



*A SunCam online continuing education course*

# New Mexico Laws, Rules and Ethics for Engineers

by

Mark Ludwigson



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

Course Outline:

New Mexico Statutes  
NMS 61-23  
New Mexico Administrative Code  
16 NMAC 39  
State Board  
Practice of Professional Engineering  
Responsible Charge  
Engineering Disciplines  
Professional Conduct and Ethics  
Sign and Seal Requirements  
Continuing Education  
Helpful References  
Examination

New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

## **New Mexico Statutes**

State laws (called statutes) are enacted by the New Mexico Legislature, made up of the Senate and House of Representatives. When a bill has passed in both chambers, it is transmitted to the Governor for signature and then becomes law. If the Governor vetoes the bill, the Legislature must override a veto with a two-thirds vote in both the Senate and the House of Representatives for the bill to become law.



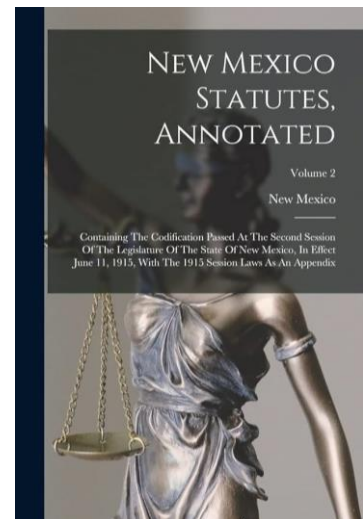
Passed bills from each legislative session are published in Session Laws, which are not yet integrated into existing laws and difficult to utilize. Next, the laws are added to the *New Mexico Statutes* in the appropriate locations with numbering, formatting, and replaced or repealed statutes removed. The statutes are often called New Mexico Statutes 1978 and cited as NMS. Annotations are also added such as notes and references, with the resulting publication called the *New Mexico Statutes Annotated*, commonly cited as NMSA.

The NMS contains 99 titles. Title 73, Chapter 13 (cited as NMS 61-23) has laws with relevance to engineering. The organization is as follows:

### **NMS**

- Chapter 61: Professional and Occupational Licenses
  - Article 23: Engineering and Surveying

See the “Helpful Resources” section for the website addresses with the latest laws, rules, and Board information. The laws and rules in this course are the latest as of October 2024.





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**NMS 61-23**

The law dedicated to the practice of engineering is NMS 61-23, referred to as the “Engineering and Surveying Practice Act”. It contains general requirements for engineers and surveyors. It also gives authority to the *New Mexico Board of Licensure for Professional Engineers and Professional Surveyors* (Board) to enact the laws and manage licensing. The following is the contents of NMS 61-23, with **bold** sections being of particular importance for practicing professional engineers.

NMS 61-23: Engineering and Surveying

61-23-1 - Short title

**61-23-2 - Declaration of policy**

**61-23-3 - Definitions**

61-23-4 - Criminal offender's character evaluation

61-23-5 - State board of licensure for professional engineers and professional surveyors; members; terms

61-23-6 - Board members; qualifications

61-23-7 - Reimbursement of board members

61-23-8 - Removal of members of board

61-23-9 - Board; organization; meetings

61-23-10 - Duties and powers of the board

61-23-11 - Receipts and disbursement; fund created

61-23-12 - Records and reports

61-23-13 - Roster of licensed professional engineers and professional surveyors

61-23-14 - Certification as an engineer intern-requirements

61-23-14.1 - Licensure as a professional engineer-requirements

61-23-17 - Application and examination fees

61-23-18 - Engineering; examinations

**61-23-19 - Engineering; licenses; seals; incidental architectural work; supplemental surveying work**

**61-23-20 - Engineering-licensure and renewal fees-expirations**

**61-23-21 - Practice of engineering**

**61-23-22 - Engineering-exemptions**

**61-23-23.1 - Authority to investigate; civil penalties for unlicensed persons; engineering**

**61-23-24 - Engineering-violations-disciplinary action-penalties-reissuance of licenses**



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

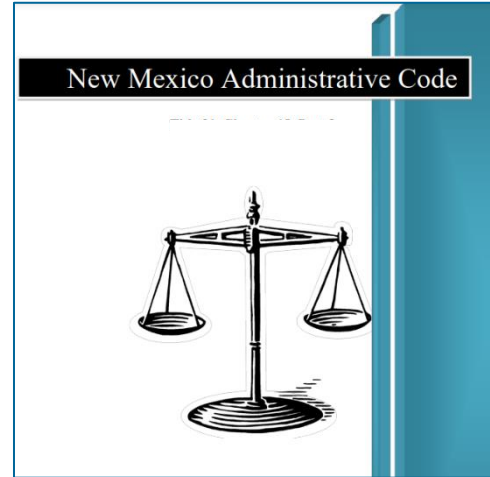
- 61-23-24.1 - Engineering; professional development**
- 61-23-26 - Engineering; public work**
- 61-23-27 - Engineering; public officer; licensure required**
- 61-23-27.3 - Certification of surveyor intern-requirements
- 61-23-27.4 - Licensure as a professional surveyor-general requirements
- 61-23-27.5 - Surveying-application and examination fees
- 61-23-27.6 - Surveying; examinations
- 61-23-27.7 - Surveying-licensure and renewal fees-expirations
- 61-23-27.8 - Surveying licenses and seals
- 61-23-27.9 - Surveying; practice of surveying; mandatory disclosure
- 61-23-27.10 - Surveying exemptions
- 61-23-27.11 - Surveying-violations-disciplinary actions-penalties-reissuance of licenses
- 61-23-27.12 - Surveying; professional development
- 61-23-27.13 - Surveying; public work
- 61-23-27.14 - Surveying; public officer; licensure required
- 61-23-27.15 - Authority to investigate; civil penalties for unlicensed persons; surveying
- 61-23-28 - Reference marks; removal or obliteration; replacement
- 61-23-28.2 - Surveying; record of survey
- 61-23-30 - Right of entry on public and private property; responsibility
- 61-23-31 - Licensure under prior laws
- 61-23-31.1 - Good Samaritan
- 61-23-32 - Termination of agency life-delayed repeal
- 61-23-33 - Notice of boundary survey; certain land grants
- 61-23-35 - Engineering and surveying university support program
- 61-23-36 - Engineering and surveying university support fund created



New Mexico Laws, Rules and Ethics for Engineers  
A SunCam online continuing education course

**New Mexico Administrative Code**

State laws are often high-level and lack details required for implementation. The New Mexico Legislature delegates state agencies to manage the implementation of laws and to create rules and regulations that complement the laws. The compilation of agency regulations is called the *New Mexico Administrative Code*, cited as NMAC or N.M. Admin. Code. The regulations are enforceable just like state laws.



The NMAC is grouped by titles for major topics and then chapters assigned to state agencies (departments, divisions, districts, boards, councils, authorities, and commissions). Professional engineering is covered under Title 16, Chapter 39, cited as 16 NMAC 39, and known as the *Professional Engineering and Professional Surveying Rules*.

The organization is as follows:

**NMAC**

- Title 16: Occupational and Professional Licensing
  - Chapter 39: Engineering and Surveying Practitioners

There are separate chapters and boards for architects, landscape architects, geologists, and other professions.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**16 NMAC 39**

The following are the contents of 16 NMAC 39 with important sections in **bold** being of particular importance for practicing professional engineers.

Chapter 39: Engineering and Surveying Practitioners

16.39.1 General Provisions – Professional Engineering and Surveying – Organization and Administration

16.39.1.7 Definitions

16.39.1.8 The Board

16.39.1.9 Members of the Board

16.39.1.10 Meetings of the Board

16.39.1.11 Organization of the Board

16.39.1.12 Duties of the Board, Officers of the Board, and the Executive Director

16.39.1.13 Duties of the Officers of the Professional Engineering and Professional Surveying Committees

16.39.1.14 Procedures at Board Meetings and Committee Meetings

16.39.1.15 Roster

16.39.1.16 Fees

16.39.1.17 Status of Licensure

16.39.2 Continuing Professional Development

**16.39.2.7 Definitions**

**16.39.2.8 Continuing Professional Development – Requirements**

16.39.3 Engineering Licensure, Disciplines, Applications, Exams, Practice, Seal of Licensee & Endorsements

**16.39.3.7 Definitions**

**16.39.3.8 Engineering Disciplines**

16.39.3.9 Application – Engineering Intern and Professional Engineer

16.39.3.10 Examinations – Engineering Intern and Professional Engineer

**16.39.3.11 Practice of Engineering**

**16.39.3.12 Seal of Licensee**

16.39.3.13 Endorsements



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

16.39.4 Incidental Practice

**16.39.4.8 Incidental Practice of Architecture and Engineering**

16.39.5 Surveying – Applications, Examinations, Practice of Surveying, Seal of Licensee

16.39.5.7 Definitions

16.39.5.8 Application – Surveyor Intern and Professional Surveyor

16.39.5.9 Examinations – Surveyor Intern and Professional Surveyor

16.39.5.10 Practice of Surveying

16.39.5.11 Seal of Licensee

16.39.5.12 Endorsements

16.39.6 Licensure for Military Service Members, Spouses and Veterans

16.39.6.7 Definitions

16.39.6.8 Application Requirements

16.39.6.9 Renewal Requirements

16.39.7 Misc – Procedures for Issuance, Revocation, Suspension, Imposition of Fines, Reissuance of Certificates & Disciplinary Action

16.39.7.8 Issuance, Revocation, Suspension, Imposition of Fines, Reissuance of Licenses and Certificates & Disciplinary Action

**16.39.7.9 Violations**

16.39.8 Code of Professional Conduct – Engineering and Surveying

16.39.8.7 Definitions

16.39.8.8 Preamble

**16.39.8.9 Rules of Professional Conduct**





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**State Board**

The state agency for professional engineering is the *New Mexico Board of Licensure for Professional Engineers and Professional Surveyors* (NMBLPEPS), herein referred to as the Board.

The Board oversees over 7,000 professional engineers. The board is given authority to manage and further regulate professional engineering. The Board can make modifications to 16 NMAC 39.



**Board Website**

The board website contains the following relevant topic pages:

NEWS & EVENTS  
 ROSTERS  
 LICENSE RENEWAL  
 LICENSING  
 ENGINEERING  
 LAWS RULES & ADVISORIES  
 ENFORCEMENT  
 BOARD INFORMATION  
 HANDBOOK FOR NM BUILDING OFFICIALS  
 FAQ'S  
 HELPFUL LINKS  
 ABOUT US  
 CONTACT US

<https://www.sblpes.state.nm.us/>



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

## **Practice of Professional Engineering**

The following is a copy-paste of the relevant laws and rules that help define the practice of professional engineering:

### **NMS 61-23**

#### **Section 61-23-2 - Declaration of policy**

The legislature declares that it is a matter of public safety, interest and concern that the practices of engineering and surveying merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practices of engineering and surveying. In order to safeguard life, health and property and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or surveying shall be required to submit evidence that the person is qualified to so practice and shall be licensed as provided in the Engineering and Surveying Practice Act. It is unlawful for any person to practice, offer to practice, engage in the business, act in the capacity of, advertise or use in connection with the person's name or otherwise assume, use or advertise any title or description tending to convey the impression that the person is a professional, licensed engineer or surveyor unless that person is licensed or exempt under the provisions of the Engineering and Surveying Practice Act. A person who engages in the business or acts in the capacity of an engineer or surveyor in New Mexico, except as otherwise provided in Sections 61-23-22 and 61-23-27.10 NMSA 1978, with or without a New Mexico license, has thereby submitted to the jurisdiction of the state and to the administrative jurisdiction of the board and is subject to all penalties and remedies available for a violation of any provision of Chapter 61, Article 23 NMSA 1978. The practice of engineering or surveying shall be deemed a privilege granted by the board based on the qualifications of the individual as evidenced by the licensee's certificate, which shall not be transferable.

#### **Section 61-23-3 - Definitions**

As used in the Engineering and Surveying Practice Act:

- A. "approved" means acceptable to the board;
  
- B. "authorized company officer" means an employee of a business entity duly authorized by the business entity to contractually obligate the business entity;



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

C. "board" means the state board of licensure for professional engineers and professional surveyors;

D. "business entity" means a corporation, professional corporation, limited liability corporation, professional limited liability corporation, general partnership, limited partnership, limited liability partnership, professional limited liability partnership, a joint stock association or any other form of business, whether or not for profit;

E. "conviction" means a final adjudication of guilt, whether pursuant to a plea of nolo contendere or otherwise and whether or not the sentence is deferred or suspended;

F. "engineer" means a person who has completed engineering education and has training and experience in the application of engineering principles and the interpretation of engineering data;

...

H. "engineering" or "practice of engineering" means any creative or engineering work that requires engineering education, training and experience in the application of engineering principles and the interpretation of engineering data to such creative work as consultation, investigation, forensic investigation, evaluation, planning and design of engineering works and systems, expert technical testimony, engineering studies and the review of construction for the purpose of ensuring substantial compliance with drawings and specifications; any of which embrace such creative work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, chemical, pneumatic, environmental or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of engineering work. The "practice of engineering" may include the use of photogrammetric methods to derive topographical and other data. The "practice of engineering" does not include responsibility for the supervision of construction, site conditions, operations, equipment, personnel or the maintenance of safety in the workplace;

I. "engineering committee" means a committee of the board entrusted to implement all business of the Engineering and Surveying Practice Act as it pertains to the practice of engineering, including the promulgation and adoption of rules of



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

professional responsibility for professional engineers exclusive to the practice of engineering;

J. "engineer intern" means a person who has qualified for, taken and passed an examination in fundamental engineering subjects;

K. "fund" means the professional engineers' and surveyors' fund;

L. "incidental practice" means the performance of other professional services that are related to a licensee's work as an engineer;

M. "person" means an individual or business entity;

N. "professional development" means education by a licensee in order to maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge to maintain licensure;

O. "professional engineer", "consulting engineer", "licensed engineer" or "registered engineer" means a person who has been licensed as a professional engineer by the board;

P. "responsible charge" means responsibility for the direction, control and supervision of engineering or surveying work, as the case may be, to ensure that the work product has been critically examined and evaluated for compliance with appropriate professional standards by a licensee in that profession, and by sealing or signing the documents, the professional engineer or professional surveyor accepts responsibility for the engineering or surveying work, respectively, represented by the documents and that applicable engineering or surveying standards have been met;

**Section 61-23-13 - Roster of licensed professional engineers and professional surveyors**

A roster showing the names and addresses of all licensed professional engineers and licensed professional surveyors shall be maintained by the board and shall be placed on file with the state commission of public records and made available to the public.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**Section 61-23-19 - Engineering; licenses; seals; incidental architectural work; supplemental surveying work**

A. The board shall issue licenses pursuant to the provisions of the Engineering and Surveying Practice Act. The board shall provide for the proper authentication of all documents.

B. The board shall regulate the use of seals and may approve alternative authentications to physical or electronic seals.

C. An engineer shall have the right to engage in activities properly classified as architecture insofar as it is incidental to the engineer's work as an engineer; provided that the engineer shall not make any representation as being an architect or as performing architectural services unless duly registered as such.

D. The board shall recognize that there may be occasions when professional engineers need to obtain supplemental survey information for the planning and design of an engineering project. A professional engineer who has primary engineering responsibility and control of an engineering project may perform supplemental surveying work in obtaining data incidental to that project. Supplemental surveying work may be performed by a professional engineer only on a project for which the engineer is providing engineering design services.

**Section 61-23-20 - Engineering-licensure and renewal fees-expirations**

A. Licensure shall be for a period of two years as prescribed in the rules of procedure. Initial licenses shall be issued in accordance with the board's rules.

B. The board shall establish by rule a biennial fee for professional engineers. Except as provided in Section 61-1-34 NMSA 1978, licensure renewal is accomplished upon payment of the required fee and satisfactory completion of the requirements of professional development.

C. The executive director of the board shall send a renewal notice to each licensee's last known address. Notice shall be sent at least one month in advance of the date of expiration of the license.

D. Each licensee shall have the responsibility to notify the board of any change of address within thirty days of the change.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

E. Upon receipt of a renewal fee and fulfillment of other requirements, the board shall issue a licensure renewal card that shall show the name and license number of the licensee and shall state that the person named has been granted licensure to practice as a professional engineer for the biennial period.

F. Every license shall automatically expire if not renewed on or before December 31 of the applicable biennial period. A delinquent licensee may renew a license by the payment of twice the biennial renewal fee at any time before March 1, but the delinquent licensee shall not practice during this period. Should the licensee apply to renew an expired license after the March 1 deadline has elapsed, the licensee shall submit a formal application and fee as provided in Section 61-23-17 NMSA 1978. The board, in considering the reapplication, may consider the applicant's qualifications for licensure if the requirements for licensure have changed since the applicant was first licensed. The board may adopt rules for inactive and retired status.

**Section 61-23-21 - Practice of engineering**

A. No business entity shall be licensed pursuant to the Engineering and Surveying Practice Act. No business entity shall practice or offer to practice engineering in the state except as provided in the Engineering and Surveying Practice Act.

B. Professional engineers may engage in the practice of engineering and perform engineering work pursuant to the Engineering and Surveying Practice Act as individuals or through a business entity. In the case of an individual, the individual shall be a professional engineer pursuant to the Engineering and Surveying Practice Act. All plans, designs, drawings, specifications or reports that are involved in such practice, or that are issued by or for the practice, shall bear the seal and signature of the professional engineer in responsible charge of and directly responsible for the work issued. In the case of practice through a business entity that is a partnership, at least one of the partners shall be a professional engineer pursuant to the Engineering and Surveying Practice Act, and all plans, designs, drawings, specifications or reports that are involved in such practice, or that are issued by or for the partnership, shall bear the seal and signature of the professional engineer in responsible charge of and directly responsible for such work when issued. In the case of practice through a business entity other than a partnership, services or work involving the practice of engineering may be offered through that business entity;



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

provided that the person in responsible charge of the activities of the business entity that constitute engineering practice is a professional engineer who has authority to bind such business entity by contract; and further provided that all plans, designs, drawings, specifications or reports that are involved in engineering practice, or that are issued by or for such business entity, bear the seal and signature of a professional engineer in responsible charge of and directly responsible for the work when issued.

C. An individual or business entity may not use or assume a name involving the terms "engineer", "professional engineer", "engineering", "registered" or "licensed" engineer or any modification or derivative of such terms unless that individual or business entity is qualified to practice engineering in accordance with the requirements of the Engineering and Surveying Practice Act.

D. In the case of practice through a business entity offering or providing services or work involving the practice of engineering, an authorized company officer and the professional engineer who is employed by the business entity and in responsible charge shall place on file with the board a signed affidavit, as prescribed by board rule. The affidavit shall be kept current, and, if there is any change in the professional engineer or authorized company officer, the affidavit shall be promptly revised and resubmitted to the board.

**Section 61-23-22 - Engineering-exemptions**

A. A New Mexico licensed architect who has complied with all of the laws of New Mexico relating to the practice of architecture has the right to engage in the incidental practice, as defined by regulation, of activities properly classified as engineering; provided that the architect shall not make any representation as being a professional engineer or as performing engineering services; and further provided that the architect shall perform only that part of the work for which the architect is professionally qualified and shall use qualified professional engineers or others for those portions of the work in which the contracting architect is not qualified. Furthermore, the architect shall assume all responsibility for compliance with all laws, codes, regulations and ordinances of the state or its political subdivisions pertaining to all documents bearing the architect's professional seal.

B. An engineer employed by a business entity who performs only the engineering services involved in the operation of the business entity's or an affiliated business



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

entity's business shall be exempt from the provisions of the Engineering and Surveying Practice Act; provided that neither the employee nor the employer offers engineering services to the public; and provided further that any such engineering services are limited to the legal boundaries of the property owned, leased or lawfully operated by the business entity or an affiliated business entity that employs the engineer. Performance of engineering on public works projects pursuant to Section 61-23-26 NMSA 1978 or within off-premises easements constitutes engineering services to the public and is subject to the Engineering and Surveying Practice Act.

**Section 61-23-24.1 - Engineering; professional development**

The board shall implement and conduct a professional development program. Compliance and exceptions shall be established by the regulations and rules of procedure of the board.

**Section 61-23-26 - Engineering; public work**

It is unlawful for the state or any of its political subdivisions or any person to engage in the construction of any public work involving engineering unless the engineering is under the responsible charge of a licensed professional engineer.

**Section 61-23-27 - Engineering; public officer; licensure required**

No person except a licensed professional engineer shall be eligible to hold any responsible office or position for the state or any political subdivision of the state that includes the performance or responsible charge of engineering work.

16 NMAC 39

**Section 16.39.1.17 - STATUS OF LICENSURE**

A. Intern Certification - a licensee's intern certification will automatically be superseded by the professional license and will not show as "active" on the roster.

B. Retired status - a licensee shall become eligible for retired status with a waiver of renewal fees after meeting all the following qualifications:

- (1) retired from active practice;
- (2) at least 60 years of age;
- (3) have been a licensee for a continuous period of 20 years, at least 10 of which must have been in New Mexico;





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

- (4) the licensee has filed an application prescribed by the board for retired status prior to the expiration of the license;
- (5) the licensee does not have any pending complaints;
- (6) the licensee does not have any pending litigation; and
- (7) the licensee has completed any imposed disciplinary actions.

C. Licensees shall request retired status by letter. In the event the licensee on retired status desires to return to practice, the licensee shall apply to the board, comply with the continuing professional development requirements; and if approved shall pay the appropriate fee.

D. Professional engineers and professional surveyors on "retired status" with the board may use the titles "engineer", "surveyor", "professional engineer", "professional surveyor", PE or PS after their names and shall add "(Ret.)" or "(Retired)" after such title.

E. Inactive status - a licensee shall become eligible for inactive status with a waiver of renewal fees and professional development requirements after meeting all the following qualifications:

- (1) the licensee is not engaged in the respective professions (engineering or surveying) which requires licensure in this jurisdiction;
- (2) the licensee has been a licensed professional engineer or surveyor in this jurisdiction for 10 consecutive years;
- (3) the licensee has filed an application prescribed by the board for inactive status prior to the expiration of the license;
- (4) the licensee does not have any pending complaints;
- (5) the licensee does not have any pending litigation; and
- (6) the licensee has completed any imposed disciplinary actions.

F. In the event a licensee on inactive status desires to return to practice within six years of acquiring inactive status, the licensee shall make proper application to the board, comply with the continuing professional development requirements (a minimum of 30 PDHs) and if approved shall pay the appropriate fee.

G. An inactive licensee who has maintained inactive status in excess of six consecutive years may be readmitted to active practice of the profession only upon



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

making proper application and completion of the requirements as prescribed by the board for reinstatement of a license.

**Section 16.39.3.7 - DEFINITIONS**

...

C. "Branch" refers to engineering disciplines as referred to in 16.39.3.8 NMAC.

D. "Category" refers to the type of license such as professional engineer or professional surveyor as referred to in Subsections L and P of Sections 61-23-23 NMSA 1978.

E. "Electronic signature" means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

...

G. "Engineering discipline" is defined as a designated area of proficiency and competence in the practice of engineering.

H. "Engineering experience" is defined as experience gained by the time of the application that includes demonstration of a knowledge of engineering mathematics, physical and applied science, properties of materials, and the fundamental principles of engineering design as well as demonstration of the application of engineering principles in the practical solution of engineering problems and is:

- (1) progressive experience on engineering projects that demonstrates an increasing quality and responsibility;
- (2) experience not associated with a graduate degree if that degree that is used to satisfy education requirements;
- (3) experience obtained in compliance with the licensure act;
- (4) experience gained in the armed services of a character equivalent to that which would have been gained in the civilian sector doing similar work;
- (5) experience gained under the supervision of a licensed professional engineer;
- (6) experience not gained under the supervision of a licensed professional engineer provided that an explanation is made to the satisfaction of the Board showing why the experience should be considered acceptable including the appropriate credentials of the unlicensed supervisor;



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

- (7) sales experience demonstrating that engineering principles were required and used in gaining the experience;
- (8) teaching experience in engineering or engineering-related courses at a junior-, senior-, or graduate-level in a college or university offering an engineering program of four years or more that is approved by the board;
- (9) experience gained in engineering research and design projects by members of an engineering faculty where the program is approved by the board;
- (10) experience gained in engineering research by industry or government employees; or
- (11) experience in construction demonstrating the application of engineering principles.

L. "Signature" means a physical or digital representation of the name of the person who applied it.

**Section 16.39.3.11 - PRACTICE OF ENGINEERING**

A. Neither a person nor a business entity shall advertise, accept work or offer to practice engineering work in a discipline of engineering unless the person or a member of the organization has been approved by the professional engineering committee in the appropriate discipline and who is legally able to bind that business entity by contract.

B. Neither persons nor business entities shall circumvent these rules. Licensees or business entities may advertise for work only in those disciplines of engineering in which they are approved by the professional engineering committee to practice. Nothing in this section is intended to prevent the existence of an association of professionals in different disciplines.

C. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board shall, either upon request of the licensee or of its own volition, require the licensee to pass an appropriate examination.

D. The professional engineering committee will consider the use of the terms, "engineer," "engineering," or any modification or derivative of such terms, in the title of a firm or business entity to constitute the offering of engineering. The board will also consider the use of these terms or any modification or derivative of such terms



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

in a corporation's name or its articles of incorporation or in a foreign corporation's certificate of authority as published by the New Mexico secretary of state to constitute the offering of engineering services.

E. In the case of practice through a business entity offering or providing services or work involving the practice of engineering, an authorized company officer and the professional engineer who is employed by the business entity and in responsible charge shall place on file with the board within 30 days a signed affidavit, as prescribed by board rule. The affidavit shall be kept current, and, if there is any change in the professional engineer or authorized company officer, the affidavit shall be revised within 30 days and resubmitted to the board.

F. The board shall recognize that there may be occasions when engineers need to obtain supplemental survey information for the planning and design of an engineering project. An engineer may densify, augment and enhance previously performed survey work by a surveyor for a project as defined in Subsection U of Section 61-23-3 NMSA 1978 of the Engineering and Surveying Practice Act.

G. In the case of an employee of a business entity who performs only the engineering services involved in the operation of the business entity's business, the extent to which the engineering services can be provided without licensure is limited to only the legal boundaries of the property owned or leased by that business. Practice beyond this extent or within off-premises easements is considered within public space and is subject to the Engineering and Surveying Practice Act.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

Handbook for NM Building Officials

**B. Role of the Engineer**

An engineer must be concerned with the planning and analysis of a wide variety of building systems. Listed below are examples of matters engineers typically address:

- A. Structural systems (e.g., framing, structural connections, foundations).
- B. Electrical systems (e.g., power distribution, lighting, security, fire alarm and smoke detection).
- C. Mechanical systems (e.g., plumbing, water distribution systems, HVAC, fire protection systems).
- D. Life safety considerations (e.g. design of sprinklers, fire alarm systems, and smoke control systems).
- E. Soils analysis (e.g., soils reports, soil stabilization, geotechnical investigations).
- F. Civil works design (e.g., site work, site drainage, grading, utilities, circulation).
- G. Coordination of engineering works (e.g., power stations, dams, bridges, water treatment facilities).
- H. Barrier free design and accessibility requirements.
- I. Environmental Systems, Impact Studies, Improvements and Assessments.
- J. Overall Project Coordination.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**Responsible Charge**

Engineering design work must be prepared under the supervision of a professional engineer with “responsible charge”, as described in the rules copied below. The engineer with responsible charge sign and seals documents produced under their responsibility. A typical project has multiple engineers in responsible charge, one for each design discipline (civil, structural, mechanical, electrical, etc.).

NMS 61-23

**Section 61-23-3 - Definitions**

...

P. "**responsible charge**" means responsibility for the direction, control and supervision of engineering or surveying work, as the case may be, to ensure that the work product has been critically examined and evaluated for compliance with appropriate professional standards by a licensee in that profession, and by sealing or signing the documents, the professional engineer or professional surveyor accepts responsibility for the engineering or surveying work, respectively, represented by the documents and that applicable engineering or surveying standards have been met;

16 NMAC 39

**Section 16.39.3.12 - SEAL OF LICENSEE**

...

E. For the purposes of the Engineering and Surveying Practice Act, a licensee of this board has "**responsible charge** of the work" as defined in Subsection O of Section 61-23-3 NMSA 1978 and may sign, date and seal/stamp plans, specifications, drawings or reports which the licensee did not personally prepare when plans, specifications, drawings or reports have been sealed only by another licensed engineer, and the licensee or persons directly under his personal supervision have reviewed the plans, specifications, drawings or reports and have made tests, calculations or changes in the work as necessary to determine that the work has been completed in a proper and professional manner.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

F. The seal and signature shall be placed on work only when it is under the licensee's **responsible charge**. The licensee shall sign and seal only work within the licensee's area of discipline.

### NSPE

Responsible charge is also defined in a National Society of Professional Engineers (NSPE) reference document, and copied below for convenience.

#### NSPE Position Statement No. 10-1778

- Defines “**responsible charge**” as the direct control and personal supervision of engineering work.
- The professional engineer in **responsible charge** is actively engaged in the engineering process, from conception to completion.
- Engineering decisions must be personally made by the professional engineer or by others over which the professional engineer provides supervisory direction and control authority.
- Reviewing drawings or documents after their completion without involvement in the design and development process appears not to satisfy the definition of **responsible charge**.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

## **Engineering Disciplines**

An engineers area of practice (a.k.a. area of competency or discipline) is typically identified through NCEES examination. The board keeps a record of the discipline(s) in which the licensee is competent to practice. Up to three disciplines can be recognized. Disciplines can be added by filing an application along with education, experience and personal references showing competency in the discipline. The licensee shall sign and seal only work within the licensee's area of discipline.

Licensees should only undertake assignments when qualified by education or experience in the specific technical fields involved. Incidental architecture and surveying work may be performed within the parameters in the laws and rules, as pasted below.

Discipline names are not identified on seals.

### **NMS 61-23**

#### **Section 61-23-3 - Definitions**

...

L. "incidental practice" means the performance of other professional services that are related to a licensee's work as an engineer;

#### **Section 61-23-19 - Engineering; licenses; seals; incidental architectural work; supplemental surveying work**

...

C. An engineer shall have the right to engage in activities properly classified as architecture insofar as it is incidental to the engineer's work as an engineer; provided that the engineer shall not make any representation as being an architect or as performing architectural services unless duly registered as such.

D. The board shall recognize that there may be occasions when professional engineers need to obtain supplemental survey information for the planning and design of an engineering project. A professional engineer who has primary engineering responsibility and control of an engineering project may perform supplemental surveying work in obtaining data incidental to that project. Supplemental surveying work may be performed by a professional engineer only on a project for which the engineer is providing engineering design services.





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

16 NMAC 39

**Section 16.39.3.7 - DEFINITIONS**

...

C. "Branch" refers to engineering disciplines as referred to in 16.39.3.8 NMAC.

...

G. "Engineering discipline" is defined as a designated area of proficiency and competence in the practice of engineering.

**Section 16.39.3.8 - ENGINEERING DISCIPLINES**

A. Licensure is granted as a professional engineer and shall be so stated on the certificate. Although the Engineering and Surveying Practice Act makes no specific designation as to the disciplines of engineering practice on the certificates as issued by the board, the records and roster of the board shall indicate the discipline(s) in which the licensee is competent to practice in accordance with this section. Only the discipline(s) of engineering for which the applicant has successfully been examined or approved by the professional engineering committee will be recorded.

B. Requests for engineering disciplines will be accepted from the following list; and the board's records and roster will be annotated with the corresponding alphabetical code:

- (1) architectural A
- (2) aeronautical B
- (3) civil C
- (4) agricultural D
- (5) electrical and computer E
- (6) network engineer F
- (7) geological/geotechnical G
- (8) chemical H
- (9) industrial I
- (10) mechanical M
- (11) mining/mineral N
- (12) metallurgical/materials NN
- (13) petroleum P
- (14) control systems Q
- (15) structural R
- (16) nuclear T



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

- (17) fire protection U
- (18) environmental V
- (19) construction W
- (20) naval architecture and marine Nm
- (21) software Sw

C. Other disciplines may be considered as reviewed and approved by the board.

D. A licensee may be listed in no more than three disciplines of engineering. Subsequent to initial licensure, a licensee may apply for licensure in another discipline of engineering. The licensee shall demonstrate competence in that discipline and may be required to appear before the board. Demonstration of competence may be accomplished by presenting evidence as follows:

- (1) the licensee shall file a separate application for the additional discipline requested and pay an application fee for the additional application; and
- (2) complete the application forms to indicate clearly the education, experience, and three acceptable personal references which will substantiate proficiency in the discipline for which the licensee is applying; experience and personal references must be stated;
- (3) an applicant for licensure by endorsement may initially apply for up to three disciplines, provided substantial evidence is presented to the board to demonstrate competence for each requested discipline.

E. Structural discipline - except for an applicant with a B.S. degree with a structural option and a minimum of four years of post-baccalaureate structural engineering experience, listing as a structural engineer may be obtained by having gained an acceptable engineering degree which included a minimum of six hours of structural design; having licensure as a professional engineer; and having four years of structural experience gained after licensure and acceptable to the board.

- (1) Passing the NCEES structural tests part I & II may be substituted for two years of the required experience.
- (2) A master's degree in structures may be substituted for one year of the required experience.
- (3) An applicant for licensure as a structural engineer by endorsement shall meet the requirements of Paragraphs (1) and (2) of Subsection D of 16.39.3.8 NMAC.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

F. Specialty sub-disciplines - The professional engineering committee of the board may determine that the special practice of engineering within one or more of the engineering disciplines in Subsection B of 16.39.3.8 NMAC requires unique training/education and experience to adequately protect the public safety and health, and the professional engineering committee of the board shall declare this special practice of engineering to be a specialty sub-discipline. The declaration of a specialty sub-discipline shall be based on a need identified by the state or any of its political subdivisions, availability of appropriate and timely training/education within the state of New Mexico, and the ability of the identification of a specialty sub-discipline to inform the public of the needed special practice of engineering. If the professional engineering committee of the board declares a specialty sub-discipline, after a rules hearing, the requirements for the special practice of engineering shall be included in Title 16, Chapter 39 of the New Mexico administrative code for engineering and surveying:

- (1) the specialty sub-discipline rules shall specify the training/education and experience requirements to obtain certification for the special engineering practice, including provisions for equivalent training when a particular course of training/education is specified; in anticipation that more than one discipline identified in Subsection B of 16.39.3.8 NMAC will qualify for the specialty sub-discipline, the rules shall identify which engineering disciplines in Subsection B of 16.39.3.8 NMAC, are most likely to qualify for the specialty sub-discipline;
- (2) the board shall maintain a list of engineers who have been certified as meeting the requirements for the specialty sub-discipline; the list shall be available to the public upon request and pursuant to the inspection of public records; the professional engineering committee of the board shall establish a form for the application to obtain a certification for the specialty sub-discipline; upon approval by the professional engineering committee of the board, the qualified licensee's name shall be added to the list of licensees having the specialty sub-discipline;
- (3) a licensee's name may be removed from the list of persons certified for the specialty sub-discipline, upon determination by the professional engineering committee of the board that the licensee no longer qualifies for the certification specialty sub-discipline; such removal shall be only after the appropriate process/hearing by the professional engineering committee of the board;
- (4) the failure to obtain certification for the specialty sub-discipline shall not limit the practice of engineering within any of the engineering disciplines identified in Subsection B of 16.39.3.8 NMAC, and the failure to obtain certification in the



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

specialty sub-discipline shall not constitute practice outside the licensee's area of competence; however, the failure to obtain certification for a specialty sub-discipline and a determination by the professional engineering committee of the board of inappropriate practice of engineering within the engineering specialty may be cause for determination that the engineering practice is not within the licensee's authorized discipline, and that appropriate disciplinary action can be taken;

(5) the certification of a specialty sub-discipline shall be for a period established by the professional engineering committee of the board, but not less than two years or more than six years; renewal of the specialty sub-discipline shall be concurrent with license renewal;

(6) the professional engineering committee of the board may remove the specialty sub-discipline from the rules for engineering and surveying, after a rules hearing, upon the finding that the training/education is no longer available or that the designation of the specialty sub-discipline is no longer needed to protect the public safety and health.

16 NMAC 39

**Section 16.39.3.12 - SEAL OF LICENSEE**

...

F. The seal and signature shall be placed on work only when it is under the licensee's responsible charge. The licensee shall sign and seal only work within the licensee's area of discipline.

**Section 16.39.4.8 - INCIDENTAL PRACTICE OF ARCHITECTURE AND ENGINEERING**

as defined in Subsection A of Section 61-23-22 NMSA 1978 means

A. architectural work incidental to engineering shall be that architectural work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than 50;

B. engineering work incidental to architecture shall be that engineering work provided on projects with a building construction value not greater than six hundred thousand dollars (\$600,000) and having a total occupant load not greater than 50;



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

C. all buildings and related structures within the regulatory provisions of the New Mexico Uniform Building Code (NMUBC) will require the proper authentication of the building construction documents by all participating disciplines in accordance with their respective governing acts on projects with a building construction value greater than six hundred thousand dollars (\$600,000) or having a total occupant load greater than 50, with the exception of:

- (1) single-family dwellings not more than two stories in height;
- (2) multiple dwellings not more than two stories in height containing not more than four dwelling units of wood-frame construction; provided this paragraph shall not be construed to allow a person who is not registered under the Architectural Act to design multiple clusters of up to four dwelling units each to form apartment or condominium complexes where the total exceeds four dwelling units on any lawfully divided lot;
- (3) garages or other structures not more than two stories in height which are appurtenant to buildings described in Paragraph (1) and (2) of Subsection C of 16.39.4.8 NMAC; or
- (4) nonresidential buildings, as defined in the uniform building code, or additions having a total occupant load of 10 or less and not more than two stories in height, which shall not include E-3 (Day Care), H (Hazardous), or I (Institutional) occupancies;
- (5) alterations to buildings or structures which present no unusual conditions, hazards or change of occupancy.

D. the owner, user or using agency shall select the prime design professional (architect or engineer) for any project based on the requirements and nature of the project;

E. occupant load shall be defined and determined by the method set forth in Table 33-A of the Uniform Building Code (UBC).

### **Section 16.39.7.9 - VIOLATIONS**

...

B. It shall be considered "a violation" under Paragraph (1) of Subsection A of Section 61-23-24 NMSA 1978 and Paragraph (1) of Subsection A of Section 61-23-27.11 NMSA 1978 of the Engineering and Surveying Practice Act for any engineer or surveyor to practice or offer to practice outside their field(s) of demonstrated competence or in contravention of any of the provisions of these rules.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**Section 16.39.8.9 - RULES OF PROFESSIONAL CONDUCT**

...

B. Specialization and the performance of services only in specific areas of competence.

(1) Licensees shall undertake assignments only when qualified by education, experience or examination in the specific technical fields of engineering or surveying involved.

(2) Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competency, nor to any such plan or documents not prepared under their responsible charge.

(3) Licensees may accept an assignment when the total work involves technical fields beyond those in which they are qualified, providing their services are limited to those phases in which they are qualified and that the phases in which they are not qualified are performed by licensees who are properly qualified. In this instance, each qualified licensee will sign and seal the documents for their phase of the assignment.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**Professional Conduct and Ethics**

The following laws and rules help define professional conduct and related requirements.

NMS 61-23

**Section 61-23-24 - Engineering-violations-disciplinary action-penalties-reissuance of licenses**

A. In accordance with the Uniform Licensing Act [Chapter 61, Article 1 NMSA 1978], the board may suspend, refuse to renew or revoke a license, impose a fine not to exceed seven thousand five hundred dollars (\$7,500), place on probation for a specific period of time with specific conditions or reprimand any professional engineer who is found by the board to have:

- (1) practiced or offered to practice engineering in New Mexico in violation of the Engineering and Surveying Practice Act;
- (2) attempted to use the license of another;
- (3) given false or forged evidence to the board or to a board member for obtaining a license;
- (4) falsely impersonated another licensee of like or different name;
- (5) attempted to use an expired, suspended or revoked license;
- (6) falsely purported to be a professional engineer by claim, sign, advertisement or letterhead;
- (7) violated the rules of professional responsibility for professional engineers adopted and promulgated by the board;
- (8) been disciplined in another state for action that would constitute a violation of either or both the Engineering and Surveying Practice Act or the rules adopted by the board;
- (9) been convicted of a felony; or
- (10) procured, aided or abetted any violation of the provisions of the Engineering and Surveying Practice Act or the rules of the board.

B. Except as provided in Subsection C of Section 61-23-21 NMSA 1978, nothing in the Engineering and Surveying Practice Act shall prohibit the general use of the word "engineer", "engineered" or "engineering" so long as such words are not used in an offer to the public to perform engineering work as defined in Subsections F and H of Section 61-23-3 NMSA 1978.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

C. The board may by rule establish the guidelines for the disposition of disciplinary cases involving specific types of violations. The guidelines may include minimum and maximum fines, periods of probation or conditions of probation or reissuance of a license.

D. Failure to pay a fine levied by the board or to otherwise comply with an order issued by the board pursuant to the Uniform Licensing Act is a misdemeanor and shall be grounds for further action against the licensee by the board and for judicial sanctions or relief.

E. A person may prefer charges of fraud, deceit, gross negligence, incompetence or misconduct against a licensed professional engineer. The charges shall be in writing and shall be sworn to by the person making the charges and filed with the executive director of the board. All charges shall be referred to the engineering committee, acting for the board. No action that would have any of the effects specified in Subsection D, E or F of Section 61-1-3 NMSA 1978 may be initiated later than two years after the discovery by the board, but in no case shall an action be brought more than ten years after the completion of the conduct that constitutes the basis for the action. All charges, unless dismissed as unfounded, trivial, resolved by reprimand or settled informally, shall be heard in accordance with the provisions of the Uniform Licensing Act by the engineering committee acting for the board or by the board.

F. Persons making charges shall not be subject to civil or criminal suits; provided that the charges are made in good faith and are not frivolous or malicious.

G. The board or a board member may initiate proceedings pursuant to the provisions of this section in accordance with the provisions of the Uniform Licensing Act. Nothing in the Engineering and Surveying Practice Act shall deny the right of appeal from the decision and order of the board in accordance with the provisions of the Uniform Licensing Act.

H. The board, for reasons it deems sufficient, may reissue a license to a person whose license has been revoked or suspended if a majority of the members of the engineering committee, acting for the board, or of the board votes in favor of the reissuance. A new license bearing the original license number to replace a revoked,





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

lost, destroyed or mutilated license may be issued subject to the rules of the board with payment of a fee.

I. A violation of any provision of the Engineering and Surveying Practice Act is a misdemeanor punishable upon conviction by a fine of not more than seven thousand five hundred dollars (\$7,500) or by imprisonment of no more than one year, or both.

J. The attorney general or district attorney of the proper district or special prosecutor retained by the board shall prosecute violations of the Engineering and Surveying Practice Act by a nonlicensee.

K. The practice of engineering in violation of the provisions of the Engineering and Surveying Practice Act shall be deemed a nuisance and may be restrained and abated by injunction without bond in an action brought in the name of the state by the district attorney or on behalf of the board by the attorney general or the special prosecutor retained by the board. Action shall be brought in the county where the violation occurs.

16 NMAC 39

**Section 16.39.7.9 - VIOLATIONS**

A. For business entities using the words "engineering" or "surveying" in their titles or offering engineering or surveying services, the board's executive director shall write the business entity, enclosing an affidavit to be completed which identifies the member of the business entity who is licensed to practice in the state of New Mexico and who is an employee of and legally able to bind the business entity by contract. If no response to this request is received within 30 days, a second letter shall be sent by certified mail, return receipt requested. If the second letter does not result in a response 30 days from the receipt of a refusal, the matter may be turned over to the attorney general's office for action.

B. It shall be considered "a violation" under Paragraph (1) of Subsection A of Section 61-23-24 NMSA 1978 and Paragraph (1) of Subsection A of Section 61-23-27.11 NMSA 1978 of the Engineering and Surveying Practice Act for any engineer or surveyor to practice or offer to practice outside their field(s) of demonstrated competence or in contravention of any of the provisions of these rules. It shall also be considered "a violation" under Subsection A of Section 61-23-23.1 NMSA 1978



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

and Subsection A of Section 61-23-27.15 NMSA 1978 of the Engineering and Surveying Practice Act for any person to act in the capacity of a professional engineer or a professional surveyor without being licensed by the board.

C. The practice or offer to practice engineering by a licensee of the board in any state, territory or country where the licensee has been determined to be in violation of that jurisdiction's licensing requirement shall be considered to be professional misconduct which may be actionable by the board. The practice or offer to practice surveying by a licensee of the board in any state, territory, or country where the licensee has been determined to be in violation of that jurisdiction's licensing requirement shall be considered to be professional misconduct which may be actionable by the board.

D. Each applicant or licensee shall notify the board, in writing, within 90 days, of the imposition of any disciplinary action by any other applicable licensing board or any conviction of or entry of plea of nolo contendere to any crime under the laws of the United States, or any state, territory or county thereof, which is a felony, whether related to practice or not; any conviction of or entry of plea of nolo contendere to any crime, which is a felony directly related to the practice of engineering or surveying as listed in Subsection F of 16.39.7.9 NMAC.

E. The board shall comply with the provisions of the Parental Responsibility Act as they relate to the denial, suspension or revocation of certificates of licensure for non-payment of child support.

F. Criminal Convictions:

(1) Felony convictions for any of the following offenses, or their equivalents in any other jurisdiction, that may disqualify an applicant from receiving licensure, or disciplinary action including but not limited to suspension or revocation:

- (a) crimes involving homicide, murder, manslaughter, or resulting in death;
- (b) crimes involving human trafficking, or trafficking in controlled substances;
- (c) kidnapping, false imprisonment, assault, aggravated assault, battery, aggravated battery;
- (d) rape, criminal sexual penetration, criminal sexual contact, incest, indecent exposure, prostitution, or other sexual crimes;



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

- (e) crimes involving great bodily harm, adult abuse, child abuse, neglect, abandonment, stalking, aggravated stalking, injury to pregnant woman, custodial interference, property damage, or financial exploitation;
- (f) crimes involving ransom, robbery, larceny, extortion, burglary, sabotage, fraud, forgery, embezzlement, identity theft, credit card fraud, unauthorized use of a credit card; receiving stolen property, money laundering, burglary tools, or stolen vehicles;
- (g) crimes involving arson, explosives, incendiary devices, facsimile bombs, hoax explosives, deadly weapons, or firearms;
- (h) crimes involving seizing or exercising control of a bus by force or violence or by threat of force or violence;
- (i) violation of Partial-Birth Abortion Ban Act;
- (j) crimes involving bribery, intimidating witnesses, tampering with evidence, tampering with public records, performing an official act for personal gain, demanding or receiving a bonus, gratuity or bribe, unlawful interest in a contract involving an irrigation district, or receiving profits derived from an unlawful interest in a contract involving an irrigation district, or unlawful interest in a public contract;
- (k) crimes involving jury tampering;
- (l) crimes involving escape from custody, jail or penitentiary;
- (m) crimes involving harboring or aiding a felon;
- (n) crimes involving tax evasion or tax fraud;
- (o) crimes involving violations of the Mortgage Foreclosure Consultant Fraud Prevention Act, or the Savings and Loan Act;
- (p) crimes involving the Credit Union Act;
- (q) crimes involving perjury, public assistance, false swearing of oath or affidavit, false voting, falsely obtaining services or accommodations, falsifying documents, filing false documents, making false statements, making an unauthorized withdrawals, issuing a worthless check, obtaining information under false pretenses, or providing the credit bureau information of a consumer to an entity who is not authorized to receive that information;
- (r) crimes involving improper disposition of certain court funds or improper sale, disposal, removal or concealing of encumbered property;
- (s) crimes involving the possession of 4 or more incomplete credit cards or machinery, plates or other contrivance;
- (t) crimes involving altering or changing engine or other number of a vehicle or motor vehicle;



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

- (u) crimes involving any contractor or subcontractor justly indebted to a supplier of material or labor who accepts payment for construction and knowingly and intentionally applies the proceeds to a use other than paying those persons with whom he contracted;
- (v) crimes involving knowingly authorizing or assisting in the publication, advertising, distribution or circulation of any false statement or representation concerning any subdivided land offered for sale or lease, or with knowledge that any written statement relating to the subdivided land is false or fraudulent, issuing, circulating, publishing or distributing it;
- (w) crimes involving making or permitting a false public voucher;
- (x) crimes involving a false public voucher, false reports, uttering false statements, paying or receiving public money for services not rendered;
- (y) crimes involving unlawful influencing, unlawful sale of a lottery ticket, unlawful representation of a business or individual as a credit union, conducting business as a credit union when not authorized to do so, or violations of the New Mexico Uniform Securities Act;
- (z) crimes involving extortionate extensions of credit;
- (aa) crimes involving the unlawful request, receipt, or offer to another that is exchanged for the promised performance of and official act, or illegal kickbacks;
- (bb) failing to comply with the registration or verification requirements of the Sex Offender Registration and Notification Act;
- (cc) crimes involving the practice of medicine, dentistry or osteopathic medicine without a license or authorization of the appropriate regulating authority;
- (dd) 4th or subsequent driving under the influence of intoxicating liquor or drugs;
- (ee) an attempt, solicitation, or conspiracy involving any of the felonies in this subsection.

(2) The board shall not consider the fact of a criminal conviction as part of an application for licensure, or license renewal, unless the conviction in question is one of the disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.

(3) The board shall not deny, suspend, or revoke a license, or impose disciplinary action on a licensee on the sole basis of a criminal conviction, unless the conviction in question is one of the disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

(4) Nothing in this rule prevents the board from denying an application or disciplining a licensee on the basis of an individual's conduct to the extent that such conduct violated the Engineering and Surveying Practice Act, regardless of whether the individual was convicted of a crime for such conduct or whether the crime for which the individual was convicted is listed as one of the disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.

(5) In connection with an application for licensure or a license renewal, or disciplinary action, the board shall not use, distribute, disseminate, or admit into evidence at an adjudicatory proceeding criminal records of any of the following:

- (a) an arrest not followed by a valid conviction;
- (b) a conviction that has been sealed, dismissed, expunged or pardoned;
- (c) a juvenile adjudication; or
- (d) a conviction for any crime other than the disqualifying criminal convictions listed in Paragraph (1) of Subsection F of 16.39.7 NMAC.

**Section 16.39.8.7 - DEFINITIONS**

In these Rules of Professional Conduct, the word "licensee" shall mean any person holding a current license or certification issued by the Board.

**Section 16.39.8.8 - PREAMBLE**

A. In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following Rules of Professional Conduct shall apply to every person holding a certificate of licensure to perform engineering or surveying services in the State of New Mexico.

B. The Rules of Professional Conduct as promulgated herein are an exercise of the regulatory power vested in the Board by virtue of the acts of the legislature. These rules are in addition to but are not intended to supersede, the provisions of the New Mexico Engineering and Surveying Practice Act.

C. All persons licensed under the New Mexico Engineering and Surveying Practice Act are charged with having knowledge of the existence of these Rules of Professional Conduct and shall be deemed to be familiar with the provisions of these rules and to understand them. Such knowledge shall encompass understanding these rules of Professional Conduct and failure to follow these rules may be considered misconduct by the Board.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**Section 16.39.8.9 - RULES OF PROFESSIONAL CONDUCT**

A. The protection of the public safety, health, welfare and property in the performance of professional duties.

- (1) Perform those duties in conformance with accepted engineering and surveying practices.
- (2) Notify their employer or client and such other authority as may be appropriate of any instance in which their professional judgment is overruled under circumstances endangering the public safety, health, welfare or property.
- (3) Approve and seal only those engineering and surveying documents which conform to applicable engineering and surveying standards.
- (4) Shall not reveal privileged or confidential facts, data or information without prior consent of the client or employer except as authorized or required by law or this code.
- (5) Refuse to associate in a business venture with any person or firm whom they may have reason to believe is engaging in fraudulent or dishonest business or professional practices as an engineer or surveyor and refuse to use or permit the use of their name or firm in connection with any such business venture.
- (6) Inform the board of any violation of this code. Cooperate with the board in furnishing information or assistance as may be requested by the board in matters concerning violations.
- (7) Shall not assist or participate in the unlawful practice of engineering and surveying by a person or firm.

B. Specialization and the performance of services only in specific areas of competence.

- (1) Licensees shall undertake assignments only when qualified by education, experience or examination in the specific technical fields of engineering or surveying involved.
- (2) Licensees shall not affix their signatures or seals to any plans or documents dealing with subject matter in which they lack competency, nor to any such plan or documents not prepared under their responsible charge.
- (3) Licensees may accept an assignment when the total work involves technical fields beyond those in which they are qualified, providing their services are limited to those phases in which they are qualified and that the phases in which they are not qualified are performed by licensees who are properly qualified. In this instance, each qualified licensee will sign and seal the documents for their phase of the assignment.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

C. The issuance of public statements.

(1) Licensees shall be objective and truthful in professional reports, statements or testimony. A professional report or professional opinion issued by or under the responsible charge of a licensee shall not contain any intentionally false, misleading or deceitful statements or testimony. Any report, statement or testimony by a licensee shall contain all relevant and pertinent information as required by accepted engineering or surveying principles.

(2) If a licensee issues statements on technical matters in his or her capacity as a professional engineer or professional surveyor on behalf of an interested party, the licensee must expressly preface his or her remarks by identifying said interested party and by revealing the existence and nature of any interest the licensee may have in the matter.

(3) A licensee who is competent in the subject matter may express publicly technical opinions that are found upon knowledge of the facts.

D. Professional relationships with employer or client.

(1) Licensees shall act in professional matters for each employer or client to avoid conflicts of interest. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest or other circumstances which could reasonably be expected to influence their judgment or the quality of their services.

(2) Licensees shall not accept compensation, financial or otherwise, from more than one party for services on the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties.

(3) Licensees shall not solicit or accept any gratuity, material favor, or any valuable consideration, directly or indirectly, from contractors, their agents, servants or employees or from any other party dealing with his client or employer in connection with any project for which he is performing or has contracted to perform engineering or surveying services. (The phrase "valuable consideration" is defined to mean any act, article, money or other material possession which is of such value or proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his ability to exercise his own judgment.)

(4) Licensees in public service as a member or employee of a governmental body, agency or department shall not participate, directly or indirectly in deliberations or actions which would constitute a conflict of interest with respect



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

to services offered or provided by him, his associates, or the licensee's business entity to such governmental body, agency or department.

(5) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their business entity serves as a member, except upon public disclosure of all pertinent facts and circumstances and consent of appropriate public authority.

(6) Licensees shall not reveal privileged or confidential facts, data or information obtained in a professional capacity without prior consent of the client or employer except:

(a) As provided in Paragraphs (2) and (6) of Subsection A of 16.39.8.9 NMAC.

(b) As authorized or required by law.

(c) Any document that is a matter of public record by virtue of it being on file with a public agency.

(d) Any fact, data or information which is clearly the property of the engineer or surveyor.

E. Solicitation of professional employment.

(1) Licensees shall not falsify or permit misrepresentation of their, or their associates' academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in or for the subject matter of prior assignments. Brochures or other representations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent and purpose of enhancing their qualifications and their work.

(2) Licensees shall not offer, give, solicit or receive, either directly or indirectly, any commission, gift, or other valuable consideration in order to secure or influence the award of work and shall not make any political contribution in an amount intended to influence the award of a contract by public authority, and which may be reasonably construed by the public as having the effect or intent to influence the award of a contract.

F. Avoiding conduct or practice that deceives the public.

(1) Licensees shall avoid the use of a statement containing a material misrepresentation of a fact or omitting a material fact.





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

(2) Consistent with the foregoing, licensees may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

G. Interaction with other licensees.

(1) Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of other licensees.

(2) Licensees in private practice shall not review the work of another licensee for the same client, except with the knowledge of such licensees, or unless the connection of such licensee with the work has been terminated.

(3) Licensees in governmental, industrial, or educational employment are entitled to review and evaluate the work of other licensees when so required by their employment duties.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

### **Sign and Seal Requirements**

Engineering seal and signature requirements are found in 16 NMAC 39.3.12. Here are highlights that may differ from requirements in other states:

- Seal outer diameter is to be 1 1/2"
- Signature and date to be located adjacent to the seal; ink can be a different color
- For multipage specifications and reports, it is acceptable to only sign and seal a certification page
- Acceptable forms of signature:
  - Original (hand) sign and seal (rubber stamp, electronic image, or embossed)
  - Electronic/digital signature requirements:
    - Digital seal image acceptable
    - Licensee shall provide adequate security for the seal and signature
    - Adobe, Bluebeam, & DocuSign e-signatures appear acceptable



*John M. Doe*

*02-29-2025*

### **Laws and Rules**

The following is a copy-paste of the relevant laws and rules:

#### **16 NMAC 39**

##### **Section 16.39.3.12 - SEAL OF LICENSEE**

A. Each licensed professional engineer shall obtain a seal/stamp, which shall appear on all final engineering design drawings, the certification page of all specifications and engineering reports prepared by the licensee in responsible charge. Adjacent to the seal/stamp shall appear the original signature of the licensee along with the date the signature was applied. Rubber stamps signatures are not acceptable. Electronic signatures as provided by law and board's policy shall be acceptable.

B. The seal/stamp shall be the impression type seal, the rubber type, or a computer-generated facsimile. Computer generated seals shall be bona fide copies of the actual seal/stamp specific to the work being presented.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

- C. The design of the seal/stamp shall consist of either:
- (1) three concentric circles, the outermost circle being one and one-half inches in diameter, the middle circle being one inch in diameter, and the innermost circle being one-half inch in diameter. The outer ring shall contain the words, "professional engineer" and the licensee's name. The inner ring shall contain the words "New Mexico". The center circle shall contain the license number issued by the board. Any border pattern used by the manufacturer is acceptable; or
  - (2) a design approved by the board which contains the words "professional engineer", the licensee's name, "New Mexico", and the license number issued by the board each in text no less than 0.1 inches in height.
- D. Professional engineers who were licensed prior to the enactment of these current rules and who have maintained that license without lapse, may retain and use the seals, stamps, and wall certificates previously approved.
- E. For the purposes of the Engineering and Surveying Practice Act, a licensee of this board has "responsible charge of the work" as defined in Subsection O of Section 61-23-3 NMSA 1978 and may sign, date and seal/stamp plans, specifications, drawings or reports which the licensee did not personally prepare when plans, specifications, drawings or reports have been sealed only by another licensed engineer, and the licensee or persons directly under his personal supervision have reviewed the plans, specifications, drawings or reports and have made tests, calculations or changes in the work as necessary to determine that the work has been completed in a proper and professional manner.
- F. The seal and signature shall be placed on work only when it is under the licensee's responsible charge. The licensee shall sign and seal only work within the licensee's area of discipline.
- G. When the document contains more than one sheet, the first or title page shall be sealed and signed by the licensee who was in responsible charge. Two or more licensees may affix their signatures and seals provided it is designated by a note under the seal specific subject matter for which each is responsible. In addition, each sheet shall be sealed and signed by the licensee or licensees responsible for that sheet. When a firm performs the work, each sheet shall be sealed and signed by the licensee or licensees who were in responsible charge of that sheet and, in the

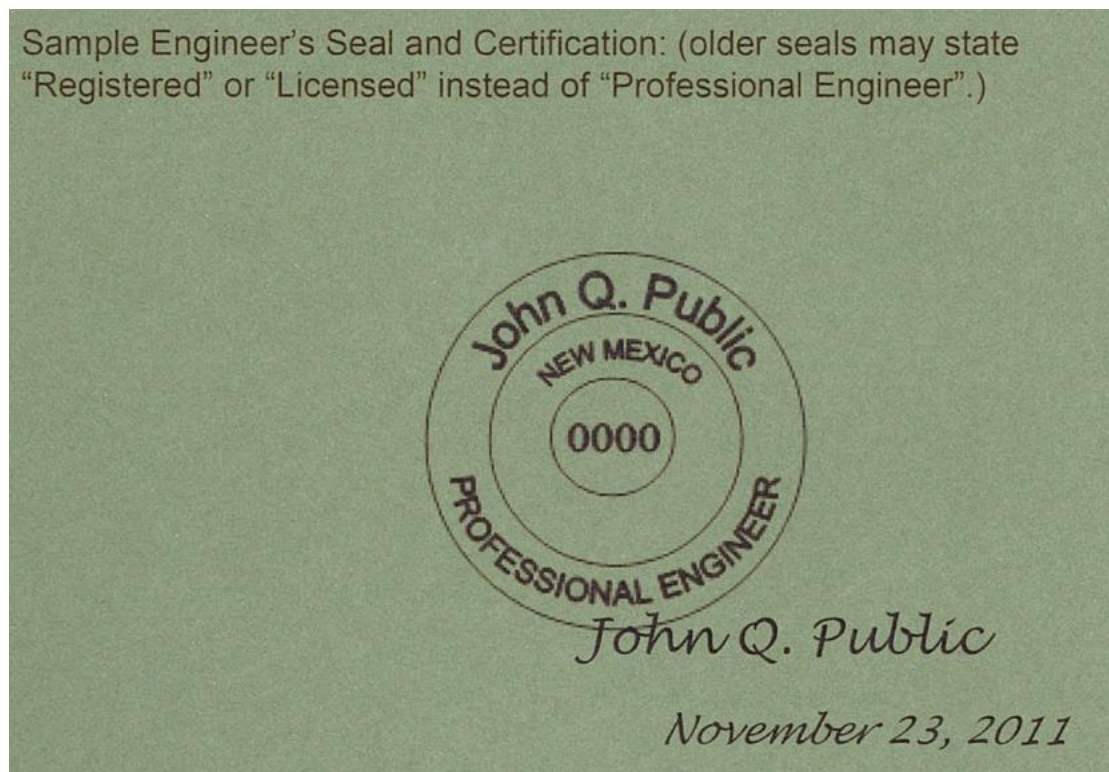


New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

case of multiple licensees, explicitly identify the portion of work attributable to each licensee.

H. An electronic signature, as an option to a permanently legible signature, is acceptable for professional documents. The licensee shall provide adequate security regarding the use of the seal and signature. If the document contains more than one licensee and is electronically transmitted as specified under the preceding paragraph, each signature must contain an independent electronic signature.

Handbook for NM Building Officials





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

### **Continuing Education**

Per 16 NMAC 39.2.8, the following continuing professional competency is required every 2-year renewal period, where PDH is a professional development hour:

- 30 PDH in total
- Minimum 2 PDH in ethics or business
  - Ethics or business beyond 2 PDH can go towards the other 28 PDH
  - Qualifying content: awareness of ethical concerns and conflicts, codes of conduct, standards of practice, project management, & risk management
- The Board does NOT pre-approve providers or specific courses
- Course content:
  - Maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice
- Maximum 15 PDH carried over to next renewal period, except no ethics carryover allowed
- Retain PDH records for minimum 3 years
- Renewal date: December 31 of odd or even years corresponding to licensee's license number being odd or even

### **Laws and Rules**

Here is a copy-paste of the relevant laws and rules:

#### **16 NMAC 39**

##### **Section 16.39.2.7 - DEFINITIONS**

A. Professional development hour (PDH) - a contact hour (nominal) of instruction or presentation. The PDH is the common denominator for other units of credit.

B. Continuing education unit (CEU) - unit of credit customarily used for continuing education courses. One continuing education unit equals 10 contact hours in approved continuing education course.

C. College/unit semester/quarter hour - credit for course in ABET approved programs or other related college course approved in accordance with Subsection E of 16.39.2.8 NMAC.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

D. Course/activity - any qualifying course or activity with a clear purpose and objective that will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice. Regular duties are not considered qualified activities.

E. Dual licensee - a person who is licensed as both a professional engineer and a professional surveyor.

F. Ethics /business-related course or activity - any qualifying course or activity with content areas related to:

- (1) the awareness of ethical concerns and conflicts;
- (2) an enhanced familiarity with the codes of conduct;
- (3) an understanding of standards of practice or care; or
- (4) project management and risk-assessment management.

**Section 16.39.2.8 - CONTINUING PROFESSIONAL DEVELOPMENT - REQUIREMENTS**

The purpose of the continuing professional development requirement is to enhance the continuing level of professional development of professional engineers and professional surveyors.

A. Introduction - Every licensee shall meet the continuing professional development requirements of these regulations for professional development as a condition for license renewal.

B. Failure to meet requirements - Submission of professional development hours (PDHs) shall be made concurrently with license renewal. Failure to meet the PDH requirements will result in the rejection of renewal.

C. Requirements - each licensee is required to obtain 30 professional development hours (PDH) units during a biennium at least two of which shall be in ethics/business-related. If a licensee exceeds the biennial requirement in any biennial cycle, a maximum of 15 PDH units may be carried forward into the subsequent biennium in accordance with what has been previously reported to the board. PDH units may be earned from participation in qualifying activities as follows:

- (1) successful completion of college courses relevant to engineering and surveying;



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

- (2) successful completion of short courses, tutorials, webinar or distance-education courses offered for self-study, independent study or group study through synchronous or asynchronous delivery method such as live, correspondence, archival or the internet;
- (3) presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, conferences, or educational institutions;
- (4) teaching or instructing in Paragraphs (1) through (3) of Subsection D of 16.39.2.8 NMAC;
- (5) authoring published papers, articles, books, or accepted licensing examination items;
- (6) active participation in professional or technical societies;
- (7) patents;
- (8) active participation in educational outreach activities, pertaining to professional licensure or the surveying/engineering professions, as a speaker, instructor, presenter or panelist.

D. Units - the conversion of other units of credit to PDH units is as follows:

- (1) One college or unit semester.....45 PDH;
- (2) One college or unit quarter hour.....30 PDH;
- (3) One continuing education unit.....10 PDH;
- (4) One hour of professional development in coursework, seminars, or professional or technical presentations made at meetings, conventions, or conferences..... 1 PDH;
- (5) for teaching, apply multiple of two(teaching credit is valid for teaching a course or seminar for the first time only; teaching credit does not apply to full-time faculty);
- (6) Publications:
  - (a) each published peer-reviewed paper or book in the licensee's area of professional practice.....10 PDH;
  - (b) each published paper or article other than Subparagraph (a) of Paragraph (6) of Subsection E of 16.39.2.8 NMAC in the licensee's area of professional practice.....5 PDH;
- (7) active participation in professional and technical societies (each organization) 2 PDH;
- (8) each patent.....10 PDH;
- (9) One hour of outreach activity.....1 PDH (max 6 PDH/biennium).



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

E. Determination of credit - the board has final authority with respect to approval of courses, credit, PDH value for courses, and other methods of earning credit:

- (1) credit for college or community college approved courses will be based upon course credit established by the college;
- (2) credit for qualifying seminars, workshops, professional conventions, and courses/activities may be recommended by the professional societies;
- (3) additional criteria for credit determination shall be included in the board policy.

F. Record keeping - each licensee is responsible for maintaining records that support credits claimed is the responsibility of the licensee. Records required include but are not limited to:

- (1) a log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned;
- (2) attendance verification records in the form of completion certificates, paid receipts or other documents supporting evidence of attendance;
- (3) proof of membership in a technical organization issuing a publication as a part of its membership fee;
- (4) a log indicating the medium used for a technical review, the subject of the review, the author or sponsoring organization, the date the review was conducted, a brief written summary of the contents of the reviewed material and the time spent on the review;
- (5) the organization sponsoring a civic or community activity, the date and location of the activity, the subject of the activity and the licensee's involvement in the activity. These records must be maintained for a period of three years and copies may be requested by the board for audit verification purposes.

G. Exemptions - a licensee may be exempt from the professional development educational requirements for One of the following reasons:

- (1) new licensees by way of examination or comity/endorsement shall be exempt for the first year directly following the issuance of their license; PDH requirements will be prorated for any remaining portion of the licensing period beyond One year from the date of initial licensure;
- (2) a licensee serving on temporary active duty in the armed forces of the United States for a period of time exceeding 120 consecutive days in a calendar year may be exempt from obtaining the professional development hours required during that year; supporting documentation shall be furnished to the board;





New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

(3) licensees experiencing physical disability, illness, or other extenuating circumstances as reviewed and approved by the board may be exempt; supporting documentation must be furnished to the board;

(4) licensees who have been approved for "retired status" by the board shall be exempt from the professional development hours required; in the event such a person elects to return to active practice of professional engineering or professional surveying, professional development hours must be earned before returning to active practice for the preceding biennial cycle.

H. Reinstatement - a licensee may bring a lapsed license to active status by obtaining all delinquent PDH units outstanding from the last biennium and complying with all other reinstatement requirements in the Engineering and Surveying Practice Act and the board's rules and regulations; however, if the total number required to become current exceeds 30, then 30 shall be the maximum number required.

I. Comity/out-of-jurisdiction resident - licensees who are residents of other jurisdictions shall meet the continuing professional development requirements of this board. These requirements may be deemed satisfied when a non-resident licensee provides evidence of having met requirements for another state engineering/surveying licensing board that are equal to or exceed the requirements of this board.

J. Dual licensees - the number of PDH units required shall remain the same for persons who hold a dual license as a professional engineer and professional surveyor; for persons who hold a dual license, half of the PDH units shall be in each profession.

K. Forms - all renewal applications will require the number of earned PDH units. The licensee must sign the renewal application, and submit with the appropriate fee.



New Mexico Laws, Rules and Ethics for Engineers  
*A SunCam online continuing education course*

**Helpful References**

*New Mexico Board of Licensure for Professional Engineers and Professional Surveyors  
 (NMBLPEPS)*

General website:	<a href="https://www.sblpes.state.nm.us/">https://www.sblpes.state.nm.us/</a>
License renewal:	<a href="https://www.sblpes.state.nm.us/license-renewal">https://www.sblpes.state.nm.us/license-renewal</a>
Address change:	<a href="http://www.sblpes.state.nm.us/address-change">http://www.sblpes.state.nm.us/address-change</a>
Eng. Laws & Rules:	<a href="https://www.sblpes.state.nm.us/laws-rules-advisories/">https://www.sblpes.state.nm.us/laws-rules-advisories/</a>
NMS 61-23:	<a href="https://casetext.com/statute/new-mexico-statutes-1978/chapter-61-professional-and-occupational-licenses/article-23-engineering-and-surveying">https://casetext.com/statute/new-mexico-statutes-1978/chapter-61-professional-and-occupational-licenses/article-23-engineering-and-surveying</a>
16 NMAC 39:	<a href="https://casetext.com/regulation/new-mexico-administrative-code/title-16-occupational-and-professional-licensing/chapter-39-engineering-and-surveying-practitioners/part-8-code-of-professional-conduct-engineering-and-surveying">https://casetext.com/regulation/new-mexico-administrative-code/title-16-occupational-and-professional-licensing/chapter-39-engineering-and-surveying-practitioners/part-8-code-of-professional-conduct-engineering-and-surveying</a>
Handbook for Building Officials:	<a href="https://www.sblpes.state.nm.us/laws-rules-advisories/handbook-for-new-mexico-building-officials/">https://www.sblpes.state.nm.us/laws-rules-advisories/handbook-for-new-mexico-building-officials/</a>