the requirements of each board or filing and procuring a "Certificate of Authorization" in accordance with Chapters 4703. and 4733. of the Revised Code.
- (B) Any firm, partnership, association, limited liability company or corporation which holds a "Certificate of Authorization" under these rules and which otherwise meets the requirements of Chapter 4733. of the Revised Code may be organized for any purposes for which business enterprises may be organized under Chapters 1701., 1705., 1775., 1781., 1783. and 1785. of the Revised Code and shall not be limited to the purposes of providing professional engineering, surveying, architectural, or landscape architectural services or any combination thereof.
- (C) If all requirements of this rule are met, the board may issue a "Certificate of Authorization" to the firm, partnership, association, limited liability company or corporation. Forms for initial application will be provided by the board. This "Certificate of Authorization" must be renewed annually.

4733-39-04

**Annual renewal filing.**

- (A) Under provisions of section 4733.16 of the Revised Code, each firm, partnership, association, limited liability company or corporation holding a "Certificate of Authorization" shall annually file no later than June thirtieth with the board on forms provided by this board, the name and address of each owner and the name and address of all persons designated as being in responsible charge of the professional engineering and/or professional surveying activities and decisions, who must be registered in Ohio as appropriate.
- (B) If there is any change in any of the above between intervals of filing, the change will be filed with the board by notarized letter within ninety days of the change.
- (C) If all the requirements of this rule are met, this board shall issue a renewal "Certificate of Authorization" to the firm, partnership association or corporation for the ensuing state fiscal year upon application and payment of the appropriate fee.
- (D) Annual renewal "Certificate of Authorization" will be issued by the board within thirty days after the approval of the renewal application.
- (E) The "Certificate of Authorization" for all firms, partnerships, associations, limited liability companies or corporations whose annual renewal filing is not received by the close of business on June thirtieth will expire and be invalid. The "Certificate of Authorization" for all firms, partnerships, associations, limited liability companies or corporations which have expired may be renewed within twelve months of the expiration date. The delinquent fee established by rule 4733-39-06 of the Administrative Code, which shall be fifty per cent greater than the annual renewal fee, must be paid to the board. The requirements of paragraph (A) of this rule must also be met. If a "Certificate of Authorization" is not renewed within twelve months from the expiration date, the said firm, partnership, association, limited liability company or corporation must make application for a new "Certificate of Authorization" in accordance with the requirements of rule 4733-39-03 of the Administrative Code and pay the appropriate fee.

4733-39-05

**Certificate of authorization.**

- (A) A "Certificate of Authorization" shall be issued by this board to all firms, partnerships, associations, limited liability companies or corporations which meet the requirements of Chapter 4733. of the Revised Code and pay the appropriate fee.
- (B) If there is any change in the identity of any of the persons designated as being in responsible charge of the professional engineering or professional surveying activities and decisions of an entity holding a "Certificate of Authorization" under Chapter 4733. of the Revised Code, the board shall be notified per rule 4733-39-04 of the Administrative Code.
- (C) A new "Certificate of Authorization" shall be required in the following situations:
- (1) Upon the change of the name of any corporation, partnership, limited liability company or professional association holding a "Certificate of Authorization" performing engineering or surveying services in this state.
  - (2) Upon the failure of any holders of a "Certificate of Authorization" to renew the "Certificate of Authorization" within twelve months of the expiration date.
- (D) A "Certificate of Authorization" shall authorize the firm, partnership, association, limited liability company or corporation to provide the professional service for which they are qualified for that state fiscal year. A renewal will be required at the end of each state fiscal year. The "Certificate of Authorization" renewal letter shall indicate the professional service or services the business enterprise is authorized to provide.
- (E) Any firm, partnership, association, limited liability company or corporation offering the services of professional engineering and/or professional surveying shall post the current "Certificate of Authorization" issued by this board conspicuously in its place of business where the public can readily examine said certificate.

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4733-39-06

**Fees.**

(A) The application, annual renewal, reapplication, delinquent, or duplicate certificate fee must accompany the "Certificate of Authorization" request in the amount shown below:

Application fee	\$50.00
Annual renewal fee	\$25.00
Delinquent fee (within twelve months of expiration)	\$37.50
Reapplication fee (beyond twelve months of expiration)	\$50.00
Duplicate certificate fee	\$ 5.00

(B) All checks shall be made payable to "Treasurer, State of Ohio" and submitted to the board office.

(C) If a business enterprise is not eligible to receive a "Certificate of Authorization" the fee will be retained to cover the cost of processing.

~~(D) Annual renewal fees for all "Certificates of Authorization" are due and payable on or before the filing date of each year for the ensuing state fiscal year.~~

4733-39-07

**Exemptions.**

Corporations which were granted a charter prior to August 7, 1943, to engage in providing engineering and/or surveying services, or were otherwise lawfully providing engineering and/or surveying services prior to November 15, 1982 are exempt from the requirements of these rules. Professional associations which comply with Chapter 1785. of the Revised Code and were incorporated prior to November 15, 1982 are also exempted.

4733-40-01

**Definitions in accordance with section 1347.15 of the Revised Code.**

For the purposes of administrative rules promulgated in accordance with section 1347.15 of the Revised Code, the following definitions apply:

- (A) “Access” as a noun means an instance of copying, viewing, or otherwise perceiving whereas “access” as a verb means to copy, view, or otherwise perceive.
- (B) “Acquisition of a new computer system” means the purchase of a “computer system,” as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as of the effective date of the board rule addressing requirements in section 1347.15 of the Revised Code.
- (C) “Computer system” means a ~~“system,”~~ as defined by section 1347.01 of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.
- (D) “Confidential personal information” (CPI) has the meaning as defined by division (A)(1) of section 1347.15 of the Revised Code and identified by rules promulgated by the board in accordance with division (B)(3) of section 1347.15 of the Revised Code that reference the federal or state statutes or administrative rules that make personal information maintained by the board confidential.
- (E) “Employee of the state board” means each employee of a state board regardless of whether he/she holds an elected or appointed office or position within the state board. “Employee of the state board” is limited to the specific employing state board.
- (F) “Incidental contact” means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.
- (G) “Individual” means a natural person or the natural person’s authorized representative, legal counsel, legal custodian, or legal guardian.
- (H) “Information owner” means the individual appointed in accordance with division (A) of section 1347.05 of the Revised Code to be directly responsible for a system.
- (I) “Person” means a natural person.
- (J) “Personal information” has the same meaning as defined in division (E) of section 1347.01 of the Revised Code.

- (K) “Personal information system” means a “system” that “maintains” “personal information” as those terms are defined in section 1347.01 of the Revised Code. “System” includes manual and computer systems.
- (L) “Research” means a methodical investigation into a subject.
- (M) “Routine” means commonplace, regular, habitual, or ordinary.
- (N) “Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person” as that phrase is used in division (F) of section 1347.01 of the Revised Code means personal information relating to employees and maintained by the board for internal administrative and human resource purposes.
- (O) “System” has the same meaning as defined by division (F) of section 1347.01 of the Revised Code.
- (P) ~~“Upgrade”~~ means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements.

4733-40-02

**Procedures for accessing confidential personal information.**

For personal information systems, whether manual or computer systems, that contain confidential personal information, the board shall do the following:

(A) Criteria for accessing confidential personal information. Personal information systems of the board are managed on a “need-to-know” basis whereby the information owner determines the level of access required for an employee of the board to fulfill his/her job duties. The determination of access to confidential personal information shall be approved by the employee’s supervisor and the information owner prior to providing the employee with access to confidential personal information within a personal information system. The board shall establish procedures for determining a revision to an employee’s access to confidential personal information upon a change to that employee’s job duties including, but not limited to, transfer or termination. Whenever an employee’s job duties no longer require access to confidential personal information in a personal information system, the employee’s access to confidential personal information shall be removed.

(B) Individual’s request for a list of confidential personal information. Upon the signed written request of any individual for a list of confidential personal information about the individual maintained by the board, the board shall do all of the following:

- (1) Verify the identity of the individual by a method that provides safeguards commensurate with the risk associated with the confidential personal information;
- (2) Provide to the individual the list of confidential personal information that does not relate to an investigation about the individual or is otherwise not excluded from the scope of Chapter 1347. of the Revised Code; and
- (3) If all information relates to an investigation about that individual, inform the individual that the board has no confidential personal information about the individual that is responsive to the individual’s request.

(C) Notice of invalid access.

- (1) Upon discovery or notification that confidential personal information of a person has been accessed by an employee for an invalid reason, the board shall notify the person whose information was invalidly accessed as soon as practical and to the extent known at the time. However, the board shall delay notification for a period of time necessary to ensure that the notification would not delay or impede an investigation or jeopardize homeland or

national security. Additionally, the board may delay the notification consistent with any measures necessary to determine the scope of the invalid access, including which individuals' confidential personal information invalidly was accessed, and to restore the reasonable integrity of the system.

"Investigation" as used in this paragraph means the investigation of the circumstances and involvement of an employee surrounding the invalid access of the confidential personal information. Once the board determines that notification would not delay or impede an investigation, the board shall disclose the access to confidential personal information made for an invalid reason to the person.

- (2) Notification provided by the board shall inform the person of the type of confidential personal information accessed and the date(s) of the invalid access.
  - (3) Notification may be made by any method reasonably designed to accurately inform the person of the invalid access, including written, electronic, or telephone notice.
- (D) Appointment of a data privacy point of contact. The board director shall designate an employee of the agency to serve as the data privacy point of contact. The data privacy point of contact shall work with the chief privacy officer within the office of information technology to assist the board with both the implementation of privacy protections for the confidential personal information that the board maintains and compliance with section 1347.15 of the Revised Code and the rules adopted pursuant to the authority provided by that chapter.
- (E) Completion of a privacy impact assessment. The board director shall designate an employee of the agency to serve as the data privacy point of contact who shall timely complete the privacy impact assessment form developed by the office of information technology.

4733-40-03

**Valid reasons for accessing confidential information.**

Pursuant to the requirements of division (B)(2) of section 1347.15 of the Revised Code, this rule contains a list of valid reasons, directly related to the board's exercise of its powers or duties, for which only employees of the board may access confidential personal information (CPI) regardless of whether the personal information system is a manual system or computer system:

(A) Performing the following functions constitute valid reasons for authorized employees of the board to access confidential personal information:

- (1) Responding to a public records request;
- (2) Responding to a request from an individual for the list of CPI the agency maintains on that individual;
- (3) Administering a constitutional provision or duty;
- (4) Administering a statutory provision or duty;
- (5) Administering an administrative rule provision or duty;
- (6) Complying with any state or federal program requirements;
- (7) Processing or payment of claims or otherwise administering a program with individual participants or beneficiaries;
- (8) Auditing purposes;
- (9) Licensure [permit, eligibility, filing, etc.] processes;
- (10) Investigation or law enforcement purposes;
- (11) Administrative hearings;
- (12) Litigation, complying with an order of the court, or subpoena;
- (13) Human resource matters (e.g., hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, time card approval/issues);
- (14) Complying with an executive order or policy;

- (15) Complying with an agency policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar state agency; or
  - (16) Complying with a collective bargaining agreement provision.
- (B) To the extent that the general processes described in paragraph (A) of this rule do not cover the following circumstances, for the purpose of carrying out specific duties of the board, authorized employees would also have valid reasons for accessing CPI in these following circumstances:
- (1) By necessity for office management, the executive director, assistant director, and employees in human resource positions shall have access to confidential personal information contained in personnel files.
  - (2) The executive director, assistant executive director, and employees in investigative positions shall have access to confidential personal information of individuals who are subject to investigation. Such employees shall have access to confidential personal information of individuals who are not the subject of the investigation, but who otherwise may be witnesses with information related to the investigation.
  - (3) By necessity for licensure and office management, all employees of the board shall have access to confidential personal information contained in e-licensing, application documents, and any other correspondence or documents retrieved while performing their duties for the board.
  - (4) By necessity for licensure, discipline, and office management, the board members shall have access to confidential personal information contained in applications, investigative files, and personnel files. The board members shall also have access to confidential personal information contained in continuing education waiver requests.

4733-40-04

**Confidentiality statements.**

The following federal statutes or regulations or state statutes and administrative rules make personal information maintained by the agency confidential and identify the confidential personal information within the scope of rules promulgated by this board in accordance with section 1347.15 of the Revised Code:

- (A) Social security numbers: pursuant to (5 U.S.C. 552a), unless the individual was told that the number would be disclosed.
- (B) Education records pursuant to the Family Educational Right to Privacy Act (FERPA).
- (C) Confidential law enforcement investigatory records pursuant to section 149.43 of the Revised Code.

4733-40-05

**Restricting and logging access to confidential personal information in computerized personal information systems.**

For personal information systems that are computer systems and contain confidential personal information, the board shall do the following:

- (A) Access restrictions. Access to confidential personal information that is kept electronically shall require a password or other authentication measure.
- (B) Acquisition of a new computer system. When the board acquires a new computer system that stores, manages or contains confidential personal information, the board shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.
- (C) Upgrading existing computer systems. When the board modifies an existing computer system that stores, manages or contains confidential personal information, the board shall make a determination whether the modification constitutes an upgrade. Any upgrades to a computer system shall include a mechanism for recording specific access by employees of the board to confidential personal information in the system.
- (D) Logging requirements regarding confidential personal information in existing computer systems.
  - (1) The board shall require employees of the board who access confidential personal information within computer systems to maintain a log that records that access.
  - (2) Access to confidential information is not required to be entered into the log under the following circumstances:
    - (a) The employee of the board is accessing confidential personal information for official agency purposes, including research, and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.
    - (b) The employee of the board is accessing confidential personal information for routine office procedures and the access is not specifically directed toward a specifically named individual or a group of specifically named individuals.
    - (c) The employee of the board comes into incidental contact with confidential personal information and the access of the information is not specifically directed toward a specifically named individual or a group

of specifically named individuals.

(d) The employee of the board accesses confidential personal information about an individual based upon a request made under either of the following circumstances:

(i) The individual requests confidential personal information about himself/herself.

(ii) The individual makes a request that the board takes some action on that individual's behalf and accessing the confidential personal information is required in order to consider or process that request.

(3) For purposes of this paragraph, the board may choose the form or forms of logging, whether in electronic or paper formats.

(E) Log management. The board shall issue a policy that specifies the following:

(1) Who shall maintain the log;

(2) What information shall be captured in the log;

(3) How the log is to be stored; and

(4) How long information kept in the log is to be retained.

Nothing in this rule limits the board from requiring logging in any circumstance that it deems necessary.