



Oregon

Kate Brown, Governor

State Board of Examiners for Engineering & Land Surveying

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Board of Directors
Structural Engineers Association of Oregon
ATTN: Seth Thomas, PE, SE
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Portland, OR 97219

Dear SEAO Board of Directors:

The Oregon State Board of Examiners for Engineering and Land Surveying (OSBEELS) is in receipt of your August 27, 2018 letter regarding OSBEELS's denial of Professional Engineering (PE) registration to individuals who have passed, as their only Principles and Practice of Engineering examination, the NCEES *Structural I* examination. We value and appreciate your interest and concern.

From the contents of your letter, however, it appears that the SEAO Board of Directors may have some misinformation about, or a misunderstanding of, relevant facts and history.

SB297

You note that the Board asserted in 2015, when it submitted testimony and exhibits for Senate Bill 297, that the language the OSBEELS proposed for SB297 would not change the statutory requirements for licensure. This is correct.

Prior to SB297, the statutory requirements for licensure were:

- a Fundamentals of Engineering examination recognized by the Board;
- a Professional Practices examination (Principles and Practice of Engineering) recognized by the Board;
- four years of engineering work experience; and,
- a Bachelor of Science degree in engineering or some other amount/type of education and additional engineering work experience.

After SB297 passed, the statutory requirements for licensure are:

- a Fundamentals of Engineering examination recognized by the Board;
- a Professional Practices examination (Principles and Practice of Engineering) recognized by the Board;
- four years of engineering work experience; and,
- a Bachelor of Science degree in engineering or some other amount/type of education and additional engineering work experience.

The only change to those substantive elements of statutory qualification for PE licensure created by SB297 was that individuals who have been licensed for at least 25 years in another jurisdiction can now

apply for a waiver of the FE examination. That change was not proposed by OSBEELS.

Rules Adopted under the Authority of SB297

You appear to suggest that the rules OSBEELS adopted after SB297 passed are inconsistent with the intent of the legislation. Respectfully, we disagree (and will explain in more detail below). Additionally, please note that an OSBEELS applicant petitioned Oregon Legislative Counsel for a determination that the OSBEELS rules with regard to the *Structural I* not sufficing for PE registration were outside of OSBEELS's authority or inconsistent with SB297. Legislative Counsel declined to make such a finding, and found instead that the OSBEELS rules were within the Board's statutory authority and consistent with legislative intent.

Comity

It is not entirely clear from your letter, but it appears you may misunderstand how comity in Oregon worked in Oregon prior to SB297 and how it works now. Before SB297 passed, there was no direct reciprocity for licensure from another jurisdiction. In other words, the mere possession of a valid PE license in another state did not guarantee an applicant would be qualified for or receive a PE license in Oregon. At that time, "comity" applicants had to possess the same specifics within the four categories of qualifications, and had to have obtained them in the same order, as was required in Oregon back when the applicant first became licensed in the other state. This often created a hardship for applicants who, for example, came from states where the FE was waived. There was no way for those applicants to *ever* qualify for licensure in Oregon. Because they had not sat for the FE for their out of state license, even if they successfully passed the FE in preparation to apply to the OSBEELS, their out of state license would never have been obtained under substantially similar requirements to those in Oregon at the time (where the FE was required for licensure, and required to be passed before experience was gained and the Principles and Practice of Engineering – "PPE" -- was passed). There was nothing those applicants could ever do to qualify for licensure in Oregon.

Now "comity" applicants are treated the same as other applicants. If they meet current qualifications, no matter when or how they obtain those qualifications, they can qualify for licensure. The individuals you highlight in your letter can, for example, pass a PPE recognized by the OSBEELS at any time. They can then successfully apply for PE licensure in Oregon (assuming the only qualification they are missing is a PPE the Board recognizes). In fact, SB297 changed the situation of the unqualified comity applicant from a hopeless one to one that the applicant has the power to remedy.

Structural I Examination

As you note, the current OSBEELS rules do not recognize the Structural I as an examination that qualifies an applicant for PE licensure. However, prior to SB297, the OSBEELS rules also did *not* recognize the Structural I as an examination that qualified an applicant for PE licensure.

In 1999, with House Bill 3144, the OSBEELS statutes were changed to make structural engineering its own discipline, with separate registration, rather than simply another branch of engineering under the PE license. Since that time, structural engineering (SE) licensure required prior registration as an Oregon PE, and provided a scope of work beyond that of a PE. The only individuals who could qualify to be professional engineers at that point, based on having passed structural examinations, were those who were 'grandfathered' in by already being *Oregon* registered professional engineers, specially qualified in the structural branch prior to October 23, 1999. Grandfathering was not available to "comity" applicants.

From that time forward, NCEES structural examinations were only qualifying for SE licensure in Oregon, not for PE licensure, and a single, 8 hour structural examination was not qualifying for SE licensure

anyway. Even as far back as January 14, 2000, Board rules prevented the OSBEELS from granting licensure as a professional engineer when the only practical engineering examination an applicant had passed was the NCEES Structural I examination. *See former* OAR 820-010-0010, *former* 820-010-0200, and *former* 820-010-0415 (all filed as temporary rules on 1/14/2000, then filed as permanent on 2/17/2000). These rules identified practical engineering examinations recognized by the Board for registration by branch, versus as a structural engineer. They did not include a structural examination for PE registration, and specified that structural engineering was now a separate registration.

Moreover, in the later years before SB297 passed, the laws and rules of the Board still did not authorize it to grant licensure as a professional engineer, or as a structural engineer, when the only practical engineering examination an applicant had passed was the NCEES Structural I examination. *See former* OAR 820-010-0200(3), *former* OAR 820-010-0202(2), and *former* OAR 820-010-0206(1)(d) and (2). These rule sections specified that:

(1) Applicants for professional engineer registration are required to pass a practical engineering exam “*other than structural engineering.*”

And, for comity applicants:


(2) Applicants for professional engineer registration based on licensure already held in another state were required to prove, “The other jurisdiction that issued the certificate of registration must have had substantially equivalent requirements for registration as Oregon had at the time the other jurisdiction issued the certificate of registration.” This would have precluded any out of state applicants who had passed only the Structural I exam from qualifying because, for as long as the *Structural I* has existed, it has not qualified an applicant for PE licensure in Oregon.

In fact, in addition to the OSBEELS, NCEES – the organization that created the *Structural I* examination – has publicly confirmed that the *Structural I* examination was never intended to be a stand-alone examination for PE licensure (see attached).

We hope this clarifies the history and facts around structural examinations and Oregon PE licensure, and also puts your minds at ease about the effects of SB297. If you believe there are Oregon PEs who were erroneously granted licensure based on having passed the *Structural I* examination, you are of course welcome to bring them to the attention of the board for investigation.

Thank you for your interest in OSBEELS and professional engineering licensure in Oregon; we appreciate your feedback.

Sincerely,


Shelly Duquette, PE SE
President
Oregon State Board of Examiners
for Engineering and Land Surveying

Scottsdale, Arizona

**97TH ANNUAL MEETING
ACTION ITEMS AND
CONFERENCE REPORTS**

August 15-18, 2018



NCEES

advancing licensure for
engineers and surveyors

motion failed at the 2016 annual meeting. The 2016–17 UPLG Committee noted in its report that there are still inconsistencies with language related to structural engineering, both between the two model documents and between the model documents and the NCEES *Manual of Policy and Position Statements*. The 2016–17 UPLG Committee recommended that the appropriate committee be charged with addressing these inconsistencies. This year's UPLG Committee received this charge as a result of that recommendation.

Model Law

In its review, UPLG noted that the only reference to structural engineering in the *Model Law* is in 130.30 B, where the NCEES Structural Engineering (SE) examination is listed among the exams a board can offer if an examinee meets the requirements listed in 130.10 and 130.20. *Model Law* 130.20 relates to the applications and fees and is therefore irrelevant to this charge. The section of *Model Law* 130.10 relevant to this subject is B2(a)(2), Examination Requirements, which states the following:

(2) Examination Requirements

An individual seeking licensure as a professional engineer shall take and pass the NCEES Fundamentals of Engineering (FE) examination and the NCEES Principles and Practice of Engineering (PE) examination as described below.

- (a) The FE examination may be taken by a college senior or graduate of an engineering program of 4 years or more accredited by EAC/ABET, of a program that meets the requirements of the NCEES Education Standard, or of an engineering master's program accredited by EAC/ABET.
- (b) The PE examination may be taken by an engineer intern.

Thus, while a board may offer the SE exam, the *Model Law* has no language that would allow the use of that exam for awarding a P.E. or S.E. license and no language stating how someone would qualify to take the SE exam.

The NCEES *Manual of Policy and Position Statements* lists the NCEES exams in Exam Development Policy (EDP) 1, Examinations, as follows: "Principles and Practice of Engineering (PE) examination, including the Structural Engineering (SE) examination." The SE exam is not listed as a different exam, as it is in the *Model Law*, yet it is the only discipline specifically mentioned in EDP 1. This could be interpreted as saying that the SE exam (although a 16-hour exam instead of an 8-hour exam) is another PE exam; this is how some jurisdictions use the SE exam.

EDP 3, Engineering and Surveying Examinations and Formats, lists the 16-hour SE exam as a Group I PE exam, along with several other discipline examinations. Once again, the SE exam is not listed as anything other than a PE exam, which could be inferred as the SE exam being a PE exam.

In its research, UPLG noted that the original idea for creating a 16-hour SE exam was not for it to be designed as or intended to be a PE exam but for it to be an exam to be used by jurisdictions that require licensure as an S.E.—either as a separate S.E. license or as a post-P.E. license. The former included Hawaii and Illinois but now also includes Nevada and Utah. The latter included California, Oregon, Washington, and Guam but now also includes Alaska. UPLG also noted that it was anticipated that some jurisdictions might choose to offer the 16-hour SE exam as another PE exam; that is what has occurred.

Model Rules

References to structural engineering appear in three locations in the *Model Rules*. Section 230.40 A defines the NCEES SE exam. Section 230.60 F1 states, "The board is authorized to review and evaluate the applications of all comity applicants to determine if they meet or exceed the criteria to be licensed as a professional engineer, professional structural engineer, or professional surveyor."

In *Model Rules* 230.60 F1, the term "professional structural engineer" references a definition in *Model Law* 130.10. However, "professional structural engineer" does not appear anywhere in *Model Law* 130.10 or any other sections of the *Model Law*. Under the basic concept of the *Model Law* and *Model Rules*, all engineering licensees are professional engineers, no matter which exam they took. Thus, UPLG believes the term should be deleted from 230.60 F1.

Model Rules 230.60 F2 allows granting comity to licensees who have met or exceeded the criteria for the Model Law Engineer (MLE) and Model Law Structural Engineer (MLSE) designations, which are described under Professional Policy (PP) 5, NCEES Model Law Designations, in the NCEES *Manual of Policy and Position Statements*. (The NCEES Records program uses PP 5 when providing the MLE and MLSE designations to

licensees who apply and qualify for them. Once a licensee receives an MLE or MLSE designation from the Records program, he or she can receive expedited tomy licensure in other jurisdictions.) The only difference between an MLE and MLSE designation is that a licensee with an MLSE designation has completed a certain minimum number of structural courses during the required education and has passed the 16-hour SE exam or some combination of earlier structural exams that total at least 16 hours. To be designated an MLSE with the earlier exams, a licensee would have had to pass both the 8-hour SE I and 8-hour SE II exams. If the current 16-hour SE exam is used as an initial PE exam, then that applicant could qualify as both an MLE and MLSE.

UPLG believes that reference to structural engineering in the *Model Law* and *Model Rules* is unnecessary for most jurisdictions. However, it feels that a set of requirements for structural engineering in the model documents is needed for jurisdictions that decide to license structural engineers separately. To provide a structural engineering framework for jurisdictions that license structural engineers separately, UPLG is proposing to provide a set of requirements similar to those for professional engineers and surveyors in the *Model Law* and *Model Rules*. In addition, it thinks that it would be prudent to provide requirements that mirror the MLSE designation requirements for comity, similar to how current requirements for comity application for a P.E. and P.S. mirror the requirements for the MLE and Model Law Surveyor (MLS) designations, respectively.

Motion and recommendations

UPLG will present **Motion 20** to delete references to structural engineering in the main body of the *Model Law* and *Model Rules* and instead include parallel language for structural engineering in appendices of the *Model Law* and *Model Rules*. By doing this, NCEES would provide jurisdictions that need model language for structural engineering with a template while making sure that the language in the main body of the model documents is consistent with each other and with the policy manual.

UPLG further recommends that the appropriate committee be charged with considering whether the SE exam should be separated from the PE exams in the *Manual of Policy and Position Statements*, as the SE exam was not originally designed or intended to be another PE exam.

Lastly, NCEES does not provide guidance to jurisdictions that may wish to make the S.E. license a post-P.E. license. However, that framework has existed for decades, was the recommendation of a recent NCEES task force, and is the stated preference of the Structural Licensing Coalition. To ease comity between jurisdictions that have such a system (there are currently five jurisdictions), UPLG recommends that the appropriate committee be charged with developing *Model Law* and *Model Rules* appendices that would provide model language related to S.E. licensure as a post-P.E. license or certification.

Charge 5

Review Model Rules 230.20 Experience, Sections A9 and B10, and consider if this language should be broadened to include research and design projects by industry and government. Propose revisions as appropriate.

UPLG will propose **Motion 21** to add language for research and design projects by industry and government to *Model Rules* 230.20. A rationale is included with the motion.

Charge 6

Consider if revisions made to the Model Rules regarding progressive engineering experience should also apply to the requirements for progressive surveying experience. Consult with the Committee on Examinations for Professional Surveyors (EPS) as needed. Propose amendments as appropriate.

At the 2017 annual meeting, the UPLG Committee presented successful motions to revise language related to progressive engineering experience in *Model Law* 130.10 B and *Model Rules* 230.20 A. The motions resulted from a charge specifically related to engineering. The 2016–17 UPLG Committee was not charged with revising language related to progressive surveying experience. In its report, it recommended that the appropriate committee be charged with considering similar language for surveyors. This year's UPLG Committee received that charge.

After discussing the language and consulting with EPS, UPLG determined that no changes need to be made to the model documents regarding progressive surveying experience. While conformity between the professions is desirable, UPLG believes that making the model language for engineering and surveying the same may not be practical when applied to the surveying profession. The committee discussed that surveying licensure has many