

TEXAS BOARD OF PROFESSIONAL ENGINEERS

Policy Statement

Date: *November 21, 2013 (Approved by Board)*

Approved: Lance Kinney, Executive Director (LK Init / 11/21/13 Date)

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Title: *Criminal History Policy for Applications*

Subject: *Criminal History Policy*

Replaces: *PE Criminal History Guidelines and Procedure*

Policy Determination:

On the application form, all applicants will be asked to state, under penalty of perjury, whether he or she has ever been convicted of an offense, placed on probation, granted deferred adjudication or any type of pretrial diversion for a felony or misdemeanor crime. If so, the applicant will be asked to supply additional information about each criminal incident using the Criminal History form as well as providing copies of appropriate court documents. Board staff will submit identifying information to the Texas Department of Public Safety or other appropriate agencies requesting criminal records on applicants for licensure. Beginning January 1, 2014, all applicants will be required to submit fingerprints to obtain a Criminal History Records Check.

Applicants with a criminal history will be referred to the Licensing Committee for review and approval if any of the following conditions apply:

- Any direct relationship of the judgment to the applicant's fitness to practice as a Professional Engineer in Texas.
- Any discovered convictions which were not reported by the applicant on the application.
- Any misdemeanor conviction (not including class C) within four years of the date of application.

- Multiple judgments (not including class C misdemeanors) that occurred within 8 years of the date of application.
- Any felony conviction within 8 years of the date of application.

Applications with reported criminal incidents not meeting the conditions above will be reviewed under the normal application processing procedures by the Executive Director (staff).

Applications from individuals with incomplete deferred agreements or probation may be held or delayed until terms are complete.

Background and reason(s) for policy interpretation:

Pursuant to Texas Occupations Code Chapter 53 relating to Consequences of Criminal Convictions, The Texas Board of Professional Engineers establishes the following guidelines for consideration for licensure as a Professional Engineer in Texas.

The board shall consider:

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

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

The Texas Board of Professional Engineers considers that the following crimes directly relate to the practice of engineering due to the adverse impact each of these crimes has on the special trust and ethical duties a Professional Engineer owes to the client and the public involving honesty, integrity, fidelity and the exercise of good judgment and character:

- Any felony or misdemeanor which involves a disregard for the health, safety or welfare of the general public or individuals, including violent crimes or driving under the influence of alcohol or drugs;
- Any felony or misdemeanor of which fraud or deceit is an essential element;

- Any felony or misdemeanor which demonstrates a lack of professional judgment expected of a Professional Engineer, including crimes involving drugs or alcohol;
- Any felony or misdemeanor involving financial or other loss for a client(s) or the public; and
- Any other felony or misdemeanor reflecting adversely upon the applicant's fitness to practice engineering.

Texas Occ. Code section 53.025 (a).

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

Applicable Rules:

§133.99 Processing of Applications with a Criminal Conviction

Statutory Authority:

*§1001.2035 Rules on Consequences of Criminal Conviction
Chapter 53, Texas Occupations Code*

Other References:

N/A

Keywords:

Criminal History