State Board for Architecture
Web Ex Virtual Meeting

Meeting link for Public Session:
https://meetnydirect.webex.com/meetnydirect/j.php?MTID=mf5092b7733b9045a05ee3b454b8958b
Meeting number: 177 757 8328
Password: uFvJjMqK322

Wednesday, February 9, 2022
9:00 am (start time for practical exams)

Members of the public may attend and observe the meeting via Web Ex outside of the Executive Session

AGENDA

1. Executive Session (9:00-10:30 AM)
   • Practical Examinations (Pearson - Chair, Bentel, Samuelian)
   • Practical Examinations Discussion
   • Disciplinary Cases

2. Approval of Minutes

3. Board Chair Report

4. Board Office Report

5. Old Business
   • Continuing Education Modernization
   • Practice Guidelines
   • Building Officials’ Follow up
   • Proposed Amendment to Part 29 + DoB Filings
   • Women in Architecture Series

6. New Business
   • NCARB Updates – IPAL seminar and January ’22 Pre-BoD Meeting
   • Elections – Chair and Vice Chair

7. Other Board Member Topics for Future Meetings

8. Adjournment

Next Meeting – May 11, 2022 – NYC
Minutes of the Meeting
State Board for Architecture

Present:     John Tobin, Chair
             Anik Pearson, Vice Chair
             Carol Bentel
             Nicole Dosso
             George Miller
             Marcy Stanley
             Jitendra Vaidya

Absent:     Michael Samuelian
             Latoya Kamdang

Staff:      Robert Lopez, Executive Secretary
             Marci McKenna, Assistant in
             Professional Education

Guests:     Alfred Vidaurri, NCARB
             Bayliss Ward, NCARB
             Michael Armstrong, NCARB
             Josh Batkin, NCARB

November 10, 2021

OPEN SESSION

1. **Motion:** Dosso/Miller: That the Board enter Executive Session. PASSED UNANIMOUSLY.

2. The Board resumed the Open Session.

3. **Motion:** Miller/Stanley: That the minutes of the August 11, 2021 meeting of the State Board for Architecture be approved. PASSED UNANIMOUSLY.

4. **Board Chair Report:** Chair Tobin welcomed the NCARB guests and stated that the Board was delighted to have NCARB join the Board meeting. Board members, Board staff, and NCARB guests introduced themselves.

5. **Board Office Report:** The Board office report was discussed. Upon Jane Blair’s retirement, the Executive Secretary will become the Acting Executive Secretary for the PE/LS/PG Board until a new Executive is hired. The Architect’s CE modernization bill was signed into law and Georgi Ann Bailey and Mike Burridge of AIANYS were thanked for their efforts. The law includes an 18-month window for regulations to be drafted, reviewed, and commented upon prior to going to the Board of Regents.

6. **Old Business:**
   
   **NCARB Visit:** President Alfred Vidaurri thanked the Board for its invitation. He explained that the visitors will be sharing information on specific topics about which the Board had asked but before that he wanted to provide some context for the conversation. At the Annual Meeting, Mr. Vidaurri identified two areas to be focused on in NCARB’s FY 2021/22. The first is the reimagination of a future licensing model, including an analysis of how competency is defined and measured, specialization, and titling of non-architects. The second focus area is on equity,
diversity, and inclusion (DEI), with the thought that NCARB has and will continue to lean into this conversation.

DEI efforts
NCARB has held 10 town halls with stakeholders, hired a diversity consultant, performs diversity training for its Board of Directors and Regional leadership at every meeting, and is hiring a governance consultant to ensure diverse participation within NCARB leadership. A bias study was conducted to examine the ARE for potential bias and resulted in no findings. Given the high cost of test preparation materials, NCARB will release free testing material in 2022.

Remote proctoring of the ARE
After the launch of remote proctoring, NCARB realized that candidates have many questions and in late January provided the ability for every candidate to have a free 30-minute trial session with a proctor. This trial session has been very helpful in preventing issues during actual testing. At the start, 17% of testing was remote; at its peak in March 2021, 28%. From March 2021 until now, the number has been around 19-20%. NCARB has worked hard to address on-site technical problems with a reduction from 6-8% to 3% of candidates reporting technical issues. Remote delivery technical issues have dropped from an average of 25% to 7%.

Cost of the ARE
First Vice President Bayliss Ward noted that the $235 fee to take an ARE division has not changed for many years. The ARE generates losses for NCARB each year that is offset through fees paid by architects for certificate renewal. Mr. Ward also noted that NCARB has reduced its rescheduling fees for the ARE.

Future of Hybrid Meetings
Mr. Ward stated that the future of meetings is a hybrid mode. Given that the preference for in-person meetings isn’t always feasible, a virtual option will always be offered as well.

ARE passing rates
Mr. Armstrong stated that NCARB is one of the few member board organizations collecting exam performance data by demographic factors. Based upon 3,400 ARE 5.0 candidates, this data indicates that white candidates are more likely to pass the ARE than non-white candidates, that male candidates are more likely to pass than female candidates, and that the 18-29 age group has the highest pass rate while the 40+ age group has the lowest. NCARB is also looking at AXP disparities while constantly sifting and exploring issues relevant to licensure. NCARB is also offering six full and free practice exams beginning in 2022.

ARPL Update
Mr. Armstrong noted that the Alliance for Responsible Professional Licensing (ARPL) pairs professional associations of various professions with regulatory groups to promote responsible licensing and to educate policy makers. After joining initially, the AIA questioned the value in membership, so NCARB is now the sole architectural representative. ARPL has been particularly effective in West Virginia, Kansas, and Nebraska in combating deregulation efforts. Research indicates that the public agrees with the need to license certain professions to ensure public protection.

Four-year NAAB accredited programs
Mr. Vidaurri described NCARB’s blue-sky exercises regarding education, experience, and examination requirements. He has charged various NCARB Committees to think about a licensure requirement that involved solely education, experience, or passage of the exam, and
what those scenarios may include. He added that four-year NAAB accredited programs would be added to that conversation and it was time to knit disparate conversations together. Mr. Armstrong stressed the potential of multiple paths to licensure as a norm, asking if we are unintentionally filtering out potential architects that do not fit these licensure norms.

Vice Chair Pearson noted that through her Women in Architecture series that participants have echoed the issues NCARB discussed earlier – cost, access to equipment, connection for remote testing, study materials cost, and paid time off to study. She asked that NCARB provide feedback on these issues. Mr. Armstrong explained that they share the concerns about third-party providers and the cost of study materials, having heard of candidates spending more than $10,000 for exam preparation. NCARB has audited and critiqued study materials in the past and offered an NCARB credential to those providers who passed the critique and audit. Only one company, Black Spectacles, has been given the credential.

The Board thanked the guests for attending the meeting and for the breadth, depth and thoroughness of their comments and updates.

Continuing Education Modernization: The Executive Secretary thanked Members Vaidya, Bentel, and Samuelian for participating in the first meeting of the CE Subcommittee. A memo summarizing their work was included in the Board package. The Subcommittee recommended that New York use NCARB’s CE guidelines for HSW subject areas with minor tweaks. After discussion, the Board agreed to the outlined changes to HSW subject areas, the revision to the OP website, and to permitting nano learning programs. The Subcommittee recommended that the full Board have a conversation regarding justice, equity, diversity, and inclusion to come to a recommendation whether it should be noted as an HSW subject area and if there should be a mandatory learning requirement in this subject area. After discussion, the Board did not make a recommendation to include it in the HSW subject matter specifically but noted that certain courses on the topic could warrant HSW credit. The Board also recommended against a mandate in this subject area just for architects, stating that if New York State wanted to mandate this, it should be a universal requirement of all employers and employees in the State.

Practice Guidelines Update: On hold due to staffing constraints.

Building Officials’ Follow up: The NYS Department of State is still reviewing the feedback on the revisions to Part 1203 of the NYS Building Code.

Proposed Amendment to Part 29: The Board first discussed the possibility of a proposed NYSSPE amendment to Part 29 of the Regents’ Rules in November 2019. Although the Board recognizes the need to ensure that only appropriate design professionals utilize the DoB Now system, it is adopting a slower approach to any recommendation for an amendment to the Regents’ Rules. It is important that NYSSPE and the AIA NYS have continued conversations to come up with a collaborative approach on this issue that is agreeable to both associations. The Board agreed that there needs to be a parallel provision for expediers to be prohibited from the activity. Vice Chair Pearson relayed her issues with the current DoB Now system and she will send a summary of her concerns to the Executive Secretary for discussion at a future meeting.

Women in Architecture Series: Vice Chair Pearson noted that participation in this initiative continues to be robust. Goals for the year include increasing visibility for the program via social media channels, applying for grants to aid the initiative, and showcasing female architects.
7. **New Business:**
   **NCARB Region 2 Fall Conference:** The Executive Secretary, Chair Tobin, and Member Miller participated in this teleconference. The Educator/Practitioner/Student symposium scheduled for October was canceled due to COVID. It is now scheduled for 2022. The NCARB Regional Summit will be held March 4-5, 2022 and the Annual Meeting is scheduled for June 2-4, 2022.

8. **Other Board Member Topics for Future Meetings:** The Board will discuss Vice Chair Pearson’s comments regarding the DOB Now and Member Miller’s comments on the practical exam.

9. **Motion:** Pearson/Tobin: Moved to adjourn. PASSED UNANIMOUSLY.

   The next meeting of the Board will be Wednesday, February 9, 2022, scheduled for NYC.

   Respectfully Submitted,

   Robert Lopez, RA
   Executive Secretary
Minutes of the Meeting  
State Board for Architecture  

Present:  
John Tobin, Chair  
Anik Pearson, Vice Chair  
Carol Bentel  
Nicole Dosso  
Latoya Kamdang (PT)  
George Miller  
Marcy Stanley  
Jitendra Vaidya

Absent:  
Michael Samuelian

Staff:  
Robert Lopez, Executive Secretary  
Marci McKenna, Assistant in Professional Education

November 10, 2021

EXECUTIVE SESSION

1. The Board conducted a practical exam and after discussion voted unanimously to grant licensure to the candidate.

2. The Board discussed items related to the practical exam in general. Chair Tobin commented that he finds the new written questions and the technology to work well. Member Miller suggested that lengthening the allotted time to 1.5 hours may be beneficial for exams conducted in a virtual format and the Board may also want to consider specifying that projects presented must have been completed within the 10 years preceding the exam. The Executive Secretary emphasized that the six questions on the rubric constitute the basis for the judgment of passage or failure of the exam. He will develop a script for the Chair of the judging panel, select the Chair prior to the exam commencing, and have a rotation of Board members who will ask two of the six questions each.

3. The Board reviewed disciplinary cases.

4. Motion: Miller/Stanley: That the minutes of the August 11, 2021 meeting of the State Board for Architecture be approved. PASSED UNANIMOUSLY.

5. Motion: Miller/Dosso: That the Board resume the Open Session. PASSED UNANIMOUSLY.

Respectfully submitted,

Robert Lopez, RA  
Executive Secretary
Registrants

Current Resident Registrants: 11,593
Current Non-Resident Registrants: 8,464
Foreign Registrants: 366
Total Number of Registrants as of 1/3/22: 20,423

The count appears on the OP website at http://www.op.nysed.gov/prof/arch/archcounts.htm

Licenses Issued

2021 – 777 (thru 11/30/21); 2020 – 681; 2019 – 814; 2018 – 1,108; 2017 - 1,080; 2016 – 1,004

ARE Candidates (October 29, 2021 – January 20, 2022) 1
Early Admit ARE Candidates (October 29, 2021 – January 20, 2022) 167
NCARB Certification (October 29, 2021 – January 20, 2022) 45
Endorsement (October 29, 2021 – January 20, 2022) 5
Endorsement PE no QT (October 29, 2021 – January 20, 2022) -

Candidate Admissions to ARE

2021 – 875; 2020 – 889; 2019 – 1,075; 2018–1,005; 2017 – 880; 2016 – 1,432

NYSED/OP/Staff Activities

Two key leadership positions have been added to the Deputy Commissioner’s office within OP. David Hamilton is now the Assistant Commissioner of Professional Licensing and Practice and Owen Donovan is now the Professional Practice Coordinator.

Board office staff are permitted to work from home three out of ten days each two-week pay period through April 1, 2022.

The Executive Secretary has been involved in the following virtual licensure presentations since the last Board meeting:

- Cooper Union – with Member Samuelian - November 22, 2021 – 10 participants
- NYIT – with NCARB – December 2, 2021 – 46 participants
- NYC DDC – with NCARB – January 19, 2022 – 24 participants

Finally, the Executive Secretary is now the Acting Executive Secretary for the State Board for Engineering, Land Surveying and Geology. The Department is currently receiving resumes and letters of interest from interested candidates for the position, which requires a PE, LS, or PG license and registration.

Legislative / Regulatory Activity
The NYS Legislature is in a new two-year session that will run from January 2021 through the end of 2022. Legislation of interest follows, with changes since the last Board meeting highlighted in yellow:

A7604/S6783 – Relates to mandatory continuing education for architects
Relates to mandatory continuing education for architects; removes exemption from mandatory continuing education requirements for the triennial registration period when an architect is first licensed; allows no more than six continuing education ours taken during one triennium may be transferred to a subsequent triennium; makes related provisions.
*Bill was signed as Chapter 578 of the Laws of 2021 and is included in the Board package.*

S3541/A6809 – Relates to the requirements for a license as a professional engineer
Relates to the requirements for a license as a professional engineer
*Bill was signed as Chapter 465 of the Laws of 2021.*

S1003-A / A7947 – Relates to building permits
Authorizes a city, town or village to establish a program whereby a building permit may be issued based upon certification by a registered architect or professional engineer.
*Bill is referred to Local Government in the Senate; referred to Local Government in the Assembly.*

S1004 / A6242– Establishes a program where a municipal department of buildings may accept certain construction documents for code compliance
Establishes a program where a municipal department of buildings may accept construction documents required to be filed in relation to code compliance prior to issuance of a certificate of occupancy with less than a full examination by such municipal department of buildings based on a professional certification of an applicant who is an architect or professional engineer; makes related provisions.
*Bill is referred to Housing, Construction and Community Development in the Senate; referred to Governmental Operations in the Assembly.*

A1891-A / S5261 – Expanded ownership in design professional corporations by employee stock ownership plans and non-licensed employees
Provides for expanded ownership in design professional corporations by employee stock ownership plans and non-licensed employees
*Bill is referred to Higher Education in the Assembly; referred to Corporations, Authorities and Commissions in the Senate*

S544 / A1939 – Requires certain engineering plans that could pose a material risk to public safety to bear a stamp of approval of a professional engineer
Requires certain engineering plans or specifications for engineering work or services that could pose a material risk to public safety to bear a stamp of approval of a professional engineer and authorizes the public service commission to promulgate rules and regulations relating to such requirement.
*Bill is referred to Energy and Telecommunications in the Senate and is referred to Higher Education in the Assembly*
A3272-A / S4008-A – Relates to the establishment of the water-based fire protection licensure act
Establishes water-based fire protection licensure act, setting forth licensure requirements for contractors engaged in the business of the layout, installing, repairing, inspecting, testing, or maintaining of water-based fire protection systems and components.
*Bill is referred to Economic Development in the Assembly and is referred to Consumer Protection in the Senate.*

A1462 / No Same As – Interior Design/State Contracting
Adds interior design services as a type of contract that can be entered into and negotiated by the state
*Bill is referred to Governmental Operations in the Assembly; no "same as" bill in the Senate.*

A2522 / No Same As - Licensing consequences for serious abuse of self-certification privileges
Relates to licensing consequences for architects or engineers who seriously abuse their self-certification privileges
*Bill is referred to Higher Education in the Assembly; no “same as” bill in the Senate*

A5769 / S6377 – New York Emergency Responder Act
Enacts the New York emergency responder act limiting the liability of certain emergency responders.
*Bill is referred to Governmental Operations in the Assembly and is referred to Veterans, Homeland Security and Military Affairs in the Senate*

A6785 / S5687 – NYC DoB False Documents
Relates to false statements in documents submitted to the department of buildings of the city of New York
*Bill is referred to Cities in the Assembly and is referred to Cities in the Senate*

A5282 / No Same As – Increases to $50,000 for cost of construction threshold
Increases to $50,000 the cost of the construction of a building, structure or public work, above which an engineer, land surveyor or architect must be utilized
*Bill is referred to Higher Education in the Assembly; no “same as” bill in the Senate*

S5713 / No Same As - Requires Public Authorities to negotiate with QBS
Requires public authorities to negotiate with most qualified architectural and engineering professional firms before negotiating with other firms
*Bill is referred to Corporations, Authorities and Commissions in the Senate; no “same as” bill in the Assembly*

**Former Legislation of Interest**

*No bill number yet – Ag / Markets Defining Farm Conservation*
Directs the department of agriculture and markets and the state soil and water conservation committee to review and define farm conservation practices which are within the professions of engineering, land surveying and architecture*
No bill number yet – Mandating continuing education for certified interior designers
Relates to mandating continuing education for certified interior designers

No bill number yet - Good Samaritan Act
Enacts the engineers’, architects’, landscape architects’ and land surveyors’ good samaritan act

No bill number yet – Land Surveyor Designing Approved Sewage Disposal Systems
Provides that where a nitrogen-reducing sewage disposal system approved by the county department of health is designed by a land surveyor for an individual residential lot or is designed by a person who holds a valid license from the county to design sewage disposal systems for replacement or retrofit on an individual lot, such persons are exempt from the provisions of section 7208 of the education law; relates to qualifications for the design of a nitrogen-reducing sewage disposal system in a county of one million or more which draws its primary source of drinking water for a majority of county residents from a designated sole source aquifer.

No bill number yet – Relates to the Liability of Design Professionals
Relates to the liability of design professionals; prohibits broad indemnification of a state or local agency or political subdivision involving public work for contracts executed on or after January 1, 2020.

No bill number yet - Malpractice Insurance
Requires engineers and architects to maintain malpractice insurance in the amount of $1,000,000

No bill number yet – Licensure Standards
An act to amend the education law, in relation to the review of licensure standards for architecture and landscape architecture.

No bill number yet – Land Surveying Definition
Relates to the definition of the practice of land surveying.

No bill number yet – Professional Certification for Nassau and Suffolk Counties
Establishes procedures authorizing certain municipalities to grant building permits upon certification by a licensed professional engineer or a registered architect

No bill number yet – Relates to the practice of certified interior design; repealer
Regulates the practice of certified interior design including the use of proper seals and construction documents; adds CE requirement for CID’s

No bill number yet - Repeals mandatory continuing education for architects
Repeals a provision of the education law requiring mandatory continuing education for architects.

No bill number yet – Self-Certification
Grants cities authority to review plans for the construction of structures proposed to be made within its boundaries
Office of Professional Discipline
Doron Bracha
Bruce Eugene Fisher
Keri Ann Kazel
Henry Myerberg
Christian Stanton Duerr
S6783 COONEY  Same as A 7604  Glick
ON FILE: 05/17/21 Education Law
TITLE....Relates to mandatory continuing education for architects
05/17/21 REFERRED TO HIGHER EDUCATION
05/24/21 COMMITTEE DISCHARGED AND COMMITTED TO RULES
05/24/21 ORDERED TO THIRD READING CAL.1307
06/01/21 PASSED SENATE
06/01/21 DELIVERED TO ASSEMBLY
06/01/21 referred to higher education
06/02/21 substituted for a7604
06/02/21 ordered to third reading rules cal.268
06/02/21 passed assembly
06/02/21 returned to senate
10/22/21 DELIVERED TO GOVERNOR
11/03/21 SIGNED CHAP.578

COONEY
Amd §7308, Ed L
Relates to mandatory continuing education for architects; removes exemption from mandatory continuing education requirements for the triennial registration period when an architect is first licensed; allows no more than six continuing education hours taken during one triennium may be transferred to a subsequent triennium; makes related provisions.

06/02/21 S6783 Assembly Vote  Yes: 148  No : 0
06/01/21 S6783 Senate Vote  Aye: 61  Nay: 2

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Floor Votes:

06/02/21 S6783 Assembly Vote  Yes: 148  No : 0
Yes  Abbate  Yes  Abinanti  Yes  Anderson  Yes  Angelino
Yes  Ashby  Yes  Aubry  Yes  Barclay  Yes  Barnwell
Yes  Barrett  Yes  Barron  Yes  Benedetto  Yes  Bichotte
Yes  Blankenbush  Yes  Brabenec  Yes  Braunstein  Yes  Bronson
Yes  Brown  Yes  Burdick  Yes  Burgos  Yes  Burke
Yes  Buttenschon  Yes  Byrne  Yes  Byrnes  Yes  Cahill
Yes  Carroll  Yes  Clark  Yes  Colton  Yes  Conrad
Yes  Cook  Yes  Cruz  Yes  Cusick  Yes  Cymbrowitz
Yes  Darling  Yes  Davila  Yes  De La Rosa  Yes  DeStefano
Yes  Dickens  Yes  Dilan  Yes  Dinowitz  Yes  DiPietro
Yes  Durso  Yes  Eichenstein  Yes  Englebright  Yes  Epstein
Yes  Fahy  Yes  Fall  Yes  Fernandez  Yes  Fitzpatrick
ER  Forrest  Yes  Friend  Yes  Frontus  Yes  Galef
Yes  Gallagher  Yes  Gallahan  Yes  Gandolfo  Yes  Giglio JA
Yes  Giglio JM  Yes  Glick  Yes  Gonzalez-Rojas  Yes  Goodell
06/01/21  S6783  Senate Vote  Aye: 61  Nay: 2

Aye  Addabbo  Aye  Akshar  Aye  Bailey  Aye  Benjamin
Aye  Biaggi  Aye  Borrello  Aye  Boyle  Aye  Breslin
Aye  Brisport  Aye  Brooks  Aye  Brouk  Aye  Comrie
Aye  Cooney  Aye  Felder  Aye  Gallivan  Aye  Gaughran
Aye  Gianaris  Aye  Gounardes  Aye  Griffio  Aye  Harckham
Aye  Helming  Aye  Hinchey  Aye  Hoylman  Aye  Jackson
Aye  Jordan  Aye  Kaminsky  Aye  Kaplan  Aye  Kavanagh
Aye  Kennedy  Aye  Krueger  Nay  Lanza  Aye  Liu
Aye  Mannion  Aye  Martucci  Aye  Mattera  Aye  May
Aye  Mayer  Aye  Myrie  Aye  Oberacker  Aye  O'Mara
Aye  Ort  Aye  Palumbo  Aye  Parker  Aye  Persaud
Aye  Ramos  Aye  Rath  Aye  Reichlin-Melnick  Aye  Ritchie
Aye  Rivera  Aye  Ryan  Aye  Salazar  Aye  Sanders
Aye  Savino  Aye  Sepulveda  Aye  Serino  Aye  Serrano
Nay  Skoufis  Aye  Stavulyski  Aye  Stec  Aye  Stewart-Cousins
Aye  Tedisco  Aye  Thomas  Aye  Weik
STATE OF NEW YORK

6783

2021-2022 Regular Sessions

IN SENATE

May 17, 2021

Introduced by Sen. COONEY -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to mandatory continuing education for architects

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision 1 of section 7308 of the education law, as added by chapter 521 of the laws of 1999, is amended to read as follows:

Architects shall be exempt from the mandatory continuing education requirement for the triennial registration period during which they are first licensed. In accord with the intent of this section, an adjustment and/or exemption to the mandatory continuing education requirement may be granted by the department for reasons of health certified by an appropriate health care professional, for extended active duty with the armed forces of the United States, or for other good cause acceptable to the department which may prevent compliance.

§ 2. Subdivision 2 of section 7308 of the education law, as amended by chapter 683 of the laws of 2005, is amended to read as follows:

During each triennial registration period an applicant for registration shall complete a minimum of thirty-six hours of acceptable continuing education, as specified in subdivision four of this section, provided that a minimum of twenty-four hours of such continuing education shall be in the areas of health, safety and welfare. [Up to one-half of the total hours of continuing education may consist of non-course activities.] Any architect whose first registration date following the effective date of this section occurs less than three years from such effective date, but on or after January first, two thousand one, shall complete continuing education hours on a prorated basis at the rate of one hour per month for the period beginning January first, two thousand up to the first registration date thereafter.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S. 6783  2

licensee who has not satisfied the mandatory continuing education requirements shall not be issued a triennial registration certificate by the department and shall not practice unless and until a conditional registration certificate is issued as provided for in subdivision three of this section. With the exception of continuing education hours taken during the registration period immediately preceding the effective date of this section, [continuing education hours taken during one triennium may not be transferred to a subsequent triennium] no more than six continuing education hours taken during one triennium may be transferred to a subsequent triennium.

§ 3. Subdivision 4 of section 7308 of the education law, as amended by chapter 706 of the laws of 2004, is amended to read as follows:

4. As used in subdivision two of this section, “acceptable continuing education” shall mean courses of learning and educational activities [which] in architecture, engineering, interior design, land surveying, landscape architecture and geology that may contribute to professional practice in architecture and which meet the standards prescribed by regulations of the commissioner. Completing courses of learning and educational activities that fall within the scope of practice of another licensed profession does not authorize the licensed architect to lawfully practice a profession that they are not authorized to practice as defined in section seventy-three hundred one of this article. The department may, in its discretion and as needed to contribute to the health and welfare of the public, require the completion of continuing education courses in specific subjects.

§ 4. This act shall take effect eighteen months after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.
NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S6783

SPONSOR: COONEY

TITLE OF BILL:
An act to amend the education law, in relation to mandatory continuing education for architects

PURPOSE OR GENERAL IDEA OF BILL:
To update the continuing education law for architects.

SUMMARY OF PROVISIONS:
Section 1 amends subdivision 1 of section 7308 of the education law to remove the continuing education exemption for new licensees. In addition, this section will allow the State Education Department (SED) to provide an adjustment or full exemption from continuing education for good cause.

Section 2 amends subdivision 2 of section 7308 of the education law to increase flexibility for continuing education activities. This section would also allow up to six credits to be transferred from one registration period to the next.

Section 3 amends subdivision 3 of section 7308 to allow architects to take courses in engineering, interior design, land surveying, landscape architecture, and geology, so long as the courses contribute to the practice of architecture and meet the standards prescribed by the commissioner.

Section 4 effective date.

JUSTIFICATION:
Legislation is needed in order to modernize the law which regulates continuing education for architects licensed in New York state. Section 7308 of the Education Law, which regulates continuing education for architects was enacted in 1999. Since that time, such factors as a burgeoning use of online educational opportunities have revolutionized the manner in which continuing education programs are offered. This bill seeks to give architects flexibility and capability to take full advantage of these opportunities. The carry-over provision is consistent with the laws in other states and laws that regulate other professions in New York.

PRIOR LEGISLATIVE HISTORY:
New bill.
**FISCAL IMPLICATIONS FOR STATE AND LOCAL GOVERNMENTS:**

None.

**EFFECTIVE DATE:**
This act shall take effect eighteen months after it shall have become a law. Effectively immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.
To: Architecture Board Members
From: Robert Lopez
Subject: Building Officials’ Follow Up/Part 1203

The NYS Department of State (DoS) recently sent out a Notice of Adoption of its Part 1203 Rule (Minimum Standards for Administration and Enforcement) that partly deals with submission of construction documents and specifications to Code Enforcement Officials (CEO’s). The revised language follows this memo with the change described below highlighted in yellow. [pp. 73-74]

The effective date of December 30, 2022 for the amended Rule will permit local governments to update their code enforcement programs by local law, ordinance, or other appropriate regulation to incorporate these changes.

As many of you recall, submission of these documents to CEO’s, and the information contained within, has been a major issue that the State Board would like to see cleaned up given Operation Vandelay. The Attorney General’s office was extremely helpful at giving the Department and State Board a list of the issues they saw as loopholes in the system that were exploited in the case. The State Board had come up with recommendations to the Department (supported by the PE/LS/PG and LA Boards) to deter another Vandelay from occurring.

The recommendations included adding the following items on a set of construction documents and building permit forms:

- Current registration expiration date of the design professional
- License number of the design professional
- The design professional’s firm name (if not a sole practitioner)
- Certification of Authorization number if it is a PE/LS/PG firm doing the work

I am happy to report that the recommendations put forth by the State Boards and the Department were included in the revised language in Part 1203 (see page 8 and 9 of the revised language following this memo). This result was due to the collaborative efforts of the State Boards, the Department and leadership at the DoS.

This memo is for the Board’s information.
Part 1203 of Title 19 of the NYCRR is repealed and a new Part 1203 is added to read as follows:

Part 1203 Uniform Code and the Energy Code: Minimum Standards for Administration and Enforcement

Section 1203.1 Introduction and definitions.

(a) Introduction. Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations for administration of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code.

(b) Definitions. Unless otherwise expressly stated, for the purposes of this Part, the following terms shall be deemed to have the meanings shown in this subdivision:

(1) Assembly area. An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

(2) Authority having jurisdiction. Any city, town, village, county, state agency, or other governmental unit or agency responsible for administration and enforcement of either or both of the Codes.

(3) Building permit. A building permit, construction permit, demolition permit, or other permit that authorizes the performance of work.
(4) Certificate of compliance. A document issued by the authority having jurisdiction stating that work was done in compliance with approved construction documents and the Codes.

(5) Certificate of occupancy. A document issued by the authority having jurisdiction certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the authority having jurisdiction, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.


(8) FCNYS. The 2020 Fire Code of New York State as currently incorporated by reference in Part 1225 of this Title.

(9) Fire safety and property maintenance inspection. An inspection performed to determine compliance with the applicable provisions of Part 1225 of this Title and the publications incorporated therein by reference and the applicable provisions of Part 1226 of this Title and the publications incorporated therein by reference.

(10) Hazardous production materials. A solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

(11) Mobile food preparation vehicles. Vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.
(12) PMCNYS. The 2020 Property Maintenance Code of New York State as currently incorporated by reference in Part 1226 of this Title.

(13) RCNYS. The 2020 Residential Code of New York State as currently incorporated by reference in Part 1220 of this Title.

(14) Repair. The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

(15) Sugarhouse. A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

(16) Uniform Code. The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of this Title, adopted pursuant to Article 18 of the Executive Law.

**Section 1203.2 Program for administration and enforcement.**

(a) Every city, village, town, and county responsible for administration and enforcement of either or both of the Codes shall establish a code enforcement program to provide for such administration and enforcement by local law, ordinance, or other appropriate regulation. Such code enforcement program shall include the features and provisions described in section 1203.3 of this Part.

(b) Where the State is responsible under section 1201.2 (d) of Part 1201 of this Title for administration and enforcement of the Uniform Code, the state agency or agencies determined in accordance with the provisions of Part 1204 of this Title shall administer and enforce the Codes in accordance with Part 1204 of this Title and section 1203.3 (j) of this Part. For the purposes of section 1203.3 (j)(5) of this Part, the period fixed by the code enforcement program of such state agency, as the interval between periodic condition assessments, shall not exceed three years.
(c) Every state agency responsible under section 1201.2 of this Title for administration and enforcement of the Uniform Code and not otherwise included in subdivisions (a) and (b) of this section shall provide for administration and enforcement of the Codes in regulation. Any such regulation shall include the features described in section 1203.3 of this Part.

(d) Every authority having jurisdiction responsible for administration and enforcement of the Uniform Code shall exercise its powers in due and proper manner so as to extend to all people of the State protection from the hazards of fire and inadequate building construction. Every authority having jurisdiction responsible for administration and enforcement of the Energy Code shall exercise its powers in due and proper manner so as to further the purposes of Article 11 of the Energy Law, as applicable.

(e) An authority having jurisdiction may contract directly with an individual or business entity to perform “building safety inspector enforcement activities” or “code enforcement official enforcement activities” (as those terms are defined in Part 1208 of this Title) on behalf of the authority having jurisdiction, subject to the following conditions:

(1) Where an authority having jurisdiction contracts directly with an individual or a business entity to perform any building safety inspector enforcement activities on behalf of such authority having jurisdiction, the authority having jurisdiction shall satisfy itself that each individual performing such contracted-for building safety inspector enforcement activities has qualifications comparable to those of a person who has met the requirements of Part 1208 of this Title applicable to building safety inspectors.

(2) Where an authority having jurisdiction contracts directly with an individual or a business entity to perform any code enforcement official enforcement activities on behalf of such authority having jurisdiction, the authority having jurisdiction shall satisfy itself that each individual performing such contracted-for code enforcement official enforcement activities has qualifications comparable to those of a person who has met the requirements of Part 1208 of this Title applicable to code enforcement officials.
(3) No agreement shall be made by which building permits, certificates of occupancy, temporary certificates of occupancy, certificates of compliance, orders, appearance tickets, or other similar documents related to administration and enforcement of either or both of the Codes are issued by other than public officers of the authority having jurisdiction.

(4) “Special inspections” (as defined in the Uniform Code), including but not limited to, electrical inspections, elevator inspections, welding inspections, and smoke control system inspections are not considered to be building safety inspector enforcement activities or code enforcement official enforcement activities (as defined in Part 1208 of this Title). Accordingly, a special inspector performing a special inspection is not performing a building safety inspector enforcement activity or a code enforcement official enforcement activity and is not required to have qualifications comparable to those of a person who has met the requirements of Part 1208 of this Title. However, an authority having jurisdiction shall not accept or rely upon a special inspection unless the person performing such special inspection

(i) is a qualified person employed or retained by an agency that has been approved by the authority having jurisdiction and

(ii) has been approved by the authority having jurisdiction as having the competence necessary to inspect a particular type of construction requiring such special inspection.

(f) The persons, offices, departments, agencies, or combinations thereof, authorized and responsible for administration and enforcement of either or both of the Codes, or any portion thereof, shall be clearly identified.

Section 1203.3 Minimum features of a program for administration and enforcement.

A program for administration and enforcement of either or both of the Codes shall include all features and provisions described in this section 1203.3. Each authority having jurisdiction must provide for each of the listed features through local law, ordinance, or appropriate regulation. Such authority having jurisdiction may
adopt provisions for administration and enforcement that are more stringent than the minimum standards set forth in this section.

(a) Building permits.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be required for work that must conform to either or both of the Codes. Where expressly set forth in their code enforcement program, an authority having jurisdiction may exempt from the requirement for a building permit any one or more of the categories of work listed in section 1203.3 (a)(1)(i) through (viii). An exemption from the requirement to obtain a building permit shall not be deemed an authorization for work to be performed in violation of either or both of the Codes. The following categories of work may be exempted from the requirement for a building permit:

(i) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;

(ii) construction of temporary sets and scenery associated with motion picture, television, and theater uses;

(iii) installation of window awnings supported by an exterior wall of a one-or two-family dwelling or multiple single-family dwellings (townhouses);

(iv) installation of partitions or movable cases less than 5'-9" in height;

(v) painting, wallpapering, tiling, carpeting, or other similar finish work;

(vi) installation of listed portable electrical, plumbing, heating, ventilation, or cooling equipment or appliances;

(vii) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; and
(viii) repairs, provided that the work does not have an impact on fire and life safety, such as:

(a) any part of the structural system;

(b) the required means of egress; or

(c) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring an application for a building permit, or an amendment thereto, to include information sufficient to enable the authority having jurisdiction to determine that the intended work accords with the requirements of the Codes. An application for a building permit shall include, but not be limited to, the following information and documentation:

(i) a description of the location, nature, extent, and scope of the proposed work;

(ii) the tax map number and the street address of any affected building or structure;

(iii) the occupancy classification of any affected building or structure;

(iv) where applicable, a statement of special inspections to be prepared in accordance with the provisions of the Uniform Code;

(v) construction documents (drawings and/or specifications), in the format and quantity acceptable to the authority having jurisdiction, prepared in compliance with section 1203.3 (a)(3);

(vi) any additional submittal documents in the format and quantity acceptable to the authority having jurisdiction as required by the applicable provisions of the Codes;

(vii) any other information and documentation that the authority having jurisdiction may deem necessary to allow the authority having jurisdiction to determine that the proposed work conforms to the Codes.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring construction documents submitted as part of an application for a building permit to be drawn to scale on suitable
material or in electronic media. The authority having jurisdiction shall not approve required construction documents unless they show in sufficient detail that they contain the information and/or documentation required by the applicable provisions of either or both of the Codes, and including but not limited to the following, where applicable:

(i) describing the location, nature, extent, and scope of the proposed work;

(ii) showing that the proposed work will conform to the applicable provisions of the Codes;

(iii) showing the location, construction, size, and character of all portions of the means of egress;

(iv) showing a representation of the building thermal envelope;

(v) showing structural information including but not limited to braced wall designs; the size, section, and relative locations of structural members; design loads; and other pertinent structural information;

(vi) showing the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;

(vii) a written statement indicating compliance with the Energy Code;

(viii) a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site; distances from lot lines; the established street grades and the proposed finished grades; and, as applicable, flood hazard areas, floodways, and design flood elevations;

(ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional’s seal which clearly and legibly shows both the design professional’s name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional’s registration expiration
date, the design professional’s firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm’s Certificate of Authorization number; and

(x) include any other information and documentation that the authority having jurisdiction may deem necessary to allow the authority having jurisdiction to determine that the proposed work conforms to the Codes.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(2), to examine applications for a building permit or for an amendment thereto to ascertain whether the proposed work is in conformance with the requirements of the Codes. Construction documents and any other submittal documents approved as part of a building permit application shall be so marked in writing and by stamp, or in the case of electronic media, an electronic marking. One complete set of approved construction documents and other submittal documents shall be retained by the authority having jurisdiction. One complete set shall be returned to the applicant to be available at the work site for use by the authorized representatives of the authority having jurisdiction.

(5) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to contain a statement indicating that all work shall be performed in accordance with the approved building permit application including any supporting information and documentation, such as construction documents, written statements, submittal documents, etc. In addition, a building permit shall include a directive indicating that the building permit holder must notify the authority having jurisdiction immediately in the event of changes occurring during construction.

(6) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be issued with a specific expiration date. The authority having jurisdiction may provide that
a building permit shall become invalid unless the work authorized is commenced within a specified period following issuance.

(7) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that when a building permit has been issued in error because of incorrect, inaccurate, or incomplete information, or the work for which the building permit was issued violates either or both of the Codes, such building permit shall be revoked or suspended until such time as the building permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the Codes.

(8) Each authority having jurisdiction shall include in its code enforcement program provisions requiring building permits to be visibly displayed at the worksite and to remain visible until the project has been completed.

(b) Construction inspections.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(2), to perform construction inspections required by the Codes including those listed in this paragraph, either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the elements of the construction process conform with the applicable requirements of the Codes. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. Inspections shall include but not be limited to the following elements of the construction process, where applicable:

(i) worksite prior to the issuance of a permit;
(ii) footing and foundation;

(iii) preparation for concrete slab;

(iv) framing;

(v) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;

(vi) fire resistant construction;

(vii) fire resistant penetrations;

(viii) solid fuel-burning heating appliances, chimneys, flues, or gas vents;

(ix) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, high-performance lighting, and controls;

(x) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and

(xi) a final inspection after all work authorized by the building permit has been completed.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring work for which a permit has been issued to remain accessible and exposed until inspected and accepted by the authority having jurisdiction and requiring building permit holders to notify the authority having jurisdiction when construction work is ready for inspection.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that after each inspection, the authority having jurisdiction shall note the work or a portion thereof to be satisfactory as completed, or the building permit holder shall be notified as to the manner in which the work fails to comply with either or both of the Codes, including a citation to the specific code provision or provisions
that have not been met. The code enforcement program shall also include provisions requiring work not in
compliance with applicable provisions of either or both of the Codes to remain exposed until it has been brought
into compliance with the Codes, re-inspected, and found satisfactory as completed.

(c) Stop work orders.

Each authority having jurisdiction shall include in its code enforcement program provisions for the
authority having jurisdiction to issue stop work orders to halt work that is determined to be contrary to
provisions of either or both of the Codes, is being conducted in a dangerous or unsafe manner, is being
performed without obtaining a required building permit, or when a building permit has been issued in error. A
stop work order shall state the reason for its issuance and the conditions which must be satisfied before work
will be allowed to resume.

(d) Certificates of occupancy, certificates of compliance, and temporary certificates of occupancy.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions for the
authority having jurisdiction to issue a certificate of occupancy or a certificate of compliance for any work
which is the subject of a building permit and required to comply with either or both of the codes and for all
structures, buildings, or portions thereof, which are converted from one use or occupancy classification or
subclass to another. The code enforcement program shall provide that, except as provided in section
1203.3 (d)(4), permission to use or occupy a building or structure, or portion thereof, for which a building
permit was previously issued, or which has been converted from one use or occupancy classification or
subclass to another, shall be granted only by issuance of a certificate of occupancy or a certificate of
compliance.

(2) Each authority having jurisdiction shall include in its code enforcement program a provision that
precludes the authority having jurisdiction from issuing a certificate of occupancy or a certificate of compliance
until the authority having jurisdiction shall have:
(i) inspected the building, structure, or work and determined that the building, structure, or work is in compliance with all applicable provisions of the Codes;

(ii) where applicable, received and reviewed each written statement of structural observations and/or a final report of special inspections required by any applicable provisions of the Uniform Code and determined that the information in such written statement or report adequately demonstrates compliance with the applicable provision of the Uniform Code;

(iii) where applicable, received and reviewed flood hazard certifications required by any applicable provisions of the Uniform Code and determined that the information in such certifications adequately demonstrates compliance with the applicable provision of the Uniform Code;

(iv) where applicable, received and reviewed each written statement of the results of tests performed to show compliance with the Energy Code and determined that the information in such statements adequately demonstrates compliance with the applicable provision of the Energy Code; and

(v) where applicable, verified the affixation of the appropriate seals, insignias, and manufacturers’ data plates as required for factory manufactured buildings and/or manufactured homes.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring a certificate of occupancy or certificate of compliance to contain the following information:

(i) the building permit number, if any;

(ii) the date of issuance of the building permit, if any;

(iii) the name, address, and tax map number of the property;

(iv) if the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;

(v) the use and occupancy classification of the structure;
(vi) the type of construction of the structure;
(vii) the occupant load of the assembly areas in the structure, if any;
(viii) any special conditions imposed in connection with the issuance of the building permit;
(ix) the signature of the official issuing the certificate of occupancy or certificate of compliance; and
(x) the date of issuance of the certificate of occupancy or certificate of compliance.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions allowing the authority having jurisdiction to issue a temporary certificate of occupancy prior to the completion of the work that is the subject of a building permit. The code enforcement program shall provide that:

(i) A temporary certificate of occupancy shall be limited to a specified period of time during which the building permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Codes.

(ii) The temporary certificate of occupancy shall specify the portion or portions of the building or structure that may be occupied pursuant to the temporary certificate of occupancy, and any special terms or conditions of such occupancy that the authority having jurisdiction may deem to be appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure.

(iii) The temporary certificate of occupancy shall also include the information mentioned in section 1203.3 (d)(3).

(iv) An authority having jurisdiction shall not issue a temporary certificate of occupancy until it determines that the following conditions are met:

(a) the structure or portions thereof may be occupied safely;

(b) any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational; and
(c) all required means of egress from the structure have been provided.

(5) Each authority having jurisdiction shall include in its code enforcement program provisions requiring a certificate of occupancy, certificate of compliance, or temporary certificate of occupancy issued in error or on the basis of incorrect information to be suspended or revoked by the authority having jurisdiction if the relevant deficiencies are not corrected within a specified period of time.

(e) Notification regarding fire or explosion.

Each authority having jurisdiction shall include in its code enforcement program procedures for the chief of any fire department providing firefighting services for a property to notify the authority having jurisdiction of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

(f) Unsafe structures and equipment and conditions of imminent danger.

Each authority having jurisdiction shall include in its code enforcement program procedures for the authority having jurisdiction to identify and address unsafe structures and equipment and conditions of imminent danger consistent with the requirements of the Uniform Code.

(g) Operating permits.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring operating permits for conducting any process or activity or for operating any type of building, structure, or facility listed in this paragraph as follows:

   (i) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

   (ii) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS listed and described in section 1203.3 (g)(1)(ii) as follows:
(a) Chapter 22, “Combustible Dust-Producing Operations.” Facilities where the operation produces combustible dust;

(b) Chapter 24, “Flammable Finishes.” Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;

(c) Chapter 25, “Fruit and Crop Ripening.” Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

(d) Chapter 26, “Fumigation and Insecticidal Fogging.” Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

(e) Chapter 31, “Tents, Temporary Special Event Structures, and Other Membrane Structures.” Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

(f) Chapter 32, “High-Piled Combustible Storage.” High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

(g) Chapter 34, “Tire Rebuilding and Tire Storage.” Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

(h) Chapter 35, “Welding and Other Hot Work.” Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

(i) Chapter 40, “Sugarhouse Alternative Activity Provisions.” Conducting an alternative activity at a sugarhouse;
Chapter 56, “Explosives and Fireworks.” Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;

Section 307, “Open Burning, Recreational Fires and Portable Outdoor Fireplaces.” Conducting open burning, not including recreational fires and portable outdoor fireplaces;

Section 308, “Open Flames.” Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

Section 319, “Mobile Food Preparation Vehicles.” Operating a mobile food preparation vehicle.

(iii) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(iv) buildings containing one or more assembly areas;

(v) outdoor events where the planned attendance exceeds 1,000 persons;

(vi) facilities that store, handle or use hazardous production materials;

(vii) parking garages as defined in section 1203.3 (j);

(viii) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the authority having jurisdiction; and

(ix) other processes or activities or for operating any type of building, structure, or facility at the discretion of the authority having jurisdiction.

Where specifically identified in their code enforcement program, an authority having jurisdiction may exempt from the requirement for an operating permit the processes or activities, or the buildings, structures, or facilities listed in section 1203.3 (g)(1), provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 1203.3 (h), and condition assessments are performed in compliance with
section 1203.3 (j), as applicable. Neither this paragraph nor the provisions of the code enforcement program of the authority having jurisdiction that implement this paragraph shall limit or impair the right of the authority having jurisdiction to take any other enforcement action, including but not limited to those specified in section 1203.5 of this Part, as may be necessary or appropriate in response to any citation of non-compliance found during a fire safety and property maintenance inspection.

(3) Each authority having jurisdiction shall include in its code enforcement program provisions requiring parties who propose to undertake the types of activities or operate the types of buildings listed in section 1203.3 (g)(1), and not otherwise exempted by section 1203.3 (g)(2), to obtain an operating permit prior to commencing such activity or operation. The code enforcement program shall also include provisions requiring an application for an operating permit to contain sufficient information to enable a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required.

(4) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(2), to perform an inspection of the premises prior to the issuance or renewal of an operating permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the authority having jurisdiction that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the
manner in which the premises fails to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

(5) Where specifically identified in their code enforcement program, an authority having jurisdiction may allow a single operating permit to apply to more than one hazardous activity.

(6) Each authority having jurisdiction shall include in its code enforcement program provisions for operating permits to remain in effect until reissued, renewed, or revoked and shall be issued for a specified period of time consistent with local conditions, but in no event to exceed:

(i) 180 days for tents, special event structures, and other membrane structures;

(ii) 60 days for alternative activities at a sugarhouse;

(iii) three years for the activities, structures, and operations determined per section 1203.3 (g)(1)(ix), and

(iv) one year for all other activities, structures, and operations identified in section 1203.3 (g)(1).

(7) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(1) or 1203.2 (e)(2), to revoke or suspend an operating permit where a process or activity, or the operation of any type of building, structure, or facility does not comply with applicable provisions of the Uniform Code.

(h) Fire safety and property maintenance inspections.

(1) Each authority having jurisdiction shall include in its code enforcement program provisions requiring the authority having jurisdiction, or an individual or entity contracted by the authority having jurisdiction and satisfying the requirements set forth in section 1203.2 (e)(1) or 1203.2 (e)(2), to perform fire safety and property maintenance inspections either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the authority having jurisdiction, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the
satisfaction of the authority having jurisdiction that the premises conform with the applicable requirements of the Codes. Should a remote inspection not afford the authority having jurisdiction sufficient information to make a determination, an in-person inspection shall be performed. Fire safety and property maintenance inspections shall be performed at intervals consistent with local conditions, but in no event shall such intervals exceed:

(i) one year for buildings which contain an assembly area;

(ii) one year for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining or recreational facilities; and

(iii) three years for multiple dwellings and all nonresidential occupancies.

(2) Each authority having jurisdiction shall include in its code enforcement program provisions requiring that after each inspection, the authority having jurisdiction shall note the premises as satisfactory, or the owner and operator shall be notified as to the manner in which the premises fails to comply with the Uniform Code, including a citation to the specific Uniform Code provision or provisions that have not been met.

(3) Nothing in this subdivision shall require or be construed to require regular, periodic inspections of (A) owner-occupied one and two-family dwellings, or (B) agricultural buildings used directly and solely for agricultural purposes, provided, however, that this shall not be a limitation on inspections conducted at the invitation of the owner or occupant, or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

(4) In the case of a building referred to in section 1203.3(h)(1)(ii), an authority having jurisdiction may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law, in lieu of an
inspection performed by the authority having jurisdiction or an individual or entity contracted by the authority having jurisdiction, provided that

(i) the authority having jurisdiction satisfies itself that the individual performing such inspection satisfies the requirements set forth in section 1203.2 (e)(1) or 1203.2 (e)(2);

(ii) the authority having jurisdiction satisfies itself that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

(iii) such inspections are performed no less frequently than once a year;

(iv) a true and complete copy of the report of each such inspection is provided to the authority having jurisdiction; and

(v) upon receipt of each such report, the authority having jurisdiction takes the appropriate action prescribed by paragraph (2) of this subdivision or verifies the authorized entity performing the inspection has taken the appropriate action consistent with paragraph (2) of this subdivision.

(i) Procedure for complaints. Procedures shall be established for addressing bona fide complaints which assert that buildings, structures, conditions, or activities fail to comply with either or both of the Codes or with local laws, ordinances, or regulations adopted for administration and enforcement of the either or both of the Codes. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the buildings, structures, conditions, and/or activities alleged to be in violation.

(j) Condition assessments of parking garages.

(1) General. Each authority having jurisdiction shall include in its code enforcement program provisions requiring condition assessments of parking garages. Such provisions shall include, at a minimum, the requirements and features described in this subdivision.

(2) Definitions. For the purposes of section 1203.3 (j), the following terms shall be deemed to have the meanings shown in this paragraph:
(i) Condition assessment. An on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure.

(ii) Deterioration. The weakening, disintegration, corrosion, rust, or decay of any structural element or building component or any other loss of effectiveness of a structural element or building component.

(iii) Parking garage. Any building or structure, or part thereof, in which any structural level, or part thereof is used for parking or storage of motor vehicles, excluding:

(a) buildings in which the only level used for parking or storage of motor vehicles is entirely supported on soil or engineered fill, and not supported on structural framing;

(b) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

(c) a townhouse unit with attached parking exclusively for such unit.

(iv) Professional engineer. An individual who is licensed or otherwise authorized under article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations.

(v) Responsible professional engineer. The professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report.

(vi) Unsafe condition. The conditions identified as unsafe in sections 304.1.1, 305.1.1, and 306.1.1 of the PMCNYS.

(vii) Unsafe structure. A structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.
(3) Condition assessments – general requirements. The owner or operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in section 1203.3 (j)(4), periodic condition assessments as described in section 1203.3 (j)(5), and such additional condition assessments as may be required under section 1203.3 (j)(6). Each condition assessment shall be conducted by or under the direct supervision of a responsible professional engineer. A written report of each condition assessment shall be prepared and provided to the authority having jurisdiction, in accordance with the requirements of section 1203.3 (j)(7). Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(4) Initial condition assessment. Each parking garage shall undergo an initial condition assessment as follows:

(i) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(ii) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

   (a) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

   (b) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

   (c) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.

(5) Periodic condition assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed the lesser of:
(i) three years; or

(ii) at such shorter period as may be fixed by the authority having jurisdiction in its code enforcement program.

(6) Additional condition assessments.

(i) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under section 1203.3 (j)(5), the authority having jurisdiction shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(ii) If the authority having jurisdiction becomes aware of any new or increased deterioration which, in the judgment of the authority having jurisdiction, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under section 1203.3 (j)(5), the authority having jurisdiction shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the authority having jurisdiction to be appropriate.

(7) Condition assessment reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the authority having jurisdiction within such time period as fixed by the authority having jurisdiction.
jurisdiction. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

(i) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(ii) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(iii) an evaluation and description of the unsafe conditions;

(iv) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(v) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(vi) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(vii) the responsible professional engineer’s recommendation regarding preventative maintenance;

(viii) except in the case of the report of the initial condition assessment, the responsible professional engineer’s attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(ix) the responsible professional engineer’s recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage’s age,
maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

(8) The authority having jurisdiction shall review each condition assessment report. The authority having jurisdiction shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the authority having jurisdiction shall, by order to remedy or such other means of enforcement as the authority having jurisdiction may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to section 1203.3 (j)(7)(ii) and section 1203.3 (j)(7)(iii). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. Neither this paragraph nor the provisions of the code enforcement program of the authority having jurisdiction that implement this paragraph shall limit or impair the right of the authority having jurisdiction to take any other enforcement action, including but not limited to placing a do not occupy order or suspension or revocation of a parking garage’s operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(9) The authority having jurisdiction shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the authority having jurisdiction with a written statement attesting to the fact that he or she has been so engaged, the authority having jurisdiction shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The authority having jurisdiction shall be permitted to require the owner or
operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(10) Neither this subdivision nor the provisions of the code enforcement program of the authority having jurisdiction that implement this subdivision shall limit or impair the right or the obligation of the authority having jurisdiction:

(i) to perform such construction inspections as are required by the stricter of section 1203.3 (b) or the code enforcement program of the authority having jurisdiction;

(ii) to perform such periodic fire safety and property maintenance inspections as are required by the stricter of section 1203.3 (h) or the code enforcement program of the authority having jurisdiction; and/or

(iii) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the authority having jurisdiction by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

(11) The use of the term responsible professional engineer in this subdivision shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

(k) Climatic and Geographic Design Criteria. The city, town, and village responsible for administration and enforcement of the Uniform Code shall establish and make available climatic and geographic design criteria as required by the Uniform Code. This includes, but is not limited to:

(1) Establishing design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
(2) Establishing heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and

(3) Establishing flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

(i) the accompanying Flood Insurance Rate Map (FIRM);
(ii) Flood Boundary and Floodway Map (FBFM); and
(iii) related supporting data along with any revisions thereto.

(l) Recordkeeping. A system of records of the features and activities specified in section 1203.3 (a) through section 1203.3 (k) and of fees charged and collected, if any, shall be established and maintained.

Section 1203.4 Program review and reporting.

(a) Every city, village, town, and county charged under subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall annually submit to the Secretary of State, on a form prescribed by the Secretary of state, a report of its activities relative to administration and enforcement of the Codes.

(b) Upon request of the Department of State, every authority having jurisdiction shall provide to the Department of State true and complete copies of the records and related materials such authority having jurisdiction is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of either or both of the Codes as may be requested by the Department of State. Failure to produce the requested
materials within a reasonable timeframe shall permit an inference that the minimum standards of this Part have not been met. No such inference shall be based on the failure to provide copies of records if such records were, prior to a request for copies, disposed of pursuant to the applicable records retention and disposition schedules established by the authority having jurisdiction or pursuant to the Arts and Cultural Affairs Law.

Section 1203.5 Compliance with an order to remedy.

(a) Introduction and purpose. Section 381 of the Executive Law provides for the administration and enforcement of the Codes and authorizes the Secretary of State to promulgate regulations establishing minimum standards for such administration and enforcement. In addition, subdivision 2 of section 382 of the Executive Law provides, in part, that any person, having been served, either personally or by registered or certified mail, with an order to remedy any condition found to exist in, on, or about any building in violation of the Uniform Code, who shall fail to comply with such order within the time fixed by the regulations promulgated by the Secretary of State pursuant to subdivision 1 of section 381 of the Executive Law, such time period to be stated in the order, shall be punishable by a fine of not more than $1,000 per day of violation, or imprisonment not exceeding one year, or both. The purpose of this section is to fix, for the purposes of subdivision 2 of section 382 of the Executive Law, the time within which a person or entity served with an order to remedy is required to comply with such order to remedy.

(b) Definitions. In this section, the following terms shall have the following meanings:

1 Order to remedy. An order to remedy any condition found to exist in, on, or about any building in violation of the Uniform Code.

2 Comply with an order to remedy. To remedy completely each violation described in the order to remedy.
(c) Time for compliance with order to remedy. For the purposes of subdivision 2 of section 382 of the Executive Law, the time within which a person or entity served with an order to remedy is required to comply with such order to remedy is hereby fixed at 30 days following the date of such order to remedy.

(d) Statement to be included in order to remedy. For the purpose of complying with that part of subdivision 2 of section 382 of the Executive Law that provides “such time period to be stated in the order,” an order to remedy shall include a statement substantially similar to the following: “The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by [specify date], which is thirty (30) days after the date of this Order to Remedy.”

(e) Service. An order to remedy shall be served personally or by certified or registered mail within five days of the date of the order. For the purposes of this section:

(1) if an order to remedy is served personally by any authorized means that requires more than one action by the person effecting service (such as service by “delivery and mail” similar to that authorized by CPLR 308[2]), the order to remedy shall be deemed to be served on the date on which the last required action is taken; and

(2) an order to remedy served by certified or registered mail shall be deemed to be served on the date it is mailed.

(f) Requiring immediate commencement of corrective action. Nothing in this section shall be construed as prohibiting any authority having jurisdiction that issues an order to remedy from including in such order to remedy provisions ordering the person or entity served with such order to remedy:

(1) to begin to remedy the violations described in the order to remedy immediately, or within some other specified period of time which may be less than 30 days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within 30 days of the date of such order to remedy; and/or
(2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by the code enforcement program of the authority having jurisdiction or by any other applicable statute, regulation, rule, local law or ordinance, and which the authority having jurisdiction may deem appropriate, during the period while such violations are being remedied.

(g) Other means of enforcing the Uniform Code. Nothing in this section shall be construed as requiring an authority having jurisdiction to issue an order to remedy in a given situation where violations of the Uniform Code are found to exist if, in the judgment of the authority having jurisdiction, such violations can be addressed adequately by the use of other enforcement tools or by other means. Nothing in this section shall be construed as limiting the authority of an authority having jurisdiction to employ any other means of enforcing either or both of the Codes, including, but not limited to:

(1) issuing notices of violation;

(2) issuing appearance tickets;

(3) commencing and prosecuting an appropriate action or proceeding pursuant to that part of subdivision 2 of section 382 of the Executive Law that provides that any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the “construction” (as defined in subdivision 4 of section 372 of the Executive Law) of any building who shall knowingly violate any of the applicable provisions of the Uniform Code or any lawful order of a city, village, town, county, state agency or the Secretary of State made thereunder regarding standards for construction, maintenance, or fire protection equipment and systems, shall be subject to a fine of not more than $1,000 per day of violation, or imprisonment not exceeding one year, or both for the first 180 days, and for the following 180 days shall be punishable by a fine of no less than $25 and not more than $1,000 per day of violation or imprisonment not exceeding one year, or both and thereafter shall be punishable by a fine of no less than $50 and not more than $1,000 per day of violation or imprisonment not exceeding one year, or both;
(4) commencing and prosecuting an appropriate action or proceeding pursuant to subdivision 3 of section 382 of the Executive Law which seeks, in a case where the construction or use of a building is in violation of any provision of the Uniform Code or any lawful order obtained thereunder, an order from a Justice of the Supreme Court, New York City civil court, a city court, district court, or county court directing the removal of the building or an abatement of the condition in violation of such provisions;

(5) commencing and prosecuting an appropriate action or proceeding pursuant to subdivision 4 of section 382 of the Executive Law that provides that where a building has been altered in violation of any provision of the uniform code or any lawful order obtained thereunder, and such alteration impedes a person's egress from such building during a fire or other emergency evacuation, the owner of such building who has knowledge of such alteration or should have had knowledge of such alteration shall be subject to a civil penalty of up to $7,500;

(6) issuing stop work orders;

(7) revoking or suspending building permits, operating permits, and/or certificates of occupancy pursuant to the procedures established in the code enforcement program of the authority having jurisdiction or pursuant to any other applicable statute, regulation, rule, local law or ordinance;

(8) commencing and prosecuting an appropriate action or proceeding to impose such criminal and/or civil sanctions as may be provided in any applicable statute, regulation, rule, local law or ordinance;

(9) condemning and/or placarding a building in accordance with the applicable provisions of the Uniform Code;

(10) taking any action authorized by the procedures for identifying and addressing unsafe structures and equipment as established in the code enforcement program of the authority having jurisdiction or by any other applicable statute, regulation, rule, local law or ordinance; or
(11) issuing orders to remedy violations of the Energy Code pursuant to subdivision (1) of section 11-108 of the Energy Law.

(h) Office of Fire Prevention and Control. For the purposes of this section, the term order to remedy shall not include any order issued by the Office of Fire Prevention and Control pursuant to section 156-e of the Executive Law (or pursuant to any regulation promulgated thereunder) requiring the remedying of any condition found to exist in, on or about any building under the jurisdiction of a public college or independent college (as these terms are defined in section 807-b of the Education Law) which violates the Uniform Code. Nothing in this section shall be construed as fixing the time within which a public college or independent college shall have to comply with any such order, or as requiring any such order to include the statement prescribed in section 1203.5 (d).
To: Architecture Board Members

From: Robert Lopez

Subject: DoB Filings

Date: January 21, 2022

In reply to: Vice Chair Pearson has made the Department aware of challenges with the New York City DoB NOW system. The challenges presented are outlined below:

- The license authentication process to establish an online account takes 6 weeks, involves the license professional personally dropping a form into a dropbox at DOB without anyone checking an ID, and does not serve the purpose that was intended, which is simply to verify the identity professional and the validity of a license.
- The system crashes and is regularly offline during the bulk of working hours.
- Check boxes within the system are absolute, but the reality of the work on the job filing is not black and white.
- If a plan examiner or building inspector misunderstands or misapplies a section of the code to the project, there is no option to discuss in person or address within the program.
- Architects, professional engineers, and Owners are now responsible for items that are outside their control or realm of knowledge (for ex. TPPP, Number of Occupied Dwelling Units, resolving objections for plumbing scopes where the Owner has to ‘sign-off’)
- To get through the system and for the DOB filing review to begin:
  - LPC approval is required – can no longer have DOB and LPC reviews in parallel.
  - Because of missing exemption boxes, professionals have had to willfully check the wrong box and fix later. (NYECC exemption, Street Tree exemption.)
  - There is unnecessary redundancy of filing all forms on the job for each separate scope on one project – each professional working on the job has to submit all the project forms each time they file their individual scope for the same job, even if the forms do not relate to their scope, and the review process does not begin until all forms relating to that job are submitted.
- The DoB NOW system was rolled out with some of these inherent challenges and was compounded with COVID-19 happening and a transition to fully remote plan examinations and reviews. Plan examiners have been challenged in trying to pivot to navigating a new system remotely.

As a result of all the above and more, the filing process not only begins later in the project timeline (delays start of construction), but also lengthens the duration of the filing process itself from time of submittal to approval. This added length puts the licensed professionals in a precarious position for a timeline they cannot control, with clients who are often paying maintenance fees on apartments that are sitting vacant for months during approvals, on top of their current living costs (rental/mortgage/maintenance).
The challenges noted in this memo are of importance to the Board due to an existing backlog of cases within OPD that hinge upon the new system. It would be advantageous for other Board members who have experience with the NYC DoB permitting process to become involved in the review of enforcement cases. Furthermore, familiarity with the DoB permitting process and these challenges are important for Board members to have prior to participating in conversations with OPD investigators and prosecutors.

The above items are being sent to the Board for their input and comments.
To: Architecture Board Members

From: Robert Lopez

Subject: NCARB Updates – IPAL seminar

In reply to:

The Executive Secretary attended an NCARB panel discussion titled “IPAL: The Future of Education?” led by Brittney Cosby of NCARB on November 15, 2021. Of note for Board members were some statistics mentioned during the seminar:

- IPAL was created in 2015
- IPAL is not a new degree program within a collegiate program. It is merely an option within an existing NAAB-accredited program
- There are 28 NAAB accredited programs at 24 schools participating in IPAL
- Currently 600+ IPAL students are participating in the program
- 150+ students have taken 1 or more ARE divisions while in a professional program
- 300,000+ AXP hours have been earned by the participating students in IPAL
- 300+ firms are currently participating in IPAL
- The percentage of students who complete IPAL on time is very small, with only 20 students having graduated with IPAL status
- NCARB is doing a 5-year review of IPAL. It’s too early to tell how successful the program will be
- One of the panelists participating in the discussion was licensed as an architect at 23 years old

The above items are being sent to the Board for their information.
MEMORANDUM

To: Regional Directors, Public Director and MBE Director

From: Michael J. Armstrong, CEO

Date: January 7, 2022

Subject: January 2022 Board of Directors Meeting

The NCARB Board of Directors will hold its winter meeting January 20-22, 2022. We are providing this summary of topics that will be discussed by the Board, along with brief descriptions regarding content and context, as part of NCARB’s ongoing effort to provide greater transparency and encourage collaboration between Board representatives and their constituencies.

Generative & Strategic Discussions

- Board consultants, Emily Holthaus from NonProfit HR and Jon Hockman from McKinley Advisors, will facilitate the Board’s continued learning journey focused on: diversity, equity, and inclusion (DEI); and best practices for Board governance and leadership; as well as planning for future engagements with the Diversity Collaborative.
- The Board will engage in exploratory sessions on future licensing models including competency requirements, assessments, and opportunities along the pathways to licensure.
- The current status of two multi-year research projects will be reviewed:
  - Analysis of Practice - exploring the current practice of architecture, as well as what’s on the horizon for the near future. Findings will shape how the regulation of architecture evolves.
  - Fairness in Licensure – a study of Council programs to assess fairness within the programs and the path to licensure.

External Organizations

- Leadership from the National Organization of Minority Architects (NOMA) will join the Board for an interactive discussion about organizational missions and opportunities for collaboration. NOMA celebrated it’s 50th anniversary last year and is focused on improving communities and design through diversity and inclusion in the profession of architecture. NOMA is partnering with NCARB in the joint Baseline on Belonging study which is being released in multiple stages to NCARB members and the public via NCARB’s website.
- In other actions related to external organizations, the Board of Directors will consider recommendations for appointments to the Boards of Directors for the American Institute of Architecture Students (AIAS) and the National
Architectural Accrediting Board (NAAB). Former NCARB President, Kristine Annexstad Harding, AIA, NCARB and former member of the Puerto Rico Board of Examiners for Architects and Landscape Architects, Raúl Rivera-Ortiz, AIA, NCARB, will each complete three-year terms in 2022 with AIAS and NAAB, respectively.

Resolutions
- The Board will take a first look at seven proposed FY22 resolutions to determine which move forward to the membership for feedback. The draft resolutions will be released to membership following the January Board meeting.

Fiduciary Responsibilities
- An annual analysis of future opportunities and immediate and near-term risks to the Council will be reviewed during this meeting in preparation for establishing goals and budgets for the coming fiscal year.
- The Council’s investment advisors, SPG Fiduciary Partners of Raymond James, will engage the Board in the annual review of the Council’s investment strategy. Treasurer Ken Van Tine and the investment advisors will introduce guidelines for future funding of the Strategic Growth Fund as an update to the Council’s investment policy.
- Polices related to good conduct and the nomination of the NAAB Director will be reviewed during this meeting as part of a rolling review of all Board policies over a three-year cycle.
- The Board will consider funding requests for additional DEI work and human resources support for the Council office.

Informational items:
- President Alfred Vidaurri will update the Board on his activities since the September 2021 Board of Directors meeting.
- Committees, task forces, and work groups will submit status reports on efforts on FY22 charges.
- The CEO will report on staff activities since the September 2021 Board of Directors meeting and provide a preview of upcoming events through the early months of 2022.

cc: NCARB Executive Committee