



## **BOARD OF TECHNICAL PROFESSIONS**

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# 1.0 Opening of the Meeting

**Proposed Agenda**  
**SOUTH DAKOTA BOARD OF TECHNICAL PROFESSIONS**

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Meeting ID: 226 629 435 808 | Passcode: urtYWw  
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Friday, October 11, 2024, 8:30 a.m. MDT

- A. Call to Order
- B. Roll Call
- C. Approval of Minutes
- D. Public Comment
- E. Rules Hearing
  - Public Comment
  - Written Comment
  - Board Discussion
- F. Adjournment

## 2.0 Action Items

**Meeting Minutes**  
**South Dakota Board of Technical Professions**  
Department of Labor, Mickelson Room, 2330 N Maple Ave. Suite 1  
September 27, 2024, 8:30 a.m. MDT

Chair Jared Carda called the meeting to order at 8:31 a.m. A quorum was present.

**Members Present electronically:** Ryan Callaghan, Catherine Dekkenga, Cory Biegler, Colby Flynn, and Mike Coleman

**Members Present in-person:** Jared Carda (Board Chair), and Alex Fisher

**Members Absent:** None

**Others Present electronically:** Jodi Aumer, Executive Director, Kiira Weber, Legal Counsel, and Steven Schelske.

**Others Present in person:** Carrie Kerr, Program Assistant; and Kimberly Haibeck, Senior Secretary

Chair Carda asked if there were any revisions to the meeting agenda as published.

Dekkenga moved that the board approve the published meeting agenda. Motion was seconded by Fisher. **MOTION PASSED.**

Chair Carda opened the floor for public comments and Nancy Hoines, ACEC of SD/SDES/DPC announced:

- 2024 SDES Fall Professional Development Hour (PDH) Conference Oct. 3, 2024, 8 a.m. CDT in Sioux Falls, SD. Spots still available for registration.
- 2025 SDSPLS Convention January 8-10, 2025, Mitchell, South Dakota. More information to come and will be available on the SDPLS website.
- Progress towards west river testing site through SDSMT. Discussions still to be had regarding this and if in the future board would be able to help fund this.

Dekkenga moved to approve the July 19, 2024, minutes. Motion was seconded by Biegler. **MOTION PASSED.**

Fisher moved that the board approve the financial statements through August 2024. Motion was seconded by Dekkenga. **MOTION PASSED.**

Program Assistant, Carrie Kerr provided information regarding approvals issued since the last meeting.

The board reviewed the activities report ending August 2024.

Jared Carda recently attended the CLARB conference in Buffalo, NY. They appear to be heading more to the digital side of things which is beneficial to the professions.

Executive Director, Jodi Aumer advised that they are still in negotiations with Thentia (new database) regarding future discounts. Fee increases that were submitted to the

governors office this year have been denied due to the board having a high cash balance. This request for increases will be submitted again next year to combat the rising yearly deficit the board faces.

Rules packet hearing is scheduled online for Oct. 11, 2024. Information is posted online.

Kiira Weber, Legal Counsel, has resigned effective Oct. 3. There is a posting for her replacement, however, discipline may slow down during this time.

The board has moved offices and is still in a transition period. Staff are working hard to get things in order and get everything back on track as fast as possible.

Board members please remember to submit your time when you have reviewed applications, travelled etc. If this is not submitted, then the pay and per diem cannot be paid out.

**Annual, Zone, & Upcoming meetings:**

Organization	Date	Meeting	Location	Attendees	Funded by:
<b>2025 Meetings</b>					
CLARB	September 18-20, 2025	Annual Meeting	Lexington, KY <i>Region 2</i>		
NCARB	October 18-19	MBC/MBE Leadership Summit	Fargo, ND	Jodi	NCARB
NCARB	TBD	NCARB Regional Summit	TBD		NCARB
NCARB	TBD	NCARB Annual Meeting	TBD		NCARB
NCEES	May 15-17, 2025	Joint Central/Western Zone Meeting	Albuquerque, NM		NCEES
NCEES	August 19-22, 2025	Annual Meeting	New Orleans, LA		NCEES
<b>2026 Meetings</b>					
CLARB	September 17-19, 2026	Annual Meeting	TBD <i>Region 3</i>		
NCARB	TBD	NCARB Regional Summit	TBD		NCARB
NCARB	TBD	NCARB Annual Meeting	TBD		NCARB

NCEES	TBD	Central Zone Meeting	TBD		NCEES
NCEES	TBD	Annual Meeting	TBD		NCEES
<b>2027 Meetings</b>					
CLARB	September 23-25, 2027	Annual Meeting	TBD <i>Region 4</i>		
<b>2028 Meetings</b>					
CLARB	September 14-16, 2028	Annual Meeting	TBD <i>Region 5</i>		

**BOARD FUTURE MEETING DATES (All Times are Mountain Time)**

- November 22, 2024. 8:30 a.m.

Callahan moved that the board adjourn the meeting. Motion was seconded by Fisher.  
**MOTION PASSED.**

**Adjournment of Meeting**

All business having come before the board was concluded and Chair Carda adjourned the meeting at 9:02 a.m.

## 3.0 Rules Hearing

Please note: changes made following receipt of written comments are highlighted in yellow.

**CHAPTER 20:38:27**

**GENERAL RULES AFFECTING BOARD**

Section

- 20:38:27:01 Definitions.
- 20:38:27:02 Meetings, Repealed.
- 20:38:27:03 Organization.
- 20:38:27:04 Voting.
- 20:38:27:05 Duties of board members.
- 20:38:27:06 Absence of officers.
- 20:38:27:07 National councils.

**20:38:27:02. Meetings.** ~~The board shall meet every other month beginning in January at the board's office unless otherwise specified by notice~~ Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:12:01, 38 SDR 121, effective January 16, 2012

~~**General Authority:** SDCL 36-18A-22.~~

~~**Law Implemented:** SDCL 36-18A-18.~~



**20:38:27:05. Duties of board members.** The chair shall ~~preside;~~

- (1) Preside at all meetings ~~and shall appoint;~~
- (2) Appoint any committees authorized by the board. ~~The chair shall sign;~~
- (3) Sign all certificates of licensure and other official documents. ~~The chair shall perform; and~~
- (4) Perform all duties usually pertaining to the office of the chair.

The vice chair, or any other member designated by the board, shall perform the duties ~~delegated to~~ of the chair in the absence or incapacity of the chair. ~~The secretary is responsible for the supervision of the minutes of all meetings.~~

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:12:04, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22.

**Law Implemented:** SDCL 36-18A-18, ~~36-18A-22.~~

**20:38:27:07. National councils.** The board may affiliate with the ~~National Council of Architectural Registration Boards (NCARB)~~, the ~~National Council of Examiners for Engineering and Surveying (NCEES)~~, and the ~~Council of Landscape Architectural Registration Boards (CLARB)~~. Any board member, ~~consultant~~, or employee appointed by the board may attend meetings of the councils at board expense, subject to compliance with SDCL 3-9-2, 3-9-4, and 3-9-6.

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:12:06, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22.

**Law Implemented:** SDCL 36-18A-33.

**20:38:28:01. Certificates.** Upon satisfaction of all requirements for licensure as a professional, enrollment as an intern, or licensure as a business entity, the executive director shall provide the applicant with a numbered certificate indicating the type of license or enrollment and the issue or expiration date. ~~The board shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.~~ The board may provide the certificate in an electronic format.

A certificate of enrollment as an intern does not authorize the enrollee to practice as a licensed professional or to imply that ~~such~~ a professional title is held.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:18:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-25, 36-18A-36.

**20:38:28:03. Inactive or retired status.** Upon licensee request, the board may grant inactive or retired status if the following criteria are met:

- (1) The person no longer practices the profession or offers to practice the profession;
- (2) The person has not had a professional license revoked in any state; and
- (3) The required fees are paid.

A person maintaining inactive status may apply for license reactivation if the person, consistent with the requirements of SDCL 36-18A-42, meets all current requirements for licensure, ~~including continuing professional development renewal~~, pays the application fee and passes a ~~take~~ home take-home examination covering South Dakota laws and ethics.

~~A person maintaining retired status may use the appropriate title with the notation "Retired" after the title.~~

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; 34 SDR 107, effective October 31, 2007; transferred from § 20:38:18:03, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-40.

**Law Implemented:** SDCL 36-18A-40, 36-18A-42, 36-18A-43.

**20:38:29:01. Application required.** An application is required, in accordance with the provisions of this chapter, for each of the following:

- (1) Individual licensure;
- (2) Individual license renewal;
- (3) Individual license reactivation;
- (4) Business entity licensure;
- (5) Business entity license renewal; and
- (6) Business entity license reactivation; and.

~~(7) Admission to examination, including FE, PE, FS, LS, and petroleum release examinations.~~

An electronic application must be made on the appropriate form submitted using the method designated by the board administrator, be complete, ~~legible~~, and be accompanied by the appropriate application fee. By submitting an application, an applicant certifies, under penalty of perjury, that the information ~~submitted by the applicant~~ on the application is true and correct. An applicant may be required to clarify or provide additional information as needed to fully evaluate the application.

~~Any change in the information provided by an applicant or licensee, including the mail or email address must be provided to the board office within 30 days of the change. An applicant shall update the board administrator in writing within ten calendar days of any change in the information submitted on the application.~~ The board administrator may accept changes to an application after ten calendar days upon good cause shown by the applicant.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; 30 SDR 204, effective June 24, 2004; 33 SDR 70, effective June 20, 2006; 34 SDR 107, effective October

31, 2007; transferred from § 20:38:13:01, 38 SDR 121, effective January 16, 2012; 47 SDR 73, effective December 21, 2020.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL ~~36-18A-22(1)~~, 36-18A-33.

**20:38:29:03. Deadlines.** ~~Applications~~ An application, complete with all required information and with payment of the required fee, must be ~~filed with the executive director~~ according to the following schedule of deadlines:

- ~~— (1) Individual or business renewal or reactivation — monthly on the last day of the month;~~
- ~~— (2) Individual or business licensure — January 1, March 1, May 1, July 1, September 1, and November 1;~~
- ~~— (3) FE or FS examination — January 1, March 1, May 1, July 1, September 1, and November 1;~~
- ~~— (4) PE examination — January 1, March 1, May 1, July 1, September 1, and November 1;~~
- ~~— (5) PS examination — January 1, March 1, May 1, July 1, September 1, and November 1;~~
- ~~— (6) LARE — January 1, March 1, May 1, July 1, September 1, and November 1;~~
- ~~— (7) Petroleum release examination — January 1, March 1, May 1, July 1, September 1, and November 1.~~ submitted electronically using the method designated by the board administrator. An application for individual or business entity renewal or reinstatement is reviewed in the month received on the last day of the month. All other applications for individual or business licensure are reviewed and processed upon receipt.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; 34 SDR 107, effective October 31, 2007; transferred from § 20:38:13:03, 38 SDR 121, effective January 16, 2012; 40 SDR 121, effective January 7, 2014; 43 SDR 85, effective December 12, 2016.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** ~~SDCL 36-18A-22(1)~~, 36-18A-33.

**20:38:29:04. Notification.** ~~An~~ The board shall notify an applicant ~~shall be notified by~~  
~~mail~~ electronically of the ~~board's~~ approval or denial of an application. If the application is denied,  
the notification ~~shall~~ must include an explanation.

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:13:04, 38 SDR 121,  
effective January 16, 2012.

**General Authority:** SDCL 36-18A-22.

**Law Implemented:** SDCL 36-18A-32, 36-18A-33, 36-18A-57(1).



**20:38:30:03. Land surveying.** An applicant for licensure as a land surveyor shall meet at least one of the following education-requirement requirements:

(1) A ~~bachelor level~~ bachelor's degree in surveying from a program accredited by the ~~EAC Engineering Accreditation Commission, ASAC Applied and Natural Science Accreditation Commission, or TAC Engineering Technology Accreditation Commission~~ of the Accreditation Board for Engineering and Technology or other education assessed by the board as equivalent;

(2) A ~~bachelor level~~ bachelor's degree in a related technical program; or

(3) A ~~bachelor level~~ bachelor's degree in a non-related program or an ~~associate level~~ associate's technical degree in surveying or related technical program.

~~In all cases, reference above to a degree in a related technical program shall be a degree having a program of study which includes~~ A related technical program must include basic courses in mathematics, physical science, and other subject areas related to surveying at least twenty-four total semester credit hours of surveying education as determined by the board. The board will determine which programs are related technical programs and which are non-related programs. The required surveying education must include a least one course in each of the following: basic principles of surveying, advanced applications of surveying, original public land survey system, and boundary surveying.

Each applicant for licensure must complete at least 24 total semester credit hours of surveying education, which may consist of the successful completion of either surveying courses included in the degree program or surveying courses which were taken outside of and in addition to the degree program, or a combination of both. The surveying courses must be acquired from education institutions offering degrees as described above or as acceptable to the board. The surveying courses shall be unique in title and subject matter, and may not be duplicates of each

other. The surveying courses shall range from basic principles of surveying through advanced applications of surveying, and shall include courses on the original public land survey system and boundary surveying. In the event all or a portion of the surveying education is earned as quarter credit hours, the equivalent education shall be based on equating one semester credit hour as being equal to one and one-half quarter credit hours.

~~Land surveying interns (LSIT or LSI) who have completed all of the requirements and who apply for licensure as a land surveyor prior to December 31, 2022, may apply for licensure under the licensing requirements that existed on January 1, 2011.~~

**Source:** 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:14:05, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(3), 36-18A-28, 36-18A-29.

**Law Implemented:** SDCL 36-18A-1(15)(16), 36-18A-4, 36-18A-28, 36-18A-29, 36-18A-32.

**20:38:30:04. Landscape architecture.** ~~An applicant for licensure as a landscape architect shall have a professional degree in Landscape Architecture from a program accredited by the Landscape Architectural Accrediting Board (LAAB). A CLARB certification is required as evidence that the education requirement has been met.~~ An applicant for licensure as a landscape architect shall have completed an educational program that meets or exceeds the education standards established by the CLARB.

**Source:** 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(3), 36-18A-30.

**Law Implemented:** SDCL 36-18A-1(17)(18), 36-18A-5, 36-18A-30, 36-18A-32.

**20:38:31:01. Experience required.** ~~Experience is required in accordance with the provisions of this chapter.~~ Experience credit may be granted for part-time and full-time work, but overtime ~~will~~ may not be considered. The board may require as evidence of experience, ~~exhibits:~~

(1) Exhibits of plans, specifications, and other technical submissions ~~in the preparation of which the applicant participated, together with a~~ that were prepared with the applicant's involvement; and

(2) A statement from the licensed professional in responsible charge of the work attesting to the extent of the applicant's involvement.

For land surveying applicants, experience prior to completion of education ~~shall~~ must be in accordance with § ~~20:38:31:04~~ 20:38:31:04.01. For other applicants, experience prior to completion of education may be ~~granted experience credit~~ credited at the rate of one-half year for each full year of experience, not to exceed one year of total experience credit. Of this, no more than six months may be credited to any student for work experience gained during ~~the~~ summer breaks. Work experience under the direct supervision of a design professional licensed in a foreign country ~~shall~~ must be evaluated ~~by the board before credit may be granted.~~ Work experience credit gained in the armed services must be of a character equivalent to ~~that which would have been gained in~~ the civilian sector doing similar work, ~~such as service in an architectural, engineering, or engineering-related group.~~

For an applicant with a degree from a foreign education program, experience must include a minimum of two years of qualifying experience gained on projects located in the United States. An applicant must be proficient in English.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:15:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(3).

**Law Implemented:** SDCL 36-18A-25 to 36-18A-32, inclusive.

**20:38:31:02. Architecture.** An applicant for licensure as an ~~Architect~~ architect shall have completed the NCARB Architectural Experience Program ~~(AXP)~~. A NCARB certification is evidence that the experience requirement has been met.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:15:02, 38 SDR 121, effective January 16, 2012; 45 SDR 95, effective January 22, 2019.

**General Authority:** SDCL 36-18A-22(3), 36-18A-27.

**Law Implemented:** SDCL ~~36-18A-1(3)~~, 36-18A-2, 36-18A-27, 36-18A-32.

**20:38:31:04. Land surveying.** An applicant for licensure as a ~~Land Surveyor~~ land surveyor shall meet either of the following experience-requirement requirements:

(1) Four years of experience, of which a minimum of two years ~~shall~~ must be after earning the degree and a minimum of two years ~~shall~~ must be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(1) or (2); or

(2) Seven years of experience, of which a minimum of three years ~~shall~~ must be after earning the degree and a minimum of two years ~~shall~~ must be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(3).

~~To qualify, land surveying experience must be completed under the direct supervision of a licensed professional land surveyor who is actively engaged in the practice of land surveying. Experience must consist of employment or services that require the application of special knowledge and technical skills acquired in the practice of land surveying as follows:~~

~~—— (1) Correct determination and description of lands for conveyance or encumbrance;~~

~~—— (2) Establishment or reestablishment of land boundaries;~~

~~—— (3) Platting of lands in subdivisions;~~

~~—— (4) Surveyed acquisition of data relative to the shape of the earth's surface and fixed objects thereon and therein for the purpose of presenting mapped information; and~~

~~—— (5) Surveys necessary to plan for the alteration of the earth's surface or to create fixed works thereon.~~

~~—— Intermittent experience of a land surveying nature shall must be credited in the same proportion that the work of a land surveying nature bears to the total experience period. Surveying~~

~~experience normally identified with engineering projects, including design surveys for highways or bridges (except those that relate to right of way surveys), construction staking, curb and gutters, and sanitary sewers may be considered as part of the land surveying experience up to one-third of the minimum total required experience, since such experience can be considered basic to the development of the land surveyor.~~

~~—— Experience teaching land surveying courses in programs as described in § 20:38:30:03 may be granted experience credit up to a maximum of one year.~~

~~Land surveying interns (LSIT or LSI) who have completed all of the requirements and who apply for licensure as a land surveyor prior to December 31, 2022, may request that their application be reviewed on the basis of the experience and education requirements which existed on January 1, 2011.~~

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; 30 SDR 204, effective June 24, 2004; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:15:04, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(3), 36-18A-28, 36-18A-29.

**Law Implemented:** SDCL 36-18A-4, 36-18A-28, 36-18A-29(2), 36-18A-32.



**20:38:31:04.01. Land surveying experience -- Supervision required.** To qualify as land surveying experience under § 20:38:31:04, the applicant for licensure must complete the experience under the direct supervision of a licensed professional land surveyor who is actively engaged in the practice of land surveying. Experience must consist of employment or services that require the application of special knowledge and technical skills acquired in the practice of land surveying as follows:

- (1) Correct determination and description of lands for conveyance or encumbrance;
- (2) Establishment or reestablishment of land boundaries;
- (3) Platting of lands in subdivisions;
- (4) Surveyed acquisition of data relative to the shape of the earth's surface and fixed objects thereon and therein for the purpose of presenting mapped information; and
- (5) Surveys necessary to plan for the alteration of the earth's surface or to create fixed works thereon.

Intermittent experience of a land surveying nature must be credited in the same proportion that the work of a land surveying nature bears to the total experience period. Surveying experience normally identified with engineering projects, including design surveys for highways or bridges, except those that relate to right-of-way surveys; construction staking; curb and gutters; and sanitary sewers may be considered as part of the land surveying experience up to one-third of the minimum total required experience.

Experience teaching land surveying courses in programs as described in § 20:38:30:03 may be granted experience credit up to a maximum of one year.

**Source:**

**General Authority:** SDCL 36-18A-22(3), 36-18A-28, 36-18A-29.

**Law Implemented:** SDCL 36-18A-4, 36-18A-28, 36-18A-29(2), 36-18A-32.

**20:38:31:05. Landscape architecture.** An applicant for licensure as a ~~Landscape Architect~~ landscape architect is required to have experience as determined by the CLARB. The applicant's CLARB council record ~~shall~~ must be provided to the board ~~of~~ for evaluation ~~and~~ acceptance.

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:15:05, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(3), 36-18A-30.

**Law Implemented:** SDCL 36-18A-5, 36-18A-30(2), 36-18A-32.

**20:38:32:01. Examination required.** ~~Examination is required in accordance with the provisions of this chapter.~~

~~All applicants~~ An applicant for admission to examination shall pay the required examination fee to the appropriate organization or vendor prior to admission to the examination.

~~Examination vendors~~ An examination vendor may be used to administer ~~examinations~~ an examination. ~~Policies~~ The policies and procedures of the examination vendor ~~shall~~ must be followed in accordance with the vendor's agreement with the board. Examination results ~~will~~ must be reported as either pass or fail, ~~will be~~ treated as confidential, and ~~will be~~ transmitted ~~only by U.S. mail~~ electronically to the examinee ~~at the examinee's last known address~~ using a method determined by the board office.

Cheating or other violation of examination security provisions will result in automatic failure of the examination. No person may review any portion of any examination.

~~All applicants shall~~ An applicant must pass a take-home an examination on South Dakota licensure laws prior to licensure. The examination must be administered using an electronic format.

An examinee seeking an accommodation for a disability shall make a request of the examination vendor with sufficient notice to enable arrangements for the accommodation.

**Source:** 26 SDR 9, effective July 29, 1999; 30 SDR 204, effective June 24, 2004; transferred from § 20:38:17:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(3).

**Law Implemented:** SDCL 36-18A-25 to 36-18A-31, inclusive, 36-18A-33.

**20:38:32:02. Architecture.** An applicant for licensure as an ~~Architeet~~ architect shall pass the ARE, ~~which is prepared and scored by the NCARB,~~ in accordance with the NCARB ARE guidelines.

An applicant may apply to NCARB for admission to the examination upon satisfaction of the architecture education requirement.

A NCARB certification is evidence that the examination requirement has been met.

~~An applicant who fails all or part of the examination may retake the examination in accordance with this section. A passing grade for any division of the examination is valid for five years, after which time the division must be retaken if the remaining divisions have not been passed. The five year period begins on the date when the first passed division is administered. If an applicant fails to pass all divisions within five years, then the first passed division must be retaken and the five year period begins on the date when the next oldest passed division is administered.~~

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:17:06, 38 SDR 121, effective January 16, 2012; 47 SDR 73, effective December 21, 2020.

**General Authority:** SDCL 36-18A-22(3), 36-18A-27.

**Law Implemented:** SDCL 36-18A-27.

**20:38:32:03. Engineering.** An applicant for licensure as a ~~Professional Engineer~~ professional engineer shall pass the Fundamentals of Engineering (FE) examination and the Principles and Practice of Engineering (PE) examination, ~~which are prepared and scored by NCEES.~~

An applicant who has satisfied the engineering education requirement or who is a senior within two semesters of graduating from an ~~ABET-accredited~~ ABET-accredited engineering program approved by the board may ~~apply for admission to~~ register for the FE examination ~~with NCEES.~~ ~~The applicant must have a transcript or senior status verification sent directly from the school to the board office as evidence of applicant's status.~~ An applicant who passes the FE examination ~~shall~~ must be enrolled as an engineer-in-training (EIT) or an engineering intern (EI). Passage of the FE examination does not authorize any person to practice as a professional engineer or to imply that ~~such~~ a professional title is held.

An applicant who has passed the FE examination and has satisfied the engineering education ~~and experience requirements~~ requirement may ~~apply for admission to~~ register for the PE examination with the NCEES.

An applicant who fails the FE or PE examination may retake the examination two times. If the applicant fails the examination three times, the applicant may submit only one new application for admission to the examination per calendar year thereafter. The board may review an applicant who has failed the examination three times and may require additional qualifying education or experience for licensure.

**Source:** 26 SDR 9, effective July 29, 1999; 30 SDR 204, effective June 24, 2004; 34 SDR 107, effective October 31, 2007; transferred from § 20:38:17:07, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(3), 36-18A-25.

**Law Implemented:** SDCL 36-18A-1(3), 36-18A-25.

**20:38:32:04. Land surveying.** An applicant for licensure as a land surveyor shall pass the:

(1) The Fundamentals of Land Surveying (FS) examination, the which is prepared and scored by the NCEES;

(2) The Principles and Practice of Land Surveying (PS) examination, which is prepared and scored by the NCEES; and ~~an open book, take-home~~

(3) An open-book examination of South Dakota land surveying practice and laws.

~~Current students and graduates of the educational programs~~ A current student or graduate of an educational program described in § 20:38:30:03 that ~~have~~ has either successfully completed, or ~~are~~ is currently enrolled in, a minimum total of ~~18~~ eighteen semester credit hours of surveying courses within, or in addition to, ~~their~~ the program of study may ~~apply~~ register for the FS examination with the NCEES. An applicant who passes the examination ~~shall~~ must be enrolled as a land surveyor-in-training (LSIT) or land surveying intern (LSI). Passage of the examination does not authorize any person to practice as a land surveyor or to imply that ~~such~~ a professional title is held.

~~Applicants who have completed all of the requirements and who apply for the FS examination prior to December 31, 2015, may request that their application be reviewed on the basis of the education and experience requirements which existed on January 1, 2011.~~

An applicant who has passed the FS examination and has satisfied the land surveying education and experience requirements requirement may ~~apply for admission to~~ register for the PS examination with the NCEES.

The South Dakota portion of the examination is ~~an open book, take-home~~ open-book, electronic examination that is two hours in length. ~~There is a four-hour version for applicants who~~



~~have passed 12 hours of the NCEES examinations; a two-hour version for applicants who have passed 14 hours of the NCEES examinations; and a one-hour version for applicants who have passed 15 hours of the NCEES examinations. Each applicant shall must complete and return the applicable version of the take-home examination to the board's office within ~~30~~ thirty calendar days after the date of mailing of the examination to the applicant of the date of submission of the applicant's licensure application.~~

An applicant who fails the FS or PS examination may retake the examination two times. If the applicant fails the examination three times, the applicant may submit only one new application for admission to the examination per calendar year thereafter. The board may review an applicant who has failed the examination three times and may require additional qualifying education or experience to grant licensure.

**Source:** 26 SDR 9, effective July 29, 1999; 34 SDR 107, effective October 31, 2007; transferred from § 20:38:17:08, 38 SDR 121, effective January 16, 2012; 40 SDR 121, effective January 7, 2014.

**General Authority:** SDCL 36-18A-22(3), 36-18A-28.

**Law Implemented:** SDCL 36-18A-1(16), 36-18A-28.

**20:38:32:06. Petroleum release assessment or remediation.** An applicant for licensure as a petroleum release assessor or remediator ~~shall~~ must pass the petroleum release examination, which is prepared and scored by the board. The examination is an ~~open book, take-home~~ open-book electronic examination over South Dakota procedures and rules pertaining to petroleum releases. ~~A list of the procedures and rules and where they may be found is provided to each applicant with the examination.~~ Each applicant ~~shall~~ must complete ~~and return~~ the examination to the board's office within ~~30~~ thirty calendar days ~~after the date of mailing of the examination to the applicant~~ of the date of submission of the applicant's licensure application.

An applicant may apply for admission to the examination upon satisfaction of the ~~Petroleum Release~~ petroleum release education and experience requirements.

An applicant who fails the petroleum release examination may retake the examination two times. If an applicant fails the examination three times, the applicant may submit only one new application for admission to the examination per calendar year thereafter. The board may review an applicant who fails the examination three times and may require additional qualifying education or experience to grant licensure.

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:17:12, 38 SDR 121, effective January 16, 2012; 40 SDR 121, effective January 7, 2014.

**General Authority:** SDCL 36-18A-22(3), 36-18A-31.

**Law Implemented:** SDCL 36-18A-31.

**20:38:33:03. Examination fees.** Certain examination fees are set by the examination vendor and are to be paid by the applicant directly to the ~~vendor, as follows~~ following vendors:

- (1) The NCEES for engineering and land surveying examinations;
- (2) The NCARB for architecture examinations; and
- (3) The CLARB for landscape architectural examinations.

~~The fee to retake the open book, take home examination of South Dakota land surveying practice and laws shall be paid to the board pursuant to the following fee schedule:~~

- ~~(1) 4 hour version of the take home exam, \$60;~~
- ~~(2) 2 hour version of the take home exam, \$30; and~~

~~(3) 1 hour version of the take home exam, \$20~~ The fee to retake the open-book electronic examination of South Dakota land surveying practice and laws is thirty dollars and is to be paid to the board.

~~The fee to retake the open book, take home~~ open-book electronic examination for petroleum release assessor or remediator ~~shall be paid to the board in the amount of \$60~~ is sixty dollars and is to be paid to the board.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; 30 SDR 204, effective June 24, 2004; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:19:03, 38 SDR 121, effective January 16, 2012; 40 SDR 121, effective January 7, 2014.

**General Authority:** SDCL 36-18A-22(2), 36-18A-33, 36-18A-34.

**Law Implemented:** SDCL 36-18A-33, 36-18A-34.

**20:38:33:08. Duplicate certificate fees.** Duplicate certificate fees are as follows:

- (1) Intern, ~~\$5~~ five dollars;
- (2) Licensee, ~~\$15~~ fifteen dollars; and
- (3) Business entity, ~~\$15~~ fifteen dollars.

These fees may not apply to any duplicate license obtained electronically by the licensee directly from the licensee's profile on the board's database.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; 34 SDR 107, effective October 31, 2007; transferred from § 20:38:19:10, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-37.

**Law Implemented:** SDCL 36-18A-37.

**20:38:34:01. Comity licensure application.** An applicant licensed in another state or foreign country must be fully licensed by the board before offering to practice or practicing professional services within ~~the~~ this state ~~of South Dakota~~. An applicant for licensure through comity must comply with all application requirements set out in chapter 20:38:29.

~~The executive director shall request verification of licensure from the registration board in the state where the applicant passed a written examination. If licensure is not current in that state and examination verification cannot be obtained, the applicant shall~~ must provide evidence of continuous licensure in another state. If the applicant is licensed in the applicant's state of residence, the executive director ~~shall~~ must request verification from that state board.

A verified professional record from the NCARB for architects, the CLARB for landscape architects, or the NCEES for engineers and land surveyors may be considered by the board as evidence of meeting comity requirements ~~and may expedite comity licensure.~~

**Source:** 38 SDR 121, effective January 16, 2012; 40 SDR 121, effective January 7, 2014.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL ~~36-18A-22(1)~~, 36-18A-35.

**20:38:34:04. Examination requirement.** An applicant for licensure through comity shall meet the ~~necessary~~ examination requirement as described in SDCL 36-18A-35. In addition, an applicant for licensure through comity ~~shall~~ must take and pass ~~a take-home~~ an electronic examination on South Dakota licensure laws prior to licensure.

An applicant for licensure through comity in land surveying ~~shall~~ must pass the ~~appropriate version of the open book, take-home~~ two-hour, open-book, electronic examination of South Dakota land surveying practice and laws, ~~depending upon the number of hours of NCEES examinations completed by the applicant,~~ as described in § 20:38:32:04.

**Source:** 38 SDR 121, effective January 16, 2012; 40 SDR 121, effective January 7, 2014.

**General Authority:** SDCL 36-18A-22(3).

**Law Implemented:** SDCL ~~36-18A-1(16), 36-18A-28,~~ 36-18A-35.

## CHAPTER 20:38:35

### CONTINUING PROFESSIONAL DEVELOPMENT

#### Section

- 20:38:35:01 Continuing professional development required for license renewal.
- 20:38:35:02 Alternative continuing professional development option for architects, Repealed.
- 20:38:35:03 PDH sources.
- 20:38:35:04 Multiple licenses.
- 20:38:35:05 Reactivation.
- 20:38:35:06 PDH credit.
- 20:38:35:07 Record keeping.
- 20:38:35:08 Exemptions.
- 20:38:35:09 Audits.
- 20:38:35:10 Compliance.
- 20:38:35:11 Carryover PDH.

**20:38:35:01. Continuing professional development required for license renewal.** Unless exempted as provided in § 20:38:35:08, ~~all individual licensees shall~~ a licensee must obtain a minimum of ~~30~~ thirty PDH during the biennium preceding license renewal. PDH credit must be obtained in a qualifying professional development activity, ~~including courses or activities or course~~ with clear purposes and objectives that maintain, improve, or expand the licensee's skills and knowledge relevant to the licensee's field of practice.

Of the required ~~30~~ thirty PDH, a minimum of ~~20~~ twenty PDH must be in technical subjects that lead to further professional development in the licensee's field of practice. Technical subjects include ~~design; environmental analysis; programming and planning; structural systems; lateral~~

~~forces; mechanical, electrical, plumbing, and acoustical systems; construction methods; construction observation; site and soils analyses and design; accessibility; building codes; selection of building materials; and land survey:~~

- 1) Accessibility;
- 2) Acoustical, electrical, mechanical, and plumbing systems;
- 3) Building codes;
- 4) Construction methods;
- 5) Construction observation;
- 6) Design;
- 7) Environmental analysis;
- 8) Land survey;
- 9) Lateral forces;
- 10) Programming and planning;
- 11) Selection of building materials;
- 12) Site and soils analyses and design; and
- 13) Structural systems.

Of the required ~~30~~ thirty PDH, a maximum of ~~10~~ ten PDH may be in professional management subjects, ~~include such as~~ including total quality management, professional business practice, and ethics.

~~Licensees~~ A licensee submitting a renewal application ~~shall~~ must include a copy of the PDH log required by subdivision 20:38:35:07(1). The licensee shall certify, under penalty of perjury, that all information submitted by the licensee in the application is true and correct.



If notified by the board of an audit, a licensee ~~shall~~ must supply sufficient additional information within 30 thirty calendar days to permit verification that the continuing professional development requirement has been met.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; 34 SDR 107, effective October 31, 2007; transferred from § 20:38:23:03, 38 SDR 121, effective January 16, 2012; 47 SDR 73, effective December 21, 2020.

**General Authority:** SDCL 36-18A-22(4), 36-18A-39.

**Law Implemented:** SDCL 36-18A-39(2), 36-18A-40.

**20:38:35:02. Alternative continuing professional development option for architects.** ~~As an alternative to the requirements of § 20:38:35:01, a licensed architect may meet the continued professional development requirement for renewal by obtaining 12 Continuing Education Hours (CEH) per calendar year. CEH shall be in health, safety, and welfare subjects acquired in structured educational activities.~~

~~—— For the purposes of this section, CEH is 50 to 60 minutes of continuous instructional contact in structured educational activities intended to increase or update the licensee's knowledge and competence in health, safety, and welfare subjects.~~

~~—— For purposes of this section, a structured educational activity is one in which 75 percent of the activity's content and instructional time is devoted to health, safety, and welfare subjects related to the practice of architecture. The activity shall be provided by a qualified individual or organization and can be delivered by direct contact or distance learning methods.~~

~~—— For purposes of this section, health, safety, and welfare subjects are those that the board deems appropriate to safeguard the public in the following areas of practice:~~

~~—— (1) Building systems: communications, electrical, fire protection, mechanical, plumbing, security, and structural;~~

~~—— (2) Construction contract administration: bidding, contract negotiations, and contracts;~~

~~—— (3) Construction documents: delivery methods, drawings, and specifications;~~

~~—— (4) Design: building design, interiors, master planning, safety and security measures, site design, and urban planning;~~

~~—— (5) Environmental: energy efficiency, hazardous materials, insulations, natural hazards, natural resources, sustainability, and weatherproofing;~~

~~——(6) Legal: accessibility, codes, ethics, insurance to protect owners and public, laws, life safety, regulations, standards, and zoning;~~

~~——(7) Materials and methods: construction systems, equipment, finishes, furnishings, and products;~~

~~——(8) Pre design: land use analysis, programming, site and soils analysis, site selection, and surveying; and~~

~~——(9) Preservation: adaptation, historic, and reuse Repealed.~~

**Source:** 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(4).~~

**Law Implemented:** ~~SDCL 36-18A-39.~~

**20:38:35:09. Audits.** The executive director shall select a random sample of license renewals to audit for compliance. Each licensee selected for audit shall submit ~~a PDH log of the PDH claimed for the biennium preceding license renewal along with detailed information and documentation for the PDH credit claimed~~ copies of the PDH records required to be kept by § 20:38:35:07 for the audit period. The board may also audit based on complaints or charges against a licensee. Audit submissions must be organized in the same manner as the PDH log. Failure to submit the required documentation within ~~30~~ thirty calendar days of an audit notification or other request for information may result in disciplinary action. Falsification of documentation is grounds for disciplinary action.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; 34 SDR 107, effective October 31, 2007; transferred from § 20:38:23:12, 38 SDR 121, effective January 16, 2012; 47 SDR 73, effective December 21, 2020.

**General Authority:** SDCL 36-18A-22(4).

**Law Implemented:** SDCL 36-18A-39.

**20:38:35:10. Compliance.** If an audit indicates a failure to comply with the professional development requirements, the licensee ~~will have 30 calendar days after receipt of written notice to further reinforce the claim of PDH credits~~ has thirty calendar days, after receipt of written notice of the failure, to show compliance.

If the licensee is unable to ~~reinforce the claim of PDH credits~~ show compliance, the licensee ~~shall~~ must acquire sufficient PDH ~~credit~~ credits to meet the requirements within ~~30~~ thirty calendar days of the receipt of the written notice and ~~is~~ may be subject to disciplinary action.

The board may take into consideration hardship or extenuating circumstances in allowing correction of deficiencies, ~~but the~~. The deadline to acquire sufficient PDH credits may not be extended more than one year.

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:23:13, 38 SDR 121, effective January 16, 2012; 47 SDR 73, effective December 21, 2020.

**General Authority:** SDCL 36-18A-22(4).

**Law Implemented:** SDCL 36-18A-39.

**20:38:36:01. Professional conduct.** To establish and maintain a high standard of integrity, skill, and practice in the professions and to safeguard the life, health, safety, welfare, and property of the public, the following rules of professional conduct are binding upon each person holding a license and on all business entities authorized to offer or perform professional services under this article. ~~Noncompliance with any of the rules of professional conduct can result in disciplinary actions. Licensees shall comply with the following rules of professional conduct:~~

(1) ~~Licensees~~ A licensee shall maintain interest in the public welfare and be ready to apply ~~their~~ the licensee's special knowledge, skill, and training for the use and benefit of the public;

(2) ~~Licensees shall~~ A licensee must be cognizant that ~~their~~ the licensee's first and foremost responsibility is to the public welfare in the performance of services to clients and employers;

(3) ~~Licensees~~ A licensee may not associate with or allow the use of ~~their~~ the licensee's name in connection with any enterprise, person, or firm of questionable character, such as engaging in fraudulent or dishonest business or professional practices;

(4) ~~Licensees~~ A licensee shall carry on professional work in a spirit of fairness to all concerned, fidelity to clients and employers, and loyalty to country and ~~shall~~ must be devoted to high ideals of courtesy and personal honor;

(5) ~~Licensees~~ A licensee shall act with reasonable care and competence and shall apply the technical knowledge and skill ~~which~~ that are ordinarily applied by other professionals of good standing who are practicing in this state;

(6) ~~Licensees~~ A licensee shall regard as confidential any information obtained about the business affairs and technical methods or processes of a client or employer;

(7) ~~Professionals~~ A licensee shall accurately represent to a prospective or existing client or employer ~~their~~ the licensee's qualifications and the scope of ~~their~~ the licensee's responsibility in connection with work for which ~~they are~~ the licensee is claiming credit;

(8) ~~Licenses~~ A licensee shall inform a client or employer of any business connections, interests, or affiliations that might influence ~~their~~ the licensee's judgment or impair the disinterested quality of ~~their~~ the licensee's services. If the client or employer objects to ~~such~~ the business connection, interest, or affiliation, the licensee ~~shall~~ must either terminate the business connection, interest, or affiliation, or offer to give up the employment;

(9) ~~Licenses~~ A licensee shall accept financial or other compensation for a particular service from one source only unless there is full disclosure and the consent of all interested parties;

(10) ~~Licenses~~ A licensee shall comply with the licensure laws and rules governing ~~their~~ the licensee's professional practice in any United States jurisdiction;

(11) ~~Licenses~~ A licensee shall approve and seal only those documents and submissions that conform to accepted architectural, engineering, landscape architectural, land surveying, or petroleum release standards and safeguard the life, health, safety, welfare, and property of the public;

(12) ~~Licenses~~ A licensee shall confine professional services to the profession and technical field in which ~~they are~~ the licensee is licensed and competently qualified;

(13) ~~Licenses~~ A licensee shall undertake to perform professional services only when ~~they~~ the licensee, together with ~~those~~ the individual whom ~~they~~ the licensee may engage as ~~consultants~~ a consultant, ~~are~~ is qualified by education, training, and experience in the specific technical areas involved. If a question arises about the competence of a licensee to perform an assignment in a specific technical field ~~which~~ that cannot be otherwise resolved to the board's satisfaction, the

board may require the licensee to submit to an examination in the technical field as specified by the board;

(14) ~~Licensees~~ A licensee may not seal plans or other documents for the preparation of which ~~they were~~ the licensee is not in direct responsible charge or that deal with subject matter in which ~~they lack~~ the licensee lacks competence;

(15) ~~Licensees~~ A licensee may not directly or indirectly use or make use of, ~~for their own~~ the licensee's benefit, any property, facility, or services of ~~their~~ the licensee's client or employer unless prior authority is obtained;

(16) ~~Licensees~~ A licensee shall cooperate with architectural, engineering, landscape architecture, land surveying, and petroleum release agencies in advancing those professions;

(17) ~~Licensees~~ A licensee may not engage in any discriminatory practices prohibited by law in the employment of personnel and in the conduct of business;

(18) ~~Licensees~~ A licensee may not solicit or accept compensation from a material or equipment ~~suppliers~~ supplier for specifying ~~their~~ the supplier's products;

(19) ~~Licensees~~ A licensee may not solicit or accept compensation, directly or indirectly, from ~~contractors~~ a contractor, ~~their agents~~ the contractor's agent, or other parties not under contract in connection with work for clients or employers for which ~~they are~~ the licensee is responsible;

(20) ~~Licensees~~ A licensee may not offer to pay, directly or indirectly, a commission, political contribution, gift, or other compensation in order to secure work, exclusive of payment made to an employment agency for ~~its~~ the employment agency's services;

(21) ~~Licensees~~ A licensee shall take into account all applicable state and municipal laws, ordinances, and regulations and may not knowingly execute a project in violation of ~~them~~ the laws, ordinances, or regulations;



(22) In the course of work on a project, if a licensee becomes aware of an action taken by the client or employer against the licensee's advice, which violates applicable state or municipal laws, ordinances, and regulations and which will, in the licensee's judgment, adversely affect the life, health, safety, welfare and property of the public, the licensee shall take the following actions:

(a) Advise the client or employer in writing of the licensee's refusal to consent to the decision and give reasons for ~~that~~ the refusal;

(b) If the licensee's advice is ignored despite the objection, terminate the licensee's services to the project; and

(c) Provide a copy of the licensee's objection and reasoning to the public official charged with the enforcement of the applicable state or municipal laws, ordinances, and regulations;

(23) ~~Licensees~~ A licensee shall indicate any reservation on a reference for an applicant if ~~they have~~ the licensee has reason to believe the applicant is unqualified by education, training, or experience to become licensed. The licensee's opinion ~~shall~~ must be based on the qualifications a reasonable and prudent professional would require an applicant to possess;

(24) ~~Licensees~~ A licensee may accept an assignment for coordination of an entire project if each design segment is signed and sealed by the licensee responsible for preparation of that design segment;

(25) ~~Licensees shall~~ A licensee must be completely objective and truthful in all professional reports, statements, or testimony and shall include all relevant and pertinent information in those reports, statements, or testimony;

(26) ~~Licensees~~ A licensee may express a professional opinion publicly only if ~~it~~ the opinion is founded upon adequate knowledge of the facts at issue, upon background of technical

competence in the subject matter, and upon honest conviction of the accuracy and propriety of the licensee's testimony if serving as an expert or technical witness;

(27) ~~Licenseses~~ A licensee making public statements on professional questions shall disclose if the licensee is being compensated for making such statements;

(28) ~~Licenseses~~ A licensee shall make decisions impartially when acting as an interpreter of construction contract documents and a judge of contract performance, favoring neither party to the contract;

(29) ~~Licenseses~~ A licensee who ~~are~~ is aware of the violation of any of the rules of professional conduct by another licensee shall report the violation to the board for investigation;

(30) ~~Licenseses~~ A licensee maintaining an office in South Dakota shall have a licensee regularly employed and scheduled in that office who is in direct responsible charge of the professional work;

(31) ~~Licenseses~~ A licensee may not engage in conduct involving fraud or disregard of the rights of others;

(32) ~~Licenseses are~~ A licensee is bound by and shall comply with all provisions relating to ~~their~~ the licensee's profession and technical field contained in SDCL chapter 36-18A and this article;

(33) ~~Licenseses~~ A licensee must notify the board within ~~30~~ twenty calendar days if another state has disciplined ~~them with a reprimand, censure, suspension, temporary suspension, probation, revocation, or refusal to renew a license;~~ the licensee for any reason and in any manner or if the licensee has received an alternative resolution in lieu of discipline; and

(34) ~~Licenseses~~ A licensee shall respond within ~~30~~ thirty calendar days of an audit notification.

Noncompliance with any of the rules of professional conduct may result in disciplinary action.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:20:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(8).

**Law Implemented:** ~~SDCL 36-18A-22(8)~~ 36-18A-56.

**CHAPTER 20:38:39**  
**DISCIPLINARY PROCEEDINGS**

**(Repealed)**

Section

- 20:38:39:01     Complaints, Repealed.
- 20:38:39:02     Complaint procedure, Repealed.
- 20:38:39:03     Informal disposition of complaints, Repealed.
- 20:38:39:04     Formal proceedings, Repealed.
- 20:38:39:05     Contents of a formal board complaint, Repealed.
- 20:38:39:06     Answer to formal board complaint, Repealed.
- 20:38:39:07     Disqualification, Repealed.
- 20:38:39:08     Procedure for formal hearing, Repealed.
- 20:38:39:09     Final action by board, Repealed.
- 20:38:39:10     Petition for hearing by an aggrieved person, Repealed.
- 20:38:39:11     Petition for declaratory ruling, Repealed.
- 20:38:39:12     Board action on petition, Repealed.
- 20:38:39:13     Adverse ruling, Repealed.

~~**20:38:39:01. Complaints.** Any person, board member, or the executive director of the board, claiming that a licensee or an applicant for licensure under SDCL chapter 36-18A has engaged in or is engaged in conduct constituting grounds for disciplinary action as enumerated in SDCL chapter 36-18A or chapter 20:38:36 may file with the board a written complaint. The board may requires the complaining party to file a complaint verified on oath stating the name of the applicant or licensee against whom the complaint is made and setting out full details of the conduct~~

~~which is alleged to be a violation. Failure to file a written complaint, verified under oath, in the form satisfactory to the board, is a basis to dismiss the complaint. On receipt of a complaint deemed to be in proper form by the board or the executive director, the complaint shall be served by mail upon the applicant or licensee complained against and upon any other affected parties, together with a copy of chapter 20:38:36.~~

~~The applicant or licensee complained against shall respond to the complaint within 20 calendar days after service of the complaint on the applicant or licensee. The response of the applicant or licensee shall be sent to the executive director of the board at the board's office. Upon receipt of the response of the applicant or licensee, or upon expiration of the time for the applicant or licensee complained against to respond, the chair of the board, considering only the complaint and any response, shall appoint one member of the board who, along with the executive director and such other individuals as may be appointed by the chair of the board, to act as an investigative committee to determine if the complaint has merit and constitutes grounds for disciplinary action, or lacks merit and should be dismissed Repealed.~~

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:24:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 36-18A-55, 36-18A-56, 36-18A-59.~~

**Editor's Note:** ~~The Legislative Research Council changed the reference from 20:38:20 to 20:38:36 to correct an inadvertent error.~~

**20:38:39:02. Complaint procedure.** ~~Upon completion of the investigation, the investigating committee shall recommend to the board whether the charges should be dismissed for lack of merit or whether based upon the investigation of the committee there is sufficient basis to proceed with either a formal hearing or other disposition. The failure of a licensee to comply with the investigation request administered by the board may result in disciplinary action. The board may also petition the court of the county in which the individual licensee resides, and the court may enter an order compelling the compliance or imposing such terms and conditions as the court may deem necessary.~~ Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:02, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 36-18A-55, 36-18A-56, 36-18A-59.~~

**20:38:39:03. Informal disposition of complaints.**—~~The board may accept an assurance of voluntary compliance or a consent order regarding a violation of SDCL chapter 36-18A or chapter 20:38:36. The assurance or consent order shall be in writing and is subject to the approval of the board. The assurance or consent order may include a statement that the individual will not engage in such act or practice in the future and one of the following:~~

- ~~(1) Stipulation for voluntary payment of any fine or cost, or both, of the investigation; and~~
- ~~(2) Stipulation for the voluntary payment necessary to restore to any person money or property which may have been acquired by the alleged violator.~~

~~The assurance of voluntary compliance may not be considered an admission to a violation for any purpose. The consent of the licensee to a consent order shall constitute an admission of a violation for any purpose. Proof of the failure to comply with an assurance of voluntary compliance or a consent order shall entitle the board to institute or reinstitute formal proceedings.~~

~~The board shall notify in writing any complaining party, the applicant or licensee complained against, and any other affected parties of the results of the informal disposition of a complaint and the action taken, if any. Informal disposition of a complaint is a public record~~  
Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:04, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 36-18A-55, 36-18A-56, 36-18A-57, 36-18A-59.~~

**20:38:39:04. Formal proceedings.** ~~If an alleged violation has merit constituting grounds for disciplinary action, the board may commence formal proceedings. Formal proceedings shall be instituted by a formal board complaint and service of a notice of hearing by mail upon the applicant or licensee complained against Repealed.~~

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:05, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 1-26-18, 36-18A-55, 36-18A-56, 36-18A-59.~~



**20:38:39:05. Contents of a formal board complaint.**~~The formal board complaint shall include the name of the applicant or licensee complained against, a statement setting forth the nature of the violations being charged that constitute grounds for disciplinary action~~ Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:06, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 1-26-18, 36-18A-55, 36-18A-56, 36-18A-59.~~

**20:38:39:06. Answer to formal board complaint.** ~~The applicant or licensee shall file an answer within 20 calendar days after service of the complaint admitting, denying, qualifying, or explaining all facts alleged in the formal complaint and all defenses of the applicant or licensee or mitigating factors. The licensees shall file the original upon the executive director of the board and a copy by mail to the board counsel Repealed.~~

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:07; 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 1-26-18, 36-18A-55, 36-18A-56, 36-18A-59.~~

**20:38:39:07. Disqualification.** ~~If an alleged violation against an applicant or licensee is filed by a board member, or if a board member participates in the investigation of a violation by an applicant or licensee, that board member is disqualified from sitting at the hearing as a board member and from participating in the decision rendered by the board~~ Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:08, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 1-26-26, 36-18A-59.~~

**20:38:39:08. Procedure for formal hearing.** ~~The following procedure shall be used by the board in conducting formal hearings:~~

~~(1) The board shall provide written notice to the applicant or licensee by mail stating the time, place, and date of the formal hearing. The notice shall require the attendance of the applicant or licensee at the hearing. The notice shall be given at least ten days prior to the formal hearing;~~

~~(2) A transcript shall be kept of all formal hearings and proceedings;~~

~~(3) The board chairman may conduct the formal proceeding or the board may have a hearing examiner conduct the proceedings in part or in full;~~

~~(4) The applicant or licensee appearing before the board at a formal hearing shall appear in person, unless otherwise waived by the board. The applicant or licensee, and his legal counsel, may be present during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses, may present evidence in support of the party's interest, and may have subpoenas issued to compel attendance of witnesses and production of evidence on the party's behalf Repealed.~~

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:09, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 1-26-18, 36-18A-22(9), 36-18A-59.~~

**20:38:39:09. Final action by board.** ~~After a formal hearing, the board may dismiss the formal complaint or issue an order seeking any disciplinary remedy enumerated in SDCL 36-18A-57 and 36-18A-67. The board's decision shall be made and entered with notice of the decision given in accordance with the provisions of SDCL 1-26-23 to 1-26-25, inclusive Repealed.~~

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:10, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(9).~~

**Law Implemented:** ~~SDCL 36-18A-56 to 36-18A-59, inclusive, 36-18A-61.~~

**20:38:39:10. Petition for hearing by an aggrieved person.** ~~In a contested case, as defined in SDCL 1-26-1(2), including disciplinary proceedings, a person aggrieved by an action of the board taken without a hearing may, within 30 days following the date of the board action, petition the board for a hearing. The hearing shall be held at the earliest convenience of the board following receipt of the petition. Twenty days before the date set by the board for hearing, the board shall serve by mail upon the petitioner and other interested or affected parties a copy of the notice of hearing and a copy of the aggrieved person's petition~~ Repealed.

**Source:** 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:11, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22(10).~~

**Law Implemented:** ~~SDCL 36-18A-22(9).~~

**20:38:39:11. Petition for declaratory ruling.** ~~A person seeking a ruling as to the applicability to that person of a statutory provision or rule or order of the board may file with the board a Petition for Declaratory Ruling in substantially the following form:~~

~~Pursuant to the provisions of SDCL 1-26-15, I, (name of petitioner), of (address of petitioner), am (title or capacity of petitioner), and do hereby petition the Board of Technical Professions for its declaratory ruling in regard to the following:~~

- ~~(1) The statute or rule or order in question is: (here identify and quote the pertinent statute, rule, or order.)~~
- ~~(2) The facts and circumstances that give rise to the issue to be answered by the board's declaratory ruling:~~
- ~~(3) The precise issue to be answered by the board's declaratory ruling:~~

~~Dated at (city and state), this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.~~

\_\_\_\_\_  
\_\_\_\_\_  
~~(Signature of Petitioner) Repealed.~~

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:26:01, 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:12, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22.~~

**Law Implemented:** ~~SDCL 1-26-15.~~

**20:38:39:12. Board action on petition.** ~~Upon receipt of the petition, the board may request from the petitioner any information that may be required for the issuance of its ruling. Within 30 days following the receipt of the petition, or within 30 days following receipt of requested information, the board shall issue its declaratory ruling and serve a copy of it by mail upon the petitioner.~~ Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; transferred from § 20:38:26:02, 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:13, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22.~~

**Law Implemented:** ~~SDCL 1-26-15.~~



**20:38:39:13. Adverse ruling.** ~~Any person seeking a declaratory ruling hereunder, is deemed to be aggrieved, in an issue that constitutes a contested case as defined in SDCL 1-26-1(2) made within 30 days of the board's declaratory ruling requests the board for a formal hearing, which hearing shall be held at the earliest convenience of the board following the receipt of the request Repealed.~~

**Source:** 29 SDR 95, effective January 6, 2003; transferred from § 20:38:24:14, 38 SDR 121, effective January 16, 2012.

**General Authority:** ~~SDCL 36-18A-22.~~

**Law Implemented:** ~~SDCL 36-18A-22(10).~~

## Written Public Comments Received



October 7, 2024

Ms. Jodi Aumer  
Board of Technical Professions, Department of Labor and Regulation  
[sdbtp@state.sd.us](mailto:sdbtp@state.sd.us)

Dear Ms. Aumer,

The South Dakota Society of Professional Land Surveyors (SDSPLS) has reviewed the recently proposed rules changes from the Board of Technical Professions and, on behalf of our Board of Directors and our membership, are offering comments, below, regarding the proposed rule changes. To assist in tracking our comments, we have copied in the applicable portion of the proposed rule changes, followed by the SDSPLS comments.

**1. Proposed Changes to 20:38:27:02**

<b>CHAPTER 20:38:27</b>	
<b>GENERAL RULES AFFECTING BOARD</b>	
Section	
20:38:27:01	Definitions.
20:38:27:02	Meetings, <u>Repealed</u> .
20:38:27:03	Organization.
20:38:27:04	Voting.
20:38:27:05	Duties of board members.
20:38:27:06	Absence of officers.
20:38:27:07	National councils.
<b>20:38:27:02. Meetings.</b> <del>The board shall meet every other month beginning in January at the board's office unless otherwise specified by notice</del> <u>Repealed</u> .	
<b>Source:</b> 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:12:01, 38 SDR 121, effective January 16, 2012	
<b>General Authority:</b> <del>SDCL 36-18A-22.</del>	
<b>Law Implemented:</b> <del>SDCL 36-18A-18.</del>	

**SDSPLS Comments:** The BoTP serves to protect the public health and safety through the governance of the professional registrants. The elimination of meetings and therefore the access for the profession to have a voice greatly limits a healthy governance structure between the Boards execution of their responsibilities and the professionals they represent. SDSPLS members who are candidates for licensure or are currently professional land surveyors, value the scheduled meeting times and the opportunity to offer public input to the Board of Technical Professions (BoTP) during the public input portion of the meetings. The public comment portion of the meeting also provides a venue through which SDSPLS can share details on the upcoming professional development hour offerings, required for license renewal, to all South Dakota licensed professionals. These meetings provide licensees and candidates for licensure both in-person and virtual options to observe BoTP actions, including the approval of business and individual licenses, any disciplinary actions, and current activities being considered or conducted by the BoTP. If there is no requirement for meetings and no set meeting schedule, we are concerned these meetings will fail to happen. In summary, **we request this section not be repealed.**

**2. Proposed Changes to 20:38:28:01:**

**20:38:28:01. Certificates.** Upon satisfaction of all requirements for licensure as a professional, enrollment as an intern, or licensure as a business entity, the executive director shall provide the applicant with a numbered certificate indicating the type of license or enrollment and the issue or expiration date. ~~The board shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.~~ The board may provide the certificate in an electronic format.

A certificate of enrollment as an intern does not authorize the enrollee to practice as a licensed professional or to imply that such a professional title is held.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:18:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-25, 36-18A-36.

**SDSPLS Comments:** Applicants for licensure, licensees, businesses, and professional associations all use the BoTP meeting minutes to confirm which applicants have been newly granted licensure. The BoTP meeting agenda for each meeting currently lists the approved licenses, approved certificates, and those candidates approved to take the exam. However, if there is any discussion on these lists during the BoTP meeting and any edits are made to these lists, there will not be any public documentation available if the applicants granted licensure are not included in the meeting minutes. In addition, there is currently no

way for the public to ascertain a list of new licensees through the online database, nor is there a way to sort licensees by date of initial licensure, again eliminating the opportunity to research who was licensed on what date. Per "36-18A-24. Record and report policy. The board shall maintain the following record and report policy: (1) A record of its proceedings and all current applications of licensure shall be retained", **SDSPLS requests this section not be struck, as proposed, and request the board shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.**

**3. Proposed Changes to 20:38:29:01:**

**20:38:29:01. Application required.** An application is required in accordance with the provisions of this chapter, for each of the following:

- (1) Individual licensure;
- (2) Individual license renewal;
- (3) Individual license reactivation;
- (4) Business entity licensure;
- (5) Business entity license renewal; and
- (6) Business entity license reactivation; and
- (7) ~~Admission to examination, including FE, PE, FS, LS, and petroleum release examinations.~~

An electronic application must be made ~~on the appropriate form~~ submitted using the method designated by the board office, be complete, ~~legible~~, and accompanied by the appropriate application fee. By submitting an application, an applicant certifies, under penalty of perjury, that the information submitted by the applicant is true and correct. An applicant may be required to clarify or provide additional information as needed to fully evaluate the application.

Any change in the information provided by an applicant or licensee, including the mail or email address must be provided to the board office within ~~30~~ 10 calendar days of the change.


**SDSPLS Comments:** In the final paragraph shown above the Board is proposing that any change in the information provided by an applicant or licensee, including the mail or email address, must be provided to the board within 10 calendar days of the change, a significant reduction from the current 30 days. During a life-changing event, such as a move, minimizing the time for one to change an address to 10 days is too short of a time frame and significantly reduces the chance for success. If an applicant or licensee doesn't change

their address, the applicant or licensee may suffer by not receiving all communications from the BoTP, which should encourage applicants or licensees to update their information as soon as possible. However, it does not appear any negligence in updating would affect the BoTP or its ability to act. **We request this rule remain with its current requirement of 30 days or be updated to state 30 calendar days or 30 business days, as appropriate.**

4. Requested Changes to 20:38:29:02:

## Administrative Rules

Home > Administrative Rules >  
20:38 > 29 > 2

Go To:(01:15) or Google Search 

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**20:38:29:02. References.** Applications for licensure shall include the names and addresses of at least five references. At least three references must be licensed professionals in good standing in the applicant's profession, and each reference must have personal knowledge of the applicant's experience.

~~Applications for admission to examination shall include, as references, the names and addresses of the licensed professionals in responsible charge of the applicant's professional experience in each professional employment period. If any response is unfavorable, additional qualifying experience may be required. If a reference fails to respond, the application may be delayed until either the response is received or the response of another reference is received. A current board member may not be used as a reference.~~

Source: 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:13:02, 38 SDR 121, effective January 16, 2012.

General Authority: SDCL 36-18A-22(1).

Law Implemented: SDCL 36-18A-22(1), 36-18A-33.

**SDSPLS Comments:** SDSPLS proposes that paragraph two of 20:38:29:02 will no longer be applicable, and should be struck as shown above.



## 5. Proposed Changes to 20:38:30:03:

**20:38:30:03. Land surveying.** An applicant for licensure as a land surveyor shall meet the following education requirement:

- (1) A bachelor level degree in surveying from a program accredited by the EAC, ASAC, or TAC of ABET or other education assessed by the board as equivalent;
- (2) A bachelor level degree in a related technical program; or
- (3) A bachelor level degree in a non-related program or an associate level technical degree in surveying or related technical program.

~~In all cases, reference above to a degree in a related technical program shall be a degree having a program of study which includes~~ A related technical program shall include basic courses in mathematics, physical science, and other subject areas related to surveying at least 24 total semester credit hours of surveying education as determined by the board. The board will determine which programs are related technical programs and which are non-related programs. The required surveying education shall include a least one course in each of the following: basic principles of surveying, advanced applications of surveying, original public land survey system, and boundary surveying.

~~Each applicant for licensure must complete at least 24 total semester credit hours of surveying education, which may consist of the successful completion of either surveying courses included in the degree program or surveying courses which were taken outside of and in addition to the degree program, or a combination of both. The surveying courses must be acquired from education institutions offering degrees as described above or as acceptable to the board. The surveying courses shall be unique in title and subject matter, and may not be duplicates of each other. The surveying courses shall range from basic principles of surveying through advanced applications of surveying, and shall include courses on the original public land survey system and~~

~~boundary surveying. In the event all or a portion of the surveying education is earned as quarter credit hours, the equivalent education shall be based on equating one semester credit hour as being equal to one and one-half quarter credit hours.~~

~~Land surveying interns (LSIT or LSI) who have completed all of the requirements and who apply for licensure as a land surveyor prior to December 31, 2022, may apply for licensure under the licensing requirements that existed on January 1, 2011.~~

~~Source: 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:14:05, 38 SDR 121, effective January 16, 2012.~~

~~General Authority: SDCL 36-18A-22(3), 36-18A-28, 36-18A-29.~~

~~Law Implemented: SDCL 36-18A-1(15)(16), 36-18A-4, 36-18A-28, 36-18A-29, 36-18A-~~

~~32.~~

**SDSPLS Comments:** Of all the proposed rule changes, this section is definitely the most concerning, as it significantly reduces the education requirements for an applicant for licensure as a land surveyor. The existing rule requires 24 total semester credit hours of surveying education, as described, for **all applicants in all cases**. The proposed rule changes will only require 24 hours of surveying education for applicants with a bachelor level degree in a related technical program. This change will mean that anyone pursuing licensure under 20:38:30:03 (3) could have a degree in a non-related program with no surveying education at all and be allowed to apply for licensure. This change would put the health, safety, and welfare of South Dakotans at risk in that someone with absolutely no surveying education could potentially be licensed in South Dakota.

SDSPLS concurs that this section is confusing and should be rewritten to clarify the educational options for pursuing professional licensure in land surveying. We also believe additional clarification is needed in defining 'a related technical program' and '24 total semester credit hours as determined by the Board' to remove the confusion that forces the BoTP members to unnecessarily interpret the rule, in addition to enforcing it. SDSPLS would like to work with the BoTP on these clarifications, however the currently proposed rule changes provide more confusion and should be removed from this rule packet.

**SDSPLS requests all the proposed edits within the section above be removed, except for those in the last paragraph, regarding land surveying interns.**



## 6. Proposed Changes to 20:38:31:04

**20:38:31:04. Land surveying.** An applicant for licensure as a Land Surveyor shall meet the following experience requirement:

(1) Four years of experience, of which a minimum of two years shall be after earning the degree and a minimum of two years shall be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(1) or (2); or

(2) Seven years of experience, of which a minimum of three years shall be after earning the degree and a minimum of two years shall be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(3).

**SDSPLS Comments:** The clipped portion of this section, above, does not propose any rule changes, however, there continues to be confusion as to whether the experience is required to start after the 24 hours of surveying education is completed or merely after the degree is achieved. SDSPLS recommends that this be discussed as part of the reworking of 20:38:30:03.

## 7. Proposed changes to 20:38:32:04

**20:38:32:04. Land surveying.** An applicant for licensure as a land surveyor shall pass the Fundamentals of Land Surveying (FS) examination, the Principles and Practice of Land Surveying (PS) examination and an open book, take-home examination of South Dakota land surveying practice and laws.

Current students and graduates of the educational programs described in § 20:38:30:03 that have either successfully completed, or are currently enrolled in, a minimum total of 18 semester credit hours of surveying courses within, or in addition to, their program of study may ~~apply~~ register for the FS examination with NCEES. An applicant who passes the examination shall be enrolled as a land surveyor-in-training (LSIT) or land surveying intern (LSI). Passage of the examination does not authorize any person to practice as a land surveyor or to imply that such a professional title is held.

**SDSPLS Comments:** Again, the clipped portion of 20:38:32:04, above, is an example of a confusing section of the rule, regarding the status of the 18 semester hours, that has not been clarified in these proposed rules, but could be addressed as SDSPLS and the BoTP work together on other clarifications.

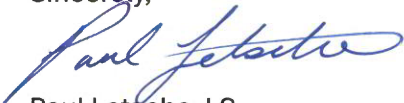
- 8. Incorrect Mailing Address:** In addition to the comments above, we also would like to point out that the mailing address stated in Form 6 identifying where written comments should be mailed incorrectly states the former mailing address of the BoTP. We are concerned that written comments may not be received by the deadline, if they need to be forwarded to the BoTP by the post office.
- 9. Notification of Rules Changes:** Although we understand it is not required by law, it seems that a notice of proposed rule changes could be sent to all licensees for which the BoTP has an email address. The likelihood of a licensee catching the publication in a newspaper is unlikely. With the advance of email and electronic communication, notification by email seems like an easy way to communicate these proposed changes to licensees.

SDSPLS appreciates the efforts to update the rules and to modify the items needed in order accommodate decoupling, as previously approved by the BoTP. However, the above changes go beyond updates and decoupling. We request the items described above be removed from the proposed changes, as noted. We would also like to work with the BoTP to clarify the sections noted to provide better guidance for the BoTP members, licensed professionals, and those pursuing professional licensing.

SDSPLS was established in 1983 to facilitate and promote Professional Land Surveying in the state of South Dakota. Our mission is to promote the profession, assist surveying professionals through education and information, and to provide a unified voice for fellow surveyors in South Dakota. SDSPLS currently has 254 members, including 120 Professional Land Surveyors and 31 Land Surveyors in Training.

Thank you for your consideration. Please confirm receipt of these comments by emailing me at [paul.letsche@southeasttech.edu](mailto:paul.letsche@southeasttech.edu) and copying Nancy Hoines, SDSPLS Executive Director, at [DirectorSDSPLS@hotmail.com](mailto:DirectorSDSPLS@hotmail.com)

Sincerely,



Paul Letsche, LS  
President  
South Dakota Society of Professional Land Surveyors  
PO Box 1073, Pierre, SD 57501  
(605) 351-8076

CC: Marcia Hultman, Cabinet Secretary, SD Department of Labor and Regulation



October 7, 2024

Ms. Jodi Aumer  
Board of Technical Professions, Department of Labor and Regulation  
[sdbtp@state.sd.us](mailto:sdbtp@state.sd.us)

Dear Ms. Aumer,

The South Dakota Engineering Society (SDES) has reviewed the recently proposed rules changes from the Board of Technical Professions and, on behalf of our Board of Directors and our membership, are offering comments, below, regarding the proposed rule changes. To assist in tracking our comments, we have copied in the applicable portion of the proposed rule changes, followed by the SDES comments.

**1. Proposed Changes to 20:38:27:02**

**CHAPTER 20:38:27**

**GENERAL RULES AFFECTING BOARD**

Section	
20:38:27:01	Definitions.
20:38:27:02	Meetings, <u>Repealed</u> .
20:38:27:03	Organization.
20:38:27:04	Voting.
20:38:27:05	Duties of board members.
20:38:27:06	Absence of officers.
20:38:27:07	National councils.

**20:38:27:02. Meetings.** ~~The board shall meet every other month beginning in January at the board's office unless otherwise specified by notice~~ Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:12:01, 38 SDR 121, effective January 16, 2012

~~**General Authority:** SDCL 36-18A-22.~~

~~**Law Implemented:** SDCL 36-18A-18.~~

**SDES Comments:** The BoTP serves to protect the public health and safety through the governance of the professional registrants. The elimination of meetings and therefore the access for the profession to have a voice greatly limits a healthy governance structure between the Boards execution of their responsibilities and the professionals they represent. SDES members value the scheduled meeting times and the opportunity to offer public input to the Board of Technical Professions (BoTP) during the public input portion of the meetings. The public comment portion of the meeting also provides a venue through which SDES can share details on the upcoming professional development hour offerings, required for license renewal, to all South Dakota licensed professionals. The BoTP meetings provide licensees and candidates for licensure both in-person and virtual options to observe BoTP actions, including the approval of business and individual licenses, any disciplinary actions, and current activities being considered or conducted by the BoTP. If there is no requirement for meetings and no set meeting schedule, we are concerned these meetings will fail to happen. In summary, **we request this section not be repealed.**

## 2. Proposed Changes to 20:38:28:01:

**20:38:28:01. Certificates.** Upon satisfaction of all requirements for licensure as a professional, enrollment as an intern, or licensure as a business entity, the executive director shall provide the applicant with a numbered certificate indicating the type of license or enrollment and the issue or expiration date. ~~The board shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.~~ The board may provide the certificate in an electronic format.

A certificate of enrollment as an intern does not authorize the enrollee to practice as a licensed professional or to imply that such a professional title is held.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:18:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-25, 36-18A-36.

**SDES Comments:** Applicants for licensure, licensees, businesses, and professional associations all use the BoTP meeting minutes to confirm which applicants have been newly granted licensure. The BoTP meeting agenda for each meeting currently lists the approved licenses, approved certificates, and those candidates approved to take the exam. However, if there is any discussion on these lists during the BoTP meeting and any edits are made to these lists, there will not be any public documentation available if the applicants granted licensure are not included in the meeting minutes. In addition, there is currently no way for the public to ascertain a list of new licensees through the online database, nor is there a way to sort licensees by date of initial licensure, again eliminating the opportunity to

research who was licensed on what date. Per “9274A\_80; Record and report policy. The board shall maintain the following record and report policy: (7) A record of its proceedings and all current applications of licensure shall be retained. **the SDES requests this section not be struck, as proposed, and request the BoTP shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.**

### 3. Proposed Changes to 20:38:29:01:

**20:38:29:01. Application required.** An application is required in accordance with the provisions of this chapter, for each of the following:

- (1) Individual licensure;
- (2) Individual license renewal;
- (3) Individual license reactivation;
- (4) Business entity licensure;
- (5) Business entity license renewal; and
- (6) Business entity license reactivation; and
- ~~(7) Admission to examination, including FE, PE, FS, LS, and petroleum release examinations.~~

An electronic application must be ~~made on the appropriate form~~ submitted using the method designated by the board office, be complete, ~~legible~~, and accompanied by the appropriate application fee. By submitting an application, an applicant certifies, under penalty of perjury, that the information submitted by the applicant is true and correct. An applicant may be required to clarify or provide additional information as needed to fully evaluate the application.

Any change in the information provided by an applicant or licensee, including the mail or email address must be provided to the board office within ~~30~~ 10 calendar days of the change.

**SDES Comments:** In the final paragraph shown above the Board is proposing that any change in the information provided by an applicant or licensee, including the mail or email address, must be provided to the board within 10 calendar days of the change, a significant reduction from the current 30 days. During a life-changing event, such as a move, minimizing the time for one to change an address to 10 days is too short of a time frame and significantly reduces the chance for success. If an applicant or licensee doesn't change their address, the applicant or licensee may suffer by not receiving all communications from the BoTP, which should encourage applicants or licensees to update their information




as soon as possible. However, it does not appear any negligence in updating would affect the BoTP or its ability to act. **We request this rule retains its current requirement of 30 days, or be updated to state 30 calendar days or 30 business days, as appropriate.**

4. Requested Changes to 20:38:29:02:

## Administrative Rules

Home > Administrative Rules >

20:38 > 29 > 2

Go To:(01:15) or Google Search 

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**20:38:29:02. References.** Applications for licensure shall include the names and addresses of at least five references. At least three references must be licensed professionals in good standing in the applicant's profession, and each reference must have personal knowledge of the applicant's experience.

~~Applications for admission to examination shall include, as references, the names and addresses of the licensed professionals in responsible charge of the applicant's professional experience in each professional employment period. If any response is unfavorable, additional qualifying experience may be required. If a reference fails to respond, the application may be delayed until either the response is received or the response of another reference is received. A current board member may not be used as a reference.~~

Source: 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:13:02, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-22(1), 36-18A-33.

**SDES Comments:** SDES proposes that paragraph two of 20:38:29:02 will no longer be applicable and should be struck, as indicated above.

**5. Proposed Changes to 20:38:30:03:**

**20:38:30:03. Land surveying.** An applicant for licensure as a land surveyor shall meet the following education requirement:

(1) A bachelor level degree in surveying from a program accredited by the EAC, ASAC, or TAC of ABET or other education assessed by the board as equivalent;

(2) A bachelor level degree in a related technical program; or

(3) A bachelor level degree in a non-related program or an associate level technical degree in surveying or related technical program.

~~In all cases, reference above to a degree in a related technical program shall be a degree having a program of study which includes~~ A related technical program shall include basic courses in mathematics, physical science, and other subject areas related to surveying at least 24 total semester credit hours of surveying education as determined by the board. The board will determine which programs are related technical programs and which are non-related programs. The required surveying education shall include a least one course in each of the following: basic principles of surveying, advanced applications of surveying, original public land survey system, and boundary surveying.

~~Each applicant for licensure must complete at least 24 total semester credit hours of surveying education, which may consist of the successful completion of either surveying courses included in the degree program or surveying courses which were taken outside of and in addition to the degree program, or a combination of both. The surveying courses must be acquired from education institutions offering degrees as described above or as acceptable to the board. The surveying courses shall be unique in title and subject matter, and may not be duplicates of each other. The surveying courses shall range from basic principles of surveying through advanced applications of surveying, and shall include courses on the original public land survey system and~~

~~boundary surveying. In the event all or a portion of the surveying education is earned as quarter credit hours, the equivalent education shall be based on equating one semester credit hour as being equal to one and one-half quarter credit hours.~~

~~Land surveying interns (LSIT or LSI) who have completed all of the requirements and who apply for licensure as a land surveyor prior to December 31, 2022, may apply for licensure under the licensing requirements that existed on January 1, 2011.~~

~~Source: 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:14:05, 38 SDR 121, effective January 16, 2012.~~

~~General Authority: SDCL 36-18A-22(3), 36-18A-28, 36-18A-29.~~

~~Law Implemented: SDCL 36-18A-1(15)(16), 36-18A-4, 36-18A-28, 36-18A-29, 36-18A-~~

~~32.~~

**SDES Comments:** Of all the proposed rule changes, this section is definitely the most concerning, as it significantly reduces the education requirements for an applicant for licensure as a land surveyor. The existing rule requires 24 total semester credit hours of surveying education, as described, for **all applicants in all cases**. The proposed rule changes will only require 24 hours of surveying education for applicants with a bachelor level degree in a related technical program. This change will mean that anyone pursuing licensure under 20:38:30:03 (3) could have a degree in a non-related program with no surveying education at all and be allowed to apply for licensure. This change would put the health, safety, and welfare of South Dakotans at risk in that someone with absolutely no surveying education could potentially be licensed in South Dakota.

SDES has several members who are licensed with both a PE and PLS, and concurs that this section is confusing and should be rewritten to clarify the educational options for pursuing professional licensure in land surveying. We also believe additional clarification is needed in defining 'a related technical program' and '24 total semester credit hours as determined by the Board' to remove the confusion that forces the BoTP members to unnecessarily interpret the rule, in addition to enforcing it. SDES would like to work with the BoTP on these clarifications, however the currently proposed rule changes only provide more confusion and should be removed from this rule packet.

**SDES requests all the proposed edits within the section above be removed, except for those in the last paragraph regarding land surveying interns.**



## 6. Proposed Changes to 20:38:32:03

**20:38:32:03. Engineering.** An applicant for licensure as a Professional Engineer shall pass the Fundamentals of Engineering (FE) examination and the Principles and Practice of Engineering (PE) examination, which are prepared and scored by NCEES.

An applicant who has satisfied the engineering education requirement or who is a senior within two semesters of graduating from an ABET accredited engineering program approved by the board may ~~apply for admission to~~ register for the FE examination with NCEES. ~~The applicant must have a transcript or senior status verification sent directly from the school to the board office as evidence of applicant's status.~~ An applicant who passes the FE examination shall be enrolled as an engineer-in-training (EIT) or an engineering intern (EI). Passage of the FE examination does not authorize any person to practice as a professional engineer or to imply that such a professional title is held.

An applicant who has passed the FE examination and has satisfied the engineering education and ~~experience requirements~~ may ~~apply for admission to~~ register for the PE examination with NCEES.

An applicant who fails the FE or PE examination may retake the examination two times. If the applicant fails the examination three times, the applicant may submit only one new application for admission to the examination per calendar year thereafter. The board may review an applicant who has failed the examination three times and may require additional qualifying education or experience.

**SDES Comments:** The last statement of paragraph two indicates that passage of the FE examination does not authorize any person to practice as a professional engineer or to imply that such a professional title is held. It seems a similar statement should be included regarding passage of the PE, especially due to decoupling allowing for passage of the PE prior to the fulfillment of the required experience.

NCEES policy ([NCEESExamGuide June-2024.pdf](#)) states “NCEES policy states examinees may attempt a particular NCEES exam one time per testing window and no more than three times during any 12-month period. Some licensing boards have a more restrictive policy. Visit your licensing board to review the policy of the board you selected during the registration process.” If the BoTP is no longer reviewing the applications for examination is the last paragraph and, specifically, the last sentence of the above still applicable?

- 7. Incorrect Mailing Address:** In addition to the comments above, we also would like to point out that the mailing address stated in Form 6 identifying where written comments should be mailed incorrectly states the former mailing address of the BoTP. We are concerned that written comments may not be received by the deadline, if they need to be forwarded to the BoTP by the post office.
- 8. Notification of Rules Changes:** Although we understand it is not required by law, it seems that a notice of proposed rule changes could be sent to all licensees for which the BoTP has an email address. The likelihood of a licensee catching the publication in a newspaper is unlikely. With the advance of email and electronic communication, notification by email seems like an easy way to communicate these proposed changes to licensees.

The South Dakota Engineering Society is the state society of engineers from all disciplines that promotes the ethical and competent practice of engineering, advocates licensure, enhances the image of its members and advocates legislation and public policy for the betterment of human welfare and the profession. SDES/NSPE-SD is an affiliate of the National Society of Professional Engineers. The 505 SDES members include 368 professional engineers, 70 engineers in training, and 19 dual licensed PE/PLS.

The SDES appreciates the efforts to update the rules and to modify the items needed in order to accommodate decoupling, as previously approved by the BoTP. However, the above changes go beyond updates and decoupling. We request the items described above be removed from the proposed changes, as noted. We would also like to work with the BoTP to clarify the sections noted to provide better guidance for the BoTP members, licensed professionals, and those pursuing professional licensing.

Thank you for your consideration. Please confirm receipt of these comments by emailing me at [amy.dirienzo@sdsmt.edu](mailto:amy.dirienzo@sdsmt.edu) and copying Nancy Hoines, SDES Executive Director, at [sdengineeringsociety@gmail.com](mailto:sdengineeringsociety@gmail.com)

Sincerely,



Amy DiRienzo, PE  
President  
South Dakota Engineering Society/NSPE-SD  
PO Box 1076  
Pierre, SD 57501  
(307) 286-5329

CC: Marcia Hultman, Cabinet Secretary, SD Department of Labor and Regulation



# Design Professionals Coalition of South Dakota

October 7, 2024

Ms. Jodi Aumer  
Board of Technical Professions, Department of Labor and Regulation  
[sdbtp@state.sd.us](mailto:sdbtp@state.sd.us)

Dear Ms. Aumer,

The Design Professionals Coalition of SD has reviewed the recently proposed rules changes from the Board of Technical Professions and, on behalf of our Board of Directors and our membership, are offering comments, below, regarding the proposed rule changes. To assist in tracking our comments, we have copied in the applicable portion of the proposed rule changes, followed by the DPC comments.

## 1. Proposed Changes to 20:38:27:02

CHAPTER 20:38:27	
GENERAL RULES AFFECTING BOARD	
Section	
20:38:27:01	Definitions.
20:38:27:02	Meetings, <u>Repealed</u> .
20:38:27:03	Organization.
20:38:27:04	Voting.
20:38:27:05	Duties of board members.
20:38:27:06	Absence of officers.
20:38:27:07	National councils.
<b>20:38:27:02. Meetings.</b> <del>The board shall meet every other month beginning in January at the board's office unless otherwise specified by notice</del> <u>Repealed</u> .	
<b>Source:</b> 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:12:01, 38 SDR 121, effective January 16, 2012	
<b>General Authority:</b> <del>SDCL 36-18A-22.</del>	
<b>Law Implemented:</b> <del>SDCL 36-18A-18.</del>	

**DPC Comments:** The BoTP serves to protect the public health and safety through the governance of the professional registrants. The elimination of meetings and therefore the

access for the profession to have a voice greatly limits a healthy governance structure between the Boards execution of their responsibilities and the professionals they represent. DPC member organizations value the scheduled meeting times and the opportunity to offer public input to the Board of Technical Professions (BoTP) during the public input portion of the meetings. The public comment portion of the meeting also provides a venue through which our member organizations can share details on the upcoming professional development hour offerings, required for license renewal, to all South Dakota licensed professionals. The BoTP meetings provide licensees and candidates for licensure both in-person and virtual options to observe BoTP actions, including the approval of business and individual licenses, any disciplinary actions, and current activities being considered or conducted by the BoTP. If there is no requirement for meetings and no set meeting schedule, we are concerned these meetings will fail to happen, thus reducing licensees' access to the BoTP and board actions which may affect professional licensure or professional licensees. In summary, **we request this section not be repealed.**

## 2. Proposed Changes to 20:38:28:01:

**20:38:28:01. Certificates.** Upon satisfaction of all requirements for licensure as a professional, enrollment as an intern, or licensure as a business entity, the executive director shall provide the applicant with a numbered certificate indicating the type of license or enrollment and the issue or expiration date. ~~The board shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.~~ The board may provide the certificate in an electronic format.

A certificate of enrollment as an intern does not authorize the enrollee to practice as a licensed professional or to imply that such a professional title is held.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:18:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-25, 36-18A-36.

**DPC Comments:** Applicants for licensure, licensees, businesses, and professional associations all use the BoTP meeting minutes to confirm which applicants have been newly granted licensure. The BoTP meeting agenda for each meeting currently lists the approved licenses, approved certificates, and those candidates approved to take the exam. However, if there is any discussion on these lists during the BoTP meeting and any edits are made to these lists, there will not be any public documentation available if the applicants granted licensure are not included in the meeting minutes. In addition, there is currently no way for the public to ascertain a list of new licensees through the online database, nor is there a way to sort licensees by date of initial licensure, again eliminating the opportunity to



research who was licensed on what date. Per “36-18A-24. Record and report policy. The board shall maintain the following record and report policy: (1) A record of its proceedings and all current applications of licensure shall be retained”; **the DPC requests this section not be struck, as proposed, and request the board shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.**

**3. Proposed Changes to 20:38:29:01:**

**20:38:29:01. Application required.** An application is required in accordance with the provisions of this chapter, for each of the following:

- (1) Individual licensure;
- (2) Individual license renewal;
- (3) Individual license reactivation;
- (4) Business entity licensure;
- (5) Business entity license renewal; and
- (6) Business entity license reactivation; ~~and,~~
- ~~(7) Admission to examination, including FE, PE, FS, LS, and petroleum release examinations.~~

An electronic application must be ~~made on the appropriate form~~ submitted using the method designated by the board office, be complete, ~~legible,~~ and accompanied by the appropriate application fee. By submitting an application, an applicant certifies, under penalty of perjury, that the information submitted by the applicant is true and correct. An applicant may be required to clarify or provide additional information as needed to fully evaluate the application.

Any change in the information provided by an applicant or licensee, including the mail or email address must be provided to the board office within ~~30~~ 10 calendar days of the change.

**DPC Comments:** In the final paragraph shown above the Board is proposing that any change in the information provided by an applicant or licensee, including the mail or email address, must be provided to the board within 10 calendar days of the change, a significant reduction from the current 30 days. During a life-changing event, such as a move, minimizing the time for one to change an address to 10 days is too short of a time frame and significantly reduces the chance for success. If an applicant or licensee doesn't change their address, the applicant or licensee may suffer by not receiving all communications from the BoTP, which should encourage applicants or licensees to update their information

as soon as possible. However, it does not appear any negligence in updating would affect the BoTP or its ability to act. **We request this rule remain with its current requirement of 30 days, or be updated to state 30 calendar days or 30 business days, as appropriate.**

4. Requested Changes to 20:38:29:02:

## Administrative Rules

Home > Administrative Rules >

20:38 > 29 > 2

Go To:(01:15) or Google Search

DOWNLOAD 20:38:29:02 IN MICROSOFT WORD FORMAT      PRINTER FRIENDLY

**20:38:29:02. References.** Applications for licensure shall include the names and addresses of at least five references. At least three references must be licensed professionals in good standing in the applicant's profession, and each reference must have personal knowledge of the applicant's experience.

~~Applications for admission to examination shall include, as references, the names and addresses of the licensed professionals in responsible charge of the applicant's professional experience in each professional employment period. If any response is unfavorable, additional qualifying experience may be required. If a reference fails to respond, the application may be delayed until either the response is received or the response of another reference is received. A current board member may not be used as a reference.~~

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:13:02, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-22(1), 36-18A-33.

**DPC Comments:** DPC proposes that paragraph two of 20:38:29:02 will no longer be applicable, and should be struck as shown.

(Continued on next page)

**5. Proposed Changes to 20:38:30:03:**

**20:38:30:03. Land surveying.** An applicant for licensure as a land surveyor shall meet the following education requirement:

- (1) A bachelor level degree in surveying from a program accredited by the EAC, ASAC, or TAC of ABET or other education assessed by the board as equivalent;
- (2) A bachelor level degree in a related technical program; or
- (3) A bachelor level degree in a non-related program or an associate level technical degree in surveying or related technical program.

~~In all cases, reference above to a degree in a related technical program shall be a degree having a program of study which includes~~ A related technical program shall include basic courses in mathematics, physical science, and other subject areas related to surveying at least 24 total semester credit hours of surveying education as determined by the board. The board will determine which programs are related technical programs and which are non-related programs. The required surveying education shall include a least one course in each of the following: basic principles of surveying, advanced applications of surveying, original public land survey system, and boundary surveying.

~~Each applicant for licensure must complete at least 24 total semester credit hours of surveying education, which may consist of the successful completion of either surveying courses included in the degree program or surveying courses which were taken outside of and in addition to the degree program, or a combination of both. The surveying courses must be acquired from education institutions offering degrees as described above or as acceptable to the board. The surveying courses shall be unique in title and subject matter, and may not be duplicates of each other. The surveying courses shall range from basic principles of surveying through advanced applications of surveying, and shall include courses on the original public land survey system and~~



~~boundary surveying. In the event all or a portion of the surveying education is earned as quarter credit hours, the equivalent education shall be based on equating one semester credit hour as being equal to one and one-half quarter credit hours.~~

~~Land surveying interns (LSIT or LSI) who have completed all of the requirements and who apply for licensure as a land surveyor prior to December 31, 2022, may apply for licensure under the licensing requirements that existed on January 1, 2011.~~

~~Source: 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:14:05, 38 SDR 121, effective January 16, 2012.~~

~~General Authority: SDCL 36-18A-22(3), 36-18A-28, 36-18A-29.~~

~~Law Implemented: SDCL 36-18A-1(15)(16), 36-18A-4, 36-18A-28, 36-18A-29, 36-18A-~~

~~32.~~

**DPC Comments:** Of all the proposed rule changes, this section is definitely the most concerning, as it significantly reduces the education requirements for an applicant for licensure as a land surveyor. The existing rule requires 24 total semester credit hours of surveying education, as described, for **all applicants in all cases**. The proposed rule changes will only require 24 hours of surveying education for applicants with a bachelor level degree in a related technical program. This change will mean that anyone pursuing licensure under 20:38:30:03 (3) could have a degree in a non-related program with no surveying education at all and be allowed to apply for licensure. This change would put the health, safety, and welfare of South Dakotans at risk in that someone with absolutely no surveying education could potentially be licensed in South Dakota.

DPC concurs that this section is confusing and should be rewritten to clarify the educational options for pursuing professional licensure in land surveying. We also believe additional clarification is needed in defining 'a related technical program' and '24 total semester credit hours as determined by the Board' to remove the confusion that forces the BoTP members to unnecessarily interpret the rule, in addition to enforcing it. DPC would like to work with the BoTP on these clarifications, however the currently proposed rule changes only provide more confusion and should be removed from this rule packet.

**The DPC requests all the proposed edits within the section above be removed, except for those in the last paragraph regarding land surveying interns.**

(Continued on next page)

## 6. Proposed Changes to 20:38:31:04

**20:38:31:04. Land surveying.** An applicant for licensure as a Land Surveyor shall meet the following experience requirement:

(1) Four years of experience, of which a minimum of two years shall be after earning the degree and a minimum of two years shall be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(1) or (2); or

(2) Seven years of experience, of which a minimum of three years shall be after earning the degree and a minimum of two years shall be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(3).

**DPC Comments:** The clipped portion of this section, above, does not propose any rule changes, however, there continues to be confusion as to whether the experience is required to start after the 24 hours of surveying education is completed or merely after the degree is achieved. DPC recommends that this be discussed as part of the reworking of 20:38:30:03.

(Continued on next page)

## 7. Proposed Changes to 20:38:32:03

**20:38:32:03. Engineering.** An applicant for licensure as a Professional Engineer shall pass the Fundamentals of Engineering (FE) examination and the Principles and Practice of Engineering (PE) examination, which are prepared and scored by NCEES.

An applicant who has satisfied the engineering education requirement or who is a senior within two semesters of graduating from an ABET accredited engineering program approved by the board may ~~apply for admission to~~ register for the FE examination with NCEES. ~~The applicant must have a transcript or senior status verification sent directly from the school to the board office as evidence of applicant's status.~~ An applicant who passes the FE examination shall be enrolled as an engineer-in-training (EIT) or an engineering intern (EI). Passage of the FE examination does not authorize any person to practice as a professional engineer or to imply that such a professional title is held.

An applicant who has passed the FE examination and has satisfied the engineering education ~~and experience requirements~~ may ~~apply for admission to~~ register for the PE examination with NCEES.

An applicant who fails the FE or PE examination may retake the examination two times. If the applicant fails the examination three times, the applicant may submit only one new application for admission to the examination per calendar year thereafter. The board may review an applicant who has failed the examination three times and may require additional qualifying education or experience.

**DPC Comments:** The last statement of paragraph two indicates that passage of the FE examination does not authorize any person to practice as a professional engineer or to imply that such a professional title is held. It seems a similar statement should be included regarding passage of the PE, especially due to decoupling allowing for passage of the PE prior to the fulfillment of the required experience.

NCEES policy ([NCEESExamGuide\\_June-2024.pdf](#)) states "NCEES policy states examinees may attempt a particular NCEES exam one time per testing window and no more than three times during any 12-month period. Some licensing boards have a more restrictive policy. Visit your licensing board to review the policy of the board you selected during the registration process." If the BoTP is no longer reviewing the applications for examination is the last paragraph and, specifically, the last sentence of the above still applicable?



## 8. Proposed changes to 20:38:32:04

**20:38:32:04. Land surveying.** An applicant for licensure as a land surveyor shall pass the Fundamentals of Land Surveying (FS) examination, the Principles and Practice of Land Surveying (PS) examination and an open book, take-home examination of South Dakota land surveying practice and laws.

Current students and graduates of the educational programs described in § 20:38:30:03 that have either successfully completed, or are currently enrolled in, a minimum total of 18 semester credit hours of surveying courses within, or in addition to, their program of study may ~~apply~~ register for the FS examination with NCEES. An applicant who passes the examination shall be enrolled as a land surveyor-in-training (LSIT) or land surveying intern (LSI). Passage of the examination does not authorize any person to practice as a land surveyor or to imply that such a professional title is held.

**DPC Comments:** Again, the clipped portion of 20:38:32:04, above, is an example of a confusing section of the rule, regarding the status of the 18 semester hours, that has not been clarified in these proposed rules, but could be addressed as DPC and the BoTP work together on other clarifications.

**9. Incorrect Mailing Address:** In addition to the comments above, we also would like to point out that the mailing address stated in Form 6 identifying where written comments should be mailed incorrectly states the former mailing address of the BoTP. We are concerned that written comments may not be received by the deadline, if they need to be forwarded to the BoTP by the post office.

**10. Notification of Rules Changes:** Although we understand it is not required by law, it seems that a notice of proposed rule changes could be sent to all licensees for which the BoTP has an email address. The likelihood of a licensee catching the publication in a newspaper is unlikely. With the advance of email and electronic communication, notification by email seems like an easy way to communicate these proposed changes to licensees.

Each of the governing boards of the American Council of Engineering Companies of South Dakota, the South Dakota Engineering Society, the South Dakota Society of Professional Land Surveyors, and the Nebraska/Dakotas Chapter of the American Society of Landscape Architects, believes that its society should be involved in the South Dakota legislative process in such manner as would promote the interests of the organizations by jointly protecting and advancing the interests of the organizations and the public. In accordance with these beliefs, the governing board of each of the organizations the Design Professionals Coalition of South Dakota to act on behalf of the organizations as it relates to legislative activities on behalf of the organizations.

The DPC appreciates the efforts to update the rules and to modify the items needed in order to accommodate decoupling, as previously approved by the BoTP. However, the above changes go beyond updates and decoupling. We request the items described above be removed from the proposed changes, as noted.

Thank you for your consideration. Please confirm receipt of these comments by emailing me at [derekm@brozengineering.com](mailto:derekm@brozengineering.com) and copying Nancy Hoines, DPC Executive Director, at [DPCofSD@gmail.com](mailto:DPCofSD@gmail.com)

Sincerely,

A handwritten signature in black ink that reads "Derek McTighe". The signature is written in a cursive, flowing style.

Derek McTighe, PE/LS

President

Design Professionals Coalition of South Dakota

(605) 280-5014

CC: Marcia Hultman, Cabinet Secretary, SD Department of Labor and Regulation



AMERICAN COUNCIL OF ENGINEERING COMPANIES  
of South Dakota

October 7, 2024

Ms. Jodi Aumer  
Board of Technical Professions, Department of Labor and Regulation  
[sdbtp@state.sd.us](mailto:sdbtp@state.sd.us)

Dear Ms. Aumer,

The American Council of Engineering Companies of South Dakota (ACEC/SD) has reviewed the recently proposed rules changes from the Board of Technical Professions and, on behalf of our Board of Directors and our membership, are offering comments, below, regarding the proposed rule changes. To assist in tracking our comments, we have copied in the applicable portion of the proposed rule changes, followed by the ACEC/SD comments.

**1. Proposed Changes to 20:38:27:02**

**CHAPTER 20:38:27**

**GENERAL RULES AFFECTING BOARD**

Section

20:38:27:01    Definitions.

20:38:27:02    Meetings, Repealed.

20:38:27:03    Organization.

20:38:27:04    Voting.

20:38:27:05    Duties of board members.

20:38:27:06    Absence of officers.

20:38:27:07    National councils.

**20:38:27:02. Meetings.** ~~The board shall meet every other month beginning in January at the board's office unless otherwise specified by notice~~ Repealed.

**Source:** 26 SDR 9, effective July 29, 1999; 29 SDR 95, effective January 6, 2003; transferred from § 20:38:12:01, 38 SDR 121, effective January 16, 2012

**General Authority:** ~~SDCL 36-18A-22.~~

**Law Implemented:** ~~SDCL 36-18A-18.~~

**ACEC/SD Comments:** The BoTP serves to protect the public health and safety through the governance of the professional registrants. The elimination of meetings and therefore the access for the profession to have a voice greatly limits a healthy governance structure between the Boards execution of their responsibilities and the professionals they represent. ACEC/SD members value the scheduled meeting times and the opportunity to offer public input to the Board of Technical Professions (BoTP) during the public input portion of the meetings. The public comment portion of the meeting also provides a venue through which ACEC/SD can share details on the upcoming professional development hour offerings, required for license renewal, to all South Dakota licensed professionals. The BoTP meetings provide licensees and candidates for licensure both in-person and virtual options to observe BoTP actions, including the approval of business and individual licenses, any disciplinary actions, and current activities being considered or conducted by the BoTP. If there is no requirement for meetings and no set meeting schedule, we are concerned these meetings will fail to happen. In summary, **we request this section not be repealed.**

## 2. Proposed Changes to 20:38:28:01:

**20:38:28:01. Certificates.** Upon satisfaction of all requirements for licensure as a professional, enrollment as an intern, or licensure as a business entity, the executive director shall provide the applicant with a numbered certificate indicating the type of license or enrollment and the issue or expiration date. ~~The board shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.~~ The board may provide the certificate in an electronic format.

A certificate of enrollment as an intern does not authorize the enrollee to practice as a licensed professional or to imply that such a professional title is held.

**Source:** 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:18:01, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-25, 36-18A-36.

**ACEC/SD Comments:** Applicants for licensure, licensees, businesses, and professional associations all use the BoTP meeting minutes to confirm which applicants have been newly granted licensure. The BoTP meeting agenda for each meeting currently lists the approved licenses, approved certificates, and those candidates approved to take the exam. However, if there is any discussion on these lists during the BoTP meeting and any edits are made to these lists, there will not be any public documentation available if the applicants granted licensure are not included in the meeting minutes. In addition, there is currently no way for the public to ascertain a list of new licensees through the online database, nor is

there a way to sort licensees by date of initial licensure, again eliminating the opportunity to research who was licensed on what date. Per “36-18A-24. Record and report policy. The board shall maintain the following record and report policy: (1) A record of its proceedings and all current applications of licensure shall be retained”, **ACEC/SD requests this section not be struck, as proposed, and request the BoTP shall enter the name of each applicant granted licensure or enrollment into its meeting minutes.**

### 3. Proposed Changes to 20:38:29:01:

**20:38:29:01. Application required.** An application is required in accordance with the provisions of this chapter, for each of the following:

- (1) Individual licensure;
- (2) Individual license renewal;
- (3) Individual license reactivation;
- (4) Business entity licensure;
- (5) Business entity license renewal; and
- (6) Business entity license reactivation; and
- (7) ~~Admission to examination, including FE, PE, FS, LS, and petroleum release examinations.~~

An electronic application must be ~~made on the appropriate form~~ submitted using the method designated by the board office, be complete, ~~legible~~, and accompanied by the appropriate application fee. By submitting an application, an applicant certifies, under penalty of perjury, that the information submitted by the applicant is true and correct. An applicant may be required to clarify or provide additional information as needed to fully evaluate the application.

Any change in the information provided by an applicant or licensee, including the mail or email address must be provided to the board office within ~~30~~ 10 calendar days of the change.

**ACEC/SD Comments:** In the final paragraph shown above the Board is proposing that any change in the information provided by an applicant or licensee, including the mail or email address, must be provided to the board within 10 calendar days of the change, a significant reduction from the current 30 days. During a life-changing event, such as a move, minimizing the time for one to change an address to 10 days is too short of a time frame and significantly reduces the chance for success. If an applicant or licensee doesn't change their address, the applicant or licensee may suffer by not receiving all communications




from the BoTP, which should encourage applicants or licensees to update their information as soon as possible. However, it does not appear any negligence in updating would affect the BoTP or its ability to act. **We request this rule retains its current requirement of 30 days, or be updated to state 30 calendar days or 30 business days, as appropriate.**

4. Requested Changes to 20:38:29:02:

## Administrative Rules

Home > Administrative Rules >

20:38 > 29 > 2

Go To:(01:15) or Google Search 

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**20:38:29:02. References.** Applications for licensure shall include the names and addresses of at least five references. At least three references must be licensed professionals in good standing in the applicant's profession, and each reference must have personal knowledge of the applicant's experience.

~~Applications for admission to examination shall include, as references, the names and addresses of the licensed professionals in responsible charge of the applicant's professional experience in each professional employment period. If any response is unfavorable, additional qualifying experience may be required. If a reference fails to respond, the application may be delayed until either the response is received or the response of another reference is received. A current board member may not be used as a reference.~~

Source: 26 SDR 9, effective July 29, 1999; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:13:02, 38 SDR 121, effective January 16, 2012.

**General Authority:** SDCL 36-18A-22(1).

**Law Implemented:** SDCL 36-18A-22(1), 36-18A-33.

**ACEC/SD Comments:** ACEC/SD proposes that paragraph two of 20:38:29:02 will no longer be applicable, and should be struck as shown.

**5. Proposed Changes to 20:38:30:03:**

**20:38:30:03. Land surveying.** An applicant for licensure as a land surveyor shall meet the following education requirement:

(1) A bachelor level degree in surveying from a program accredited by the EAC, ASAC, or TAC of ABET or other education assessed by the board as equivalent;

(2) A bachelor level degree in a related technical program; or

(3) A bachelor level degree in a non-related program or an associate level technical degree in surveying or related technical program.

~~In all cases, reference above to a degree in a related technical program shall be a degree having a program of study which includes~~ A related technical program shall include basic courses in mathematics, physical science, and other subject areas related to surveying at least 24 total semester credit hours of surveying education as determined by the board. The board will determine which programs are related technical programs and which are non-related programs. The required surveying education shall include a least one course in each of the following: basic principles of surveying, advanced applications of surveying, original public land survey system, and boundary surveying.

~~Each applicant for licensure must complete at least 24 total semester credit hours of surveying education, which may consist of the successful completion of either surveying courses included in the degree program or surveying courses which were taken outside of and in addition to the degree program, or a combination of both. The surveying courses must be acquired from education institutions offering degrees as described above or as acceptable to the board. The surveying courses shall be unique in title and subject matter, and may not be duplicates of each other. The surveying courses shall range from basic principles of surveying through advanced applications of surveying, and shall include courses on the original public land survey system and~~

~~boundary surveying. In the event all or a portion of the surveying education is earned as quarter credit hours, the equivalent education shall be based on equating one semester credit hour as being equal to one and one-half quarter credit hours.~~

~~Land surveying interns (LSIT or LSI) who have completed all of the requirements and who apply for licensure as a land surveyor prior to December 31, 2022, may apply for licensure under the licensing requirements that existed on January 1, 2011.~~

~~Source: 29 SDR 95, effective January 6, 2003; 33 SDR 70, effective June 20, 2006; transferred from § 20:38:14:05, 38 SDR 121, effective January 16, 2012.~~

~~General Authority: SDCL 36-18A-22(3), 36-18A-28, 36-18A-29.~~

~~Law Implemented: SDCL 36-18A-1(15)(16), 36-18A-4, 36-18A-28, 36-18A-29, 36-18A-~~

~~32.~~

**ACEC/SD Comments:** Of all the proposed rule changes, this section is definitely the most concerning, as it significantly reduces the education requirements for an applicant for licensure as a land surveyor. The existing rule requires 24 total semester credit hours of surveying education, as described, for **all applicants in all cases**. The proposed rule changes will only require 24 hours of surveying education for applicants with a bachelor level degree in a related technical program. This change will mean that anyone pursuing licensure under 20:38:30:03 (3) could have a degree in a non-related program with no surveying education at all and be allowed to apply for licensure. This change would put the health, safety, and welfare of South Dakotans at risk in that someone with absolutely no surveying education could potentially be licensed in South Dakota.

ACEC/SD has several members who are licensed with both a PE and PLS, and concurs that this section is confusing and should be rewritten to clarify the educational options for pursuing professional licensure in land surveying. We also believe additional clarification is needed in defining 'a related technical program' and '24 total semester credit hours as determined by the Board' to remove the confusion that forces the BoTP members to unnecessarily interpret the rule, in addition to enforcing it. ACEC/SD would like to work with the BoTP on these clarifications, however the currently proposed rule changes only provide more confusion and should be removed from this rule packet.

**ACEC/SD requests all the proposed edits within the section above be removed, except for those in the last paragraph regarding land surveying interns.**

## 6. Proposed Changes to 20:38:31:04

**20:38:31:04. Land surveying.** An applicant for licensure as a Land Surveyor shall meet the following experience requirement:

(1) Four years of experience, of which a minimum of two years shall be after earning the degree and a minimum of two years shall be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(1) or (2); or

(2) Seven years of experience, of which a minimum of three years shall be after earning the degree and a minimum of two years shall be after enrollment as a land surveying intern in accordance with § 20:38:32:04, for an applicant meeting the education requirement described in subdivision 20:38:30:03(3).

**ACEC/SD Comments:** The clipped portion of this section, above, does not propose any rule changes, however, there continues to be confusion as to whether the experience is required to start after the 24 hours of surveying education is completed or merely after the degree is achieved. ACEC/SD recommends that this be discussed as part of the reworking of 20:38:30:03.

(continued on next page)

## 6. Proposed Changes to 20:38:32:03

**20:38:32:03. Engineering.** An applicant for licensure as a Professional Engineer shall pass the Fundamentals of Engineering (FE) examination and the Principles and Practice of Engineering (PE) examination, which are prepared and scored by NCEES.

An applicant who has satisfied the engineering education requirement or who is a senior within two semesters of graduating from an ABET accredited engineering program approved by the board may ~~apply for admission to~~ register for the FE examination with NCEES. ~~The applicant must have a transcript or senior status verification sent directly from the school to the board office as evidence of applicant's status.~~ An applicant who passes the FE examination shall be enrolled as an engineer-in-training (EIT) or an engineering intern (EI). Passage of the FE examination does not authorize any person to practice as a professional engineer or to imply that such a professional title is held.

An applicant who has passed the FE examination and has satisfied the engineering education ~~and experience requirements~~ may ~~apply for admission to~~ register for the PE examination with NCEES.

An applicant who fails the FE or PE examination may retake the examination two times. If the applicant fails the examination three times, the applicant may submit only one new application for admission to the examination per calendar year thereafter. The board may review an applicant who has failed the examination three times and may require additional qualifying education or experience.

**ACEC/SD Comments:** The last statement of paragraph two indicates that passage of the FE examination does not authorize any person to practice as a professional engineer or to imply that such a professional title is held. It seems a similar statement should be included regarding passage of the PE, especially due to decoupling allowing for passage of the PE prior to the fulfillment of the required experience.

NCEES policy ([NCEESExamGuide\\_June-2024.pdf](#)) states “NCEES policy states examinees may attempt a particular NCEES exam one time per testing window and no more than three times during any 12-month period. Some licensing boards have a more restrictive policy. Visit your licensing board to review the policy of the board you selected during the registration process.” If the BoTP is no longer reviewing the applications for examination is the last paragraph and, specifically, the last sentence of the above still applicable?

## 7. Proposed changes to 20:38:32:04

**20:38:32:04. Land surveying.** An applicant for licensure as a land surveyor shall pass the Fundamentals of Land Surveying (FS) examination, the Principles and Practice of Land Surveying (PS) examination and an open book, take-home examination of South Dakota land surveying practice and laws.

Current students and graduates of the educational programs described in § 20:38:30:03 that have either successfully completed, or are currently enrolled in, a minimum total of 18 semester credit hours of surveying courses within, or in addition to, their program of study may ~~apply~~ register for the FS examination with NCEES. An applicant who passes the examination shall be enrolled as a land surveyor-in-training (LSIT) or land surveying intern (LSI). Passage of the examination does not authorize any person to practice as a land surveyor or to imply that such a professional title is held.

**ACEC/SD Comments:** Again, the clipped portion of 20:38:32:04, above, is an example of a confusing section of the rule, regarding the status of the 18 semester hours, that has not been clarified in these proposed rules, but could be addressed as ACEC/SD and the BoTP work together on other clarifications.

7. **Incorrect Mailing Address:** In addition to the comments above, we also would like to point out that the mailing address stated in Form 6 identifying where written comments should be mailed incorrectly states the former mailing address of the BoTP. We are concerned that written comments may not be received by the deadline, if they need to be forwarded to the BoTP by the post office.
8. **Notification of Rules Changes:** Although we understand it is not required by law, it seems that a notice of proposed rule changes could be sent to all licensees for which the BoTP has an email address. The likelihood of a licensee catching the publication in a newspaper is unlikely. With the advance of email and electronic communication, notification by email seems like an easy way to communicate these proposed changes to licensees.

As a Member Organization of American Council of Engineering Companies (ACEC), ACEC/SD's mission is to enhance the public understanding and image of the consulting engineering profession, proactively represent the profession in public affairs and legislative issues, and provide a forum for discussion and continued business education. The 32 ACEC/SD member firms represent over 700 individual design professionals, many of which are licensed professional engineers, land surveyors, and landscape architects, or are on the path to licensure.

ACEC/SD appreciates the efforts to update the rules and to modify the items needed in order to accommodate decoupling, as previously approved by the BoTP. However, the above changes go beyond updates and decoupling. We request the items described above be removed from the proposed changes, as noted. We would also like to work with the BoTP to clarify the sections noted to provide better guidance for the BoTP members, licensed professionals, and those pursuing professional licensing.

Thank you for your consideration. Please confirm receipt of these comments by emailing me at [Todd.Kenner@respec.com](mailto:Todd.Kenner@respec.com) and copying Nancy Hoines, ACEC/SD Executive Director, at [acecofsd@gmail.com](mailto:acecofsd@gmail.com)

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Kenner". The signature is fluid and cursive, with the first name "Todd" being more prominent than the last name "Kenner".

Todd Kenner, PE  
President  
American Council of Engineering Companies of South Dakota  
PO Box 1075, Pierre, SD 57501  
(605) 877-2377

CC: Marcia Hultman, Cabinet Secretary, SD Department of Labor and Regulation

## 4.0 Adjourment