

TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Policy Statement

Approved By TBPELS Board at November 19, 2020 Board Meeting

Title: Criminal History Policy for Applications – Professional Engineers and Professional Land Surveyors

Overview/Purpose:

The Board's consideration of an applicant's suitability for licensure or registration includes an evaluation of an applicant's qualification and ethics. In the application process, ethics are addressed by references and on the truthfulness demonstrated in the application information. In addition, Texas Occupations Code Chapter 53 relating to Consequences of Criminal Convictions, requires the Texas Board of Professional Engineers and Land Surveyors to establish guidelines for consideration for licensure as a Professional Engineer (PE) or Registered Professional Land Surveyor (RPLS) in Texas.

Policy Determination:

On the PE license and RPLS registration application forms, all applicants will be asked to state, under penalty of perjury, whether he or she has ever been convicted of an offense, placed on probation, granted deferred adjudication or any type of pretrial diversion for a felony or misdemeanor crime. If so, the applicant will be asked to supply additional information about each criminal incident using the Criminal History form as well as providing copies of appropriate court documents. All applicants are required to submit a fingerprint-based Criminal History Records Check (CHRC) through the Texas Department of Public Safety.

In some cases, additional information is needed to adequately assess an applicant's character and reputation prior to approval. Pursuant to Board Rules §§133.93 and 133.94, applicants will be referred to the Licensing Committee to obtain additional information and make recommendations for final action. Although not meant to be an exhaustive list, the Licensing Committee may consider applications if any of the following conditions apply:

- Any reportable criminal judgments discovered by staff through the CHRC that were not reported in the application materials by the applicant.
- Any direct relationship of a reportable criminal judgment to the applicant's fitness to practice as a PE or RPLS in Texas.

- Multiple reportable misdemeanor or felony judgments that occurred within 10 years of the date of application that indicate a pattern of unethical behavior.
- Any reportable felony judgment for which the date of completion and resolution of the terms is within 10 years of the date of application.

Applicants whose applications are denied solely due to criminal conviction(s) or deferred adjudication(s) will be offered a hearing pursuant to Texas Occupations Code Chapter 53.

Background and reason(s) for policy interpretation:

Pursuant to Texas Occupations Code Chapter 53 relating to Consequences of Criminal Convictions, The Texas Board of Professional Engineers and Land Surveyors establishes the following guidelines for consideration for licensure as a PE or registration as an RPLS in Texas.

The board shall consider:

- The nature and seriousness of the crime;
- The relationship of the crime to the board's statutory responsibility to ensure that a person practicing as a PE or RPLS in Texas protects the health, safety, and welfare of the public;
- The relationship of the crime to the competence, ability, capacity, fitness or professional judgment required to perform the duties and discharge the responsibilities of an engineer or land surveyor;
- The outcome or resolution of criminal charges and any associated judgment, deferral of judgment, penalty or punishment, whether completed or on-going;
- The date of completion and resolution of the terms of any judgment, deferral of judgment, penalty or punishment;
- The extent to which issuance of a license will allow a person to engage in further criminal activity of the same type as that which the applicant previously had been involved.

In addition to the factors stated above, the board shall consider Texas Occupations Code §53.023 in determining the present fitness of a candidate who has been convicted of a crime.

Pursuant to Texas Occupations Code §53.025(a), the Texas Board of Professional Engineers and Land Surveyors considers that the following crimes directly relate to the practice of engineering and land surveying due to the adverse impact each of these crimes has on the special trust and ethical duties a PE or RPLS owes to the client and the public involving honesty, integrity, fidelity and the exercise of good judgment and character:

- Any felony or misdemeanor which involves a disregard for the health, safety or welfare of the general public or individuals, including violent

- crimes or crimes involving drugs or alcohol;
- Any felony or misdemeanor of which theft, fraud or deceit is an essential element;
 - Any felony or misdemeanor which demonstrates a lack of professional judgment expected of a PE or RPLS;
 - Any felony or misdemeanor involving financial or other loss for a client(s) or the public; and
 - Any other felony or misdemeanor reflecting adversely upon the applicant's fitness to practice engineering or land surveying.

In addition, as authorized in Texas Occupations Code 53, Subchapter D, the Board will, upon request issue a criminal history evaluation letter and a determination of eligibility letter.

Applicable Rules:

§133.83 Executive Director Review, Evaluation and Processing of Applications

§133.93 Personal Interviews of Applicants

§133.99 Processing of Applications with a Criminal Conviction

§134.83 Executive Director Review, Evaluation and Processing of Applications

§134.93 Personal Interviews of Applicants

Statutory Authority:

§1001.2035 Rules on Consequences of Criminal Conviction

§1001.272 Criminal History Record Information Requirement for License Issuance

§1001.302(d) License Eligibility Requirements

Chapter 53, Texas Occupations Code