



#621
August 21, 2018

Report to the Mississippi Legislature

A Review of the Board of Licensure for Professional Engineers and Surveyors



PEER: The Mississippi Legislature's Oversight Agency

The Mississippi Legislature created the Joint Legislative Committee on Performance Evaluation and Expenditure Review (PEER Committee) by statute in 1973. A joint committee, the PEER Committee is composed of seven members of the House of Representatives appointed by the Speaker and seven members of the Senate appointed by the Lieutenant Governor. Appointments are made for four-year terms, with one Senator and one Representative appointed from each of the U.S. Congressional Districts and three at-large members appointed from each house. Committee officers are elected by the membership, with officers alternating annually between the two houses. All Committee actions by statute require a majority vote of four Representatives and four Senators voting in the affirmative.

Mississippi's constitution gives the Legislature broad power to conduct examinations and investigations. PEER is authorized by law to review any public entity, including contractors supported in whole or in part by public funds, and to address any issues that may require legislative action. PEER has statutory access to all state and local records and has subpoena power to compel testimony or the production of documents.

PEER provides a variety of services to the Legislature, including program evaluations, economy and efficiency reviews, financial audits, limited scope evaluations, fiscal notes, special investigations, briefings to individual legislators, testimony, and other governmental research and assistance. The Committee identifies inefficiency or ineffectiveness or a failure to accomplish legislative objectives, and makes recommendations for redefinition, redirection, redistribution and/or restructuring of Mississippi government. As directed by and subject to the prior approval of the PEER Committee, the Committee's professional staff executes audit and evaluation projects obtaining information and developing options for consideration by the Committee. The PEER Committee releases reports to the Legislature, Governor, Lieutenant Governor, and the agency examined.

The Committee assigns top priority to written requests from individual legislators and legislative committees. The Committee also considers PEER staff proposals and written requests from state officials and others.

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The Mississippi Legislature

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August 21, 2018

Honorable Phil Bryant, Governor
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Honorable Philip Gunn, Speaker of the House
Members of the Mississippi State Legislature

On August 21, 2018, the PEER Committee authorized release of the report titled *A Review of the Board of Licensure for Professional Engineers and Surveyors*.

A handwritten signature in black ink, reading "Videt Carmichael".

Senator Videt Carmichael, Chair

This report does not recommend increased funding or additional staff.

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A Review of the Board of Licensure for Professional Engineers and Surveyors

Executive Summary

Introduction

The Board of Licensure for Professional Engineers and Surveyors requested a review of the agency's operations and management over concerns about improving efficiency and the board's desire to maintain the effectiveness needed to fulfill its statutory requirements.

Background

The Mississippi Legislature established the Board of Registration for Professional Engineers and Land Surveyors to safeguard life, health, and property, and to promote public welfare. The board has nine members: six professional engineers (three of whom are dually licensed as surveyors) and three professional surveyors. Five staff members—Executive Director, Deputy Director, Licensing Special Investigator, and two Administrative Assistants—support board operations.

A special fund agency, the board generates revenue from fees for license renewal, licensure applications, and examinations. The board has maintained, for the majority of FY 2015–FY 2017, a stable financial condition. Exhibit A presents the revenues, expenditures, and other transfers for the board's Special Treasury Fund.

Exhibit A: FY 2015 through FY 2017 Revenues and Expenditures of the Board of Licensure for Professional Engineers and Surveyors

	FY 2015	FY 2016*	FY 2017*
Special Fund Revenue	\$594,360	\$553,303	\$575,190
Total Expenditures	\$535,455	\$514,767	\$453,180
External Transfers*	---	\$498,666	\$500,000

*In FY 2016, the board transferred approximately \$500,000 to state universities and community colleges as part of a grant program authorized by the Legislature, and in FY 2017 the Legislature authorized a transfer to the Capital Expense Fund.

SOURCE: FY 2015–2019 board budget requests.

From FY 2015 through FY 2018, the board annually issued more than 13,000 licenses and certificates of authority to engineers, surveyors, and firms—more than 10,000 of those to engineers. Exhibit B lists the number of licenses issued in each category from FY 2015 to FY 2018.

Exhibit B: Number of Licensees from FY 2015 to FY 2018

Year	Number of Engineer Firm COAs*	Number of Professional Engineers	Number of Surveyor Firm COAs*	Number of Professional Surveyors
FY 2015	1,764	10,272	368	1,093
FY 2016	2,053	10,517	360	1,080
FY 2017	2,217	10,493	381	1,048
FY 2018	2,269	10,081	369	985

*Certificates of Authority, which are issued to firms rather than individuals.

SOURCE: Rosters of Professional Engineers, Surveyors, and Firms.

Does the board comply with relevant statutes for licensing and regulating the engineering and surveying professions?

Based on review of a sample of applications, the board currently meets the statutory requirements for licensing individuals and firms.

Licensure

CODE sections and board rules and regulations set specific procedures, education requirements, and experience requirements with which licensees must comply to become licensed as a professional engineer or surveyor in Mississippi. Additionally, the board provides the two paths for licensure as a professional engineer and/or surveyor: initial licensure and comity licensure (a courtesy extended to professional engineers and surveyors licensed in other states).

Procedures for application review by agency staff and final review by the board are currently performed in a manner facilitating fulfillment of statutory obligations regarding licensing. Board and staff ensure that applicants comply with state law and board rules and regulations for submissions, and the board approves only those applicants who fully comply with licensure requirements.

Regulation

Review of the board's investigative files indicated that the board's method for conducting investigations and disciplinary proceedings complies with state law. The board issued a fine in 58 out of 68 disciplinary investigations (85%) completed between FY 2015 and

FY 2017. Despite the lack of a set policy, the board equitably imposed fines during the years examined.

Is the board in compliance with statutes regulating its own behavior?

Over approximately a two-year period, board administrative and personnel policy failed to comply with state law for staffing, leave, and deposits.

Noncompliance with Statutes Regarding State Office Staffing

During the period reviewed, the board office regularly closed before 5 p.m., which is a violation of state law. MISS. CODE ANN. § 25-1-98 (1972) states that all state offices shall be open and staffed for the normal conduct of business from 8:00 a.m. until 5:00 p.m., Monday through Friday, except on legal holidays.

Time cards reviewed from May and September of 2014, 2015, 2016, and 2017 document 90.25 hours of staff time out of office on Fridays because of early closure (see Exhibit C).

Exhibit C: Friday Early Office Leave and Closures

	May 2014	September 2014	May 2015	September 2015	May 2016	Total
Total Staff Hours Lost on Fridays*	14.5	26.75	16.25	18.75	14	90.25

*All months are cumulative for four employees, excluding the former and current Executive Directors. It should be noted that the former Executive Director was under contract for a reduced schedule and left the office prior to the statutorily mandated closing time only after completing the agreed-upon weekly hours.

SOURCE: Staff time cards.

Noncompliance with Statutes Regarding Administrative Leave

At the direction of the former Executive Director, and with the consent of the former board president, agency staff (excluding the Executive Director) received paid days off from work—coded as administrative leave—for purposes outside those allowable by state law (MISS. CODE ANN. § 25-3-92). From the eight months reviewed, five months (May and September 2014, May and September 2015, and May 2016) provide evidence of a total of 33 days of administrative leave taken. Staff members each received one day of discretionary administrative leave per month, in addition to birthday and work anniversary.

Noncompliance with Statutes Regarding Timely Deposits of Funds

In a randomly selected sample of 50 accounting transactions (25 online from November FY 2017 (during the middle of renewal season) and 25 paper transactions compiled from each month of FY 2017 with three from November), PEER found that, although the board complied with timely deposit laws and regulations for

the receipt of online transactions, in two out of 25 instances (8%), the board did not comply with state law and regulations regarding timely deposits of paper checks within a week of receipt. In both instances 10 days transpired between the time the check was entered into the board's database and the time it was deposited into the clearing account. This compares to an average time span from receipt to deposit of 3.4 days for the 23 compliant transactions.

Is the board operating in the most efficient manner?

The board does not operate in the most effective manner with regard to using the state's Licensing and Reporting System (LARS) to its full capacity, tracking continuing education, maintaining a user-friendly website, disseminating board information and updating staff duties internally, and remaining current with licensing practices of peer boards.

Use of Technology in Daily Operations

Although the board's current system for tracking continuing professional competency is not in violation of state law, it is inadequate in determining whether licensees are obtaining the necessary CPC hours and fails to make use of existing technology within LARS to track CPC and maintain records.

The board's website design hinders ease of use, reduces navigability, and fails to provide convenient access to high-priority information (e.g., board newsletters, staff contacts, the complaint process), potentially limiting licensee and/or public use of the site as a resource.

In addition, board reluctance to transition to paperless or paper-limited board meetings and investigative case files is inefficient and wasteful of resources.

Clearly Defined and Up-to-Date Staff Duties

Staff members' job descriptions have not been updated since August of 2014. Although staff members generally understand their roles—either from their tenure or as set by the Executive Director—a lack of clarification in and updates to internal documents may lead to ambiguity, which can jeopardize board operations.

Fulfillment of Licensing Responsibilities

In accordance with MISS. CODE ANN. § 73-13-31 (1972), the board currently employs an annual renewal cycle, which results in heavy annual workloads for the board's staff. In contrast, surrounding state boards employ biennial renewal cycles, which have the potential to reduce heavy workloads on staff during renewal periods and lessen the burden on licensees.

During the annual renewal cycle of calendar year 2018, the board and its staff could face renewal of 13,704 licensees and certificates

of authority (issued to firms) should all licensees from fiscal year 2018 renew. By employing an annual renewal cycle, the board is simply following requirements, as prescribed in CODE but is at risk of falling behind the practices of peer boards and creating an undue burden on its licensees and staff.

Issues Related to Agency Working Environment

Over the course of PEER's review of the Board of Licensure for Professional Engineers and Surveyors, it became evident that the agency is operating with personnel conflicts that may jeopardize the future ability of the board to fulfill its statutory obligations.

Through interviews with board members and agency staff, PEER determined that the relationships between board members, the Executive Director, and the staff do not reflect the characteristics of good working relationships. Specifically, there is a lack of trust and mutual respect between board members and agency staff.

Board members acknowledged to PEER that there are less-than-ideal working relationships between the board, the Executive Director, and the administrative staff. The board members' desire is to address the relationship issues so that the agency can operate at optimal efficiency.

Recommendations

1. In conjunction with the Board of Architecture, the Board of Licensure for Professional Engineers and Surveyors should encourage its representatives on the jurisdictional joint committee (see page 9) to conclude their work as expeditiously as possible. When the work is completed, each board should disseminate to its licensees relevant guidance or work products designed to address issues that caused jurisdictional confusion in the past.
2. Although the board equitably imposed fines on licensees who had been noncompliant with rules and regulations during the period reviewed by PEER, the board should develop a disciplinary manual or matrix that outlines when board members should impose fines and the amounts to be imposed for specific infractions.
3. Board members should ensure that the agency's Executive Director and administrative staff consistently adhere to MISS. CODE ANN. § 25-1-98 regarding the operating hours required of state offices.
4. With regard to the agency's improper use of administrative leave, board members should conduct an internal review and determine the number of hours of administrative leave granted improperly to each employee and subtract such amounts from each employee's current personal leave balance. Board members should also request the Office of the State Auditor to include a comprehensive review of the agency's leave records in the Auditor's next fiscal audit of the agency to

identify any other improper awarding of administrative leave for periods not reviewed by PEER.

Because salaried employees, such as the board's administrative staff, are expected to complete their assigned jobs, regardless of the time it takes to fulfill their responsibilities, the use of a time clock is not necessary for salaried employees. The board should evaluate its current methods for documenting time worked by agency employees to ensure time accountability and compliance with state leave laws.

5. Board members should ensure that the Executive Director and administrative staff consistently comply with MISS. CODE ANN. § 7-9-21 (1972) regarding timely deposits of funds received by the agency. The Executive Director should ensure that staff are cross-trained so that deposits can be made on time when the primary employee responsible for making such deposits is absent from the office.
6. In order to achieve maximum technological efficiency in the operations of the agency, the board should consult with the Department of Information Technology Services (ITS) and request that ITS provide training to agency staff regarding the use and capabilities of the Licensing and Reporting System (LARS). The agency's Executive Director should undergo extensive training with ITS in order to serve as the agency contact with other staff for remedying issues that arise during staff interaction with the LARS database.
7. Because of the importance of continuing professional competency (CPC) in maintaining professional capabilities and ensuring public safety, agency staff should utilize the CPC tracking capabilities of LARS to ensure that all licensees annually obtain and document their required continuing professional competency credits. In cases in which licensees do not comply with the annual CPC requirement, the board should consider suspending the licenses of such practitioners until they become current with their CPC credits.
8. The agency's Executive Director should consult with ITS's contractor, Mississippi Interactive, in an effort to improve the navigation and user-friendliness of the agency's website. Improvements such as an expanded top navigation bar with direct access to a listing of fees, staff contact information, and newsletters (the board's primary method of communication with its licensees) should be considered in order to increase transparency and access to vital information.
9. In consultation with board members and ITS staff, the agency's Executive Director should continue exploring electronic methods to provide board meeting information and investigative files to board members.
10. In consultation with State Personnel Board staff, board members and the agency's Executive Director should conduct desk audits in order to update each employee's position description to reflect the current activities of the employees.

In addition, the board should form a committee to analyze the current responsibilities of the Executive Director, update the Executive Director's position description, and specify the responsibilities on which the Executive Director's performance will be evaluated.

11. The Legislature should consider amending MISS. CODE ANN. § 73-13-31 to allow the board to institute a biennial renewal cycle to maximize efficiency and lessen staff burden during the current annual October-December renewal period.
12. The board should continue monitoring the national trend of decoupling the examination and experience requirements for becoming a licensed engineer. The board should also consult with states that have implemented the decoupling concept to determine any efficiencies gained by practitioners or agency operations from such implementation.
13. Regarding issues related to the agency's working environment, the board should
 - require all agency staff to participate in the following courses offered by the State Personnel Board:
 - “Workplace Collaboration”
 - “Crucial Conversations”
 - require the Executive Director to participate in the following courses offered by the State Personnel Board and the Council on Licensure, Enforcement and Regulation:
 - “Overcoming the Five Dysfunctions of a Team”
 - “The Basic Supervisory Course”
 - “The Executive Leadership Program for Regulators”
 - seek mediation assistance from a human resources or counseling professional in order to provide leadership coaching and relationship-building skills.

If such efforts are not successful in addressing the working environment issues, the board should consider taking personnel actions to improve the agency's work environment and ensure the agency's sustainability.

For more information or clarification, contact:

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A Review of the Board of Licensure for Professional Engineers and Surveyors

Introduction

Authority

The PEER Committee, under its authority found in MISS. CODE ANN. § 5-3-51 et seq. (1972), reviewed the Board of Licensure for Professional Engineers and Surveyors.

Problem Statement

The Board of Licensure for Professional Engineers and Surveyors requested a review of the agency's operations and management over concerns about improving efficiency and the board's desire to maintain the effectiveness needed to fulfill its statutory requirements.

Scope and Purpose

PEER sought to determine the effectiveness of the Board of Licensure for Professional Engineers and Surveyors by answering the following questions:

- Does the board comply with relevant statutes for licensing and regulating the engineering and surveying professions?
- Is the board in compliance with statutes regulating its own behaviors?
- Is the board operating in the most efficient manner?

Method

In conducting this review, PEER

- reviewed relevant sections of state laws and board rules, regulations, policies, and procedures;
- interviewed board members, agency staff, board contractors, the Mississippi Department of Information Technology Services, and other stakeholders (e.g., Mississippi Engineering Society and Mississippi Association of Professional Surveyors); and
- analyzed various administrative and financial records, including the following:
 - financial statements;

- meeting minutes and other materials provided to board members prior to meetings;
- contracts;
- licensing and investigative files;
- staff duty statements;
- the database used to conduct the board's regulatory functions; and
- staff time cards, leave forms, and leave summary reports.

Background

All 50 states and four territorial entities license and regulate the professions of engineering and surveying. The Mississippi Legislature established the Board of Registration for Professional Engineers and Land Surveyors in 1928 to safeguard life, health, and property, and to promote public welfare.

According to the National Council of Examiners for Engineering and Surveying (NCEES), all 50 states and four territorial entities license and regulate the professions of engineering and surveying. In MISS. CODE ANN. § 73-13-1 (1972), the Legislature created the Board of Licensure for Professional Engineers and Surveyors and the requirement of engineers to register with the board to “safeguard life, health, and property, and to promote public welfare.” MISS. CODE ANN. § 73-13-15 (1972) provides that the board may establish various standards, rules, and regulations pertaining to the licensure, activities, qualifications, enforcement, discipline, and standards of practice for the practice of engineering. MISS. CODE ANN. § 73-13-75 (1972) extends these same regulatory powers to the board in regard to surveyors. MISS. CODE ANN. §§ 73-13-37 and 73-13-89 (1972) enumerate the reasons for which the board shall take disciplinary action against any person practicing engineering or surveying and the allowable sanctions the board can invoke.

During the 2004 Regular Session the Legislature changed the name of the board from the Board of Registration for Professional Engineers and Land Surveyors to the Board of Licensure for Professional Engineers and Surveyors and expanded the regulatory powers to include the regulation of firms offering engineering or surveying services.

Responsible charge of engineering or surveying work requires that a professional engineer or surveyor directly supervise, sign, date, and/or seal any engineering documents issued during engineering or surveying work.

Statutory Definition of the Practice of Engineering

MISS. CODE ANN. § 73-13-3 (1972) defines the “practice of engineering” as:

...any service or creative work the performance of which requires engineering education, training, and experience in the application of special knowledge of the mathematical, physical, and engineering sciences to such services or creative work as consultation, investigation, expert technical testimony, evaluation, planning, design, design coordination of engineering works and systems, planning the use of land, air and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications, any of which embraces such engineering services or work,

either public or private, in connection with an utilities, water resources, structures, buildings, machines, equipment, processes, work systems, projects, communication systems, transportation systems, industrial or consumer products or equipment of control systems; or engineering services or work of a communications, mechanical, electrical, hydraulic, pneumatic, chemical, geotechnical (including geology and geohydrology incidental to the practice of engineering), geological 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 any engineering services.

Statutory Definition of the Practice of Surveying

MISS. CODE ANN. § 73-13-71 (1972) defines the “practice of surveying” as:

...providing professional services such as consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling and interpreting reliable scientific measurement and information relative to the location size, shape or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, utilization and development of these facts and interpretation into an orderly survey map, plan or report and in particular, the retracement of or the creating of land boundaries and descriptions of real property.

Board Composition

Nine members compose the Board of Licensure for Professional Engineers and Surveyors: six professional engineers (three of whom are dually licensed as surveyors) and three professional surveyors.

MISS. CODE ANN. § 73-13-5 (1972) outlines the composition of the nine-member board, which currently includes three licensed professional engineers, three licensed professional surveyors, and three dually licensed professional engineers/surveyors. The Governor appoints the engineers to the board from a pool of 18 individuals recommended by the Mississippi Engineering Society and appoints the surveyor members from nine nominees provided by the Mississippi Association of Professional Surveyors. For each individual nomination, the professional organizations must nominate three people, from which the Governor chooses one.

The board consists of two engineers and one surveyor from each of the three state Supreme Court districts. Each member of the board serves a four-year term and serves until a successor is duly appointed and qualified. Upon the expiration of a term or vacancy

of a board position, the appropriate professional organization must submit a list of nominees, and the Governor must fill the vacancy within 90 days (MISS. CODE ANN. § 73-13-5 [1972]).

Appendix A, page 40, lists the current composition of the board, the professions of each member, their terms, and the Supreme Court district from which they are appointed.

Staff

Five staff members support board operations: an Executive Director, a Deputy Director II, a Licensing Investigative Supervisor, an Administrative Assistant VI, and an Administrative Assistant VII.

The board has the statutory authority, granted in MISS. CODE ANN. § 73-13-17 (1972), to employ an executive director and other staff as necessary for the performance of its duties. The board currently employs five full-time staff members: the Executive Director, Deputy Director II, Licensing Investigative Supervisor, Administrative Assistant VI, and Administrative Assistant VII. The board receives assistance in legal services from the Attorney General's Office staff under an interagency agreement.

Staff members provide general office support:

- verifying applicant credentials, notifying applicants of testing information and results, and responding to inquiries regarding licensure;
- notifying licensees of the annual license renewal and processing manual renewal forms;
- assisting in and investigating misconduct of licensees or members of the public practicing engineering or surveying without a license; and
- conducting audits of licensee continuing education.

In certain instances the board employs contractors. Most recently it contracted¹ with the former Executive Director to compile a list of rulings, decisions, and special circumstances made or considered by the board over the past 30 years to establish a precedent database to guide future rulings. In addition, it contracted with a former board member to serve as a representative on the joint architects and engineers committee (see section "Jurisdictional Dispute between Engineers and Architects," pages 9-10) as well as to assist in compiling and editing a guide for building inspectors and other interested parties to assist with future determinations of which professional field (architect or engineer) holds jurisdiction in specific instances. Each contract terminated June 30, 2018.

¹At the beginning of this review, the two personnel contracts had not been uploaded to Transparency Mississippi (www.transparency.mississippi.gov/). Upon PEER notifying the Executive and Deputy Directors, the contracts were uploaded within one business day.

Revenues and Expenditures

The board is a special fund agency that receives fees from the fulfillment of its regulatory functions.

A special fund agency, the board generates revenue from fees for license renewal, licensure applications, and examinations. The board also charges fees for the printing of its roster, rules and regulations, and relevant CODE sections. (MISS. CODE ANN. § 73-13-17 [1972]). Exhibit 1 enumerates the types of fees the board charges and the amount of each fee.

Exhibit 1: Board of Licensure for Professional Engineers and Surveyors Fee Schedule

Fee Type	Fee
Professional Engineer/Surveyor (PE/PS) application (comity, initial, limited)	\$75
Relicensure, PE or PS	\$175 (max)
Engineer/Surveyor Intern (EI/SI) application	\$25
Certificate of Authority (COA) application (firms)	\$100
Mississippi Section PS exam	\$20
Processing fee—for paper applications when an electronic application is available (in addition to the application fee)	\$25
Annual renewal by mail, PE or PS	\$37.50
Annual renewal by mail, dual PE/PS licensure	\$75
Annual renewal online, PE or PS	\$35
Annual renewal online, dual PE/PS licensure	\$70
Annual renewal online during October, PE or PS*	\$25
Annual renewal online during October, dual PE/PS licensure*	\$50
Retiree annual renewal	\$10
COA annual renewal by mail	\$75
COA annual renewal online	\$50
COA annual renewal online during October*	\$40
Certificate replacement/duplication	\$10
Electronic roster	\$100
Electronic mailing list	\$100
Returned check fee	\$40

*The board provides a discount for October renewals to encourage licensees to renew early during the renewal period in order to avoid an influx of renewals toward the end of the renewal period.

SOURCE: Board fee schedule.

The board has maintained, for the majority of FY 2015-FY 2017, a stable financial condition. Exhibit 2 presents the revenues, expenditures, and other transfers for the board's Special Treasury Fund. For FY 2015 and FY 2017, the board's revenues exceeded its expenditures. For FY 2016, expenditures exceeded revenues after the board distributed approximately \$500,000 in grant money to accredited engineering and surveying programs at state universities and community colleges. Additionally, the Legislature authorized a \$500,000 transfer from the board's special fund in H.B. 878 during the 2016 Regular Session. The transfer to the Capital Expense Fund occurred at the beginning of FY 2017.

Exhibit 2: FY 2015 through FY 2017 Revenues and Expenditures of the Board of Licensure for Professional Engineers and Surveyors

	FY 2015	FY 2016*	FY 2017*
Special Fund Revenue	\$594,360	\$553,303	\$575,190
Total Expenditures	\$535,455	\$514,767	\$453,180
External Transfers*	---	\$498,666	\$500,000

*In FY 2016, the board transferred approximately \$500,000 to state universities and community colleges as part of a grant program authorized by the Legislature, and in FY 2017 the Legislature authorized a \$500,000 transfer to the Capital Expense Fund.

SOURCE: FY 2015-2019 board budget requests.

Exhibit 3, page 8, presents major expenditures by category. Data regarding the board's annual expenditures show that the board spends the majority of its yearly budget on personal services, which includes salaries, wages, per diem, and travel. The second-highest category is contractual services. In accordance with appropriations in H.B. 1522 from the 2015 Regular Session, the FY 2016 grants program, which promotes education in the fields under the board's purview, represented a major increase in spending; however, that was isolated to one year. The grant program was renewed for FY 2019 in H.B. 1570; however, for \$350,000 rather than \$500,000.

Exhibit 3: FY 2015 through FY 2017 Board Expenditures

	FY 2015	FY 2016	FY 2017
Salaries, Wages, & Per Diem	\$354,291	\$335,087	\$358,704
Travel	\$22,667	\$26,222	\$23,339
Contractual Services	\$138,954	\$127,005	\$54,492
Commodities	\$12,027	\$18,148	\$15,512
Capital Equipment	\$7,441	\$8,306	\$1,134
Subsidies, Loans, & Grants	\$75	\$498,666	\$0
Total	\$535,455	\$1,013,434	\$453,181

SOURCE: Board Financial Reports FY 2015, FY 2016, FY 2017.

Quantity of Licenses Issued

From FY 2015 through FY 2018, the board annually issued more than 13,000 licenses and certificates of authority to engineers, surveyors, and firms—more than 10,000 of those to engineers.

The board licenses four categories of professionals:

- professional engineers,
- professional surveyors,
- engineering firms, and
- surveying firms.

The board may grant an applicant a license to practice engineering or surveying if the applicant has met specified education, experience, examination, and other requirements, as described in the following chapter. As new individuals and firms seek initial licensure, and engineers and surveyors licensed in other states seek comity licensure in Mississippi, the applications received by the board must be compliant with a standard set by the board (see pages 11-13).

Exhibit 4, page 9, lists the number of licenses issued in each category from FY 2015 to FY 2018. From FY 2015 through FY 2018, the board annually issued more than 13,000 licenses and certificates of authority to engineers, surveyors, and firms—more than 10,000 to engineers.

Exhibit 4: Number of Licensees from FY 2015 to FY 2018

Year	Number of Engineer Firm COAs*	Number of Professional Engineers	Number of Surveyor Firm COAs*	Number of Professional Surveyors
FY 2015	1,764	10,272	368	1,093
FY 2016	2,053	10,517	360	1,080
FY 2017	2,217	10,493	381	1,048
FY 2018	2,269	10,081	369	985

*Certificates of Authority, which are issued to firms rather than individuals.

SOURCE: Rosters of Professional Engineers, Surveyors, and Firms.

Jurisdictional Dispute between Engineers and Architects

The State Board of Architecture and the Board of Licensure for Professional Engineers and Surveyors have been engaged in a jurisdictional dispute regarding the practice and oversight of building design. However, the two boards are taking steps to mitigate these jurisdictional issues.

The Board of Licensure for Professional Engineers and Surveyors and the Mississippi State Board of Architecture have been engaged in a jurisdictional dispute as to which professional field (engineering or architecture) possesses the appropriate education and experience to design buildings. The professions contain similarities, and, as such, the scope of the regulatory authority of the two boards can overlap, creating disputes over which board's jurisdiction encompasses certain engineering and architectural practices.

During calendar year 2016, the State Board of Architecture filed three complaints against engineer licensees to the Board of Licensure for Professional Engineers and Surveyors regarding gross negligence, ethics violations, and errant use of an engineering seal. One of these cases was dismissed outright, with no violations found, while two of the cases warranted only a letter of education, a minor disciplinary action.

The Mississippi Attorney General has issued three opinions on this matter. The first (see *Attorney General's Opinion to Rosemary Brister, September 3, 2010*) stated:

Since the Mississippi legislature expressly included the element of "design" in its definition of the practice of engineering, without limitation, and expressly exempt the lawful practice of engineering from application of the architecture statutes...the practice of engineering may include the design of a building or any other designs, so long as the conduct otherwise meets the statutory definition of the practice of engineering.

In addition, *Attorney General's Opinion to William P. Tompkins, Jr., February 18, 2011*, affirmed that the "definition of the practice of engineering includes design which embraces engineering services

or work,” but further states that the question should be decided on a “case-by-case basis.” *Attorney General’s Opinion to Rosemary Brister, June 29, 2012*, although acknowledging similarities and overlap between the practices of engineering and architecture, states that the Board of Architecture does not have the authority to define or limit services that constitute engineering and that engineers may engage in building design as long as the design is “within the statutory definition of engineering or incidental thereto.” For example, in an engineer’s design of a parking garage, brick design elements frustrated architects who claimed the project should require an architect as opposed to an engineer. However, despite the opinions issued between 2010 and 2012, the jurisdictional dispute continued, as indicated by the complaints filed during calendar year 2016.

Aiming to lessen these jurisdictional disputes, the boards formed a joint committee (three members of the Board of Licensure for Professional Engineers and Surveyors and three members of the Board of Architecture and the Executive Directors of each board) tasked with eliminating the need for a formal complaint process and publishing a guide for building inspectors and other interested parties to use to determine the type of professional (engineer or architect) necessary for the completion and inspection of various types of work, including building design. At the conclusion of the joint committee’s work, the two boards will adopt the joint document for publication.

Does the board comply with relevant statutes for licensing and regulating the engineering and surveying professions?

The board is fulfilling its statutory obligation to license and regulate the engineering and surveying professions.

The Board of Licensure for Professional Engineers and Surveyors is responsible for protecting the public's health, welfare, and safety through the regulation of the engineering and surveying professions. It accomplishes this responsibility through licensure, disciplinary investigations, the promulgation of rules and regulations, and the collection of fees for its own maintenance and continued effective operations.

This chapter addresses the following questions:

- Does the board properly verify the requirements for licensure?
- Does the board properly investigate and discipline persons violating state law and board rules and regulations?

Does the board properly verify the requirements for licensure?

Based on review of a sample of applications, the board currently meets the statutory requirements for licensing individuals and firms.

To verify compliance with statutory requirements regarding the licensure of professional engineers and surveyors, PEER reviewed the 16 applications approved during the February and April 2018 board meetings (11 initial professional engineer applicants, two initial professional surveyor applications, and three professional surveyor comity applications). PEER determined that, for the sample examined, board approvals complied with the statutory requirements as well as the rules and regulations the board prescribes for the application procedure. Each application contained the necessary paperwork for compliance and was appropriately reviewed by the multiple members of the board's staff and individual board members prior to final approval by the board collectively.

Statutory Requirements for Professional Engineers and Surveyors

MISS. CODE ANN. § 73-13-23 (1972) establishes the following qualifications for initial licensure as a professional engineer:

Graduation in an engineering curriculum of four (4) years or more from a school or college approved by the board...or related science curriculum of four (4) scholastic years...plus a graduate degree in an engineering curriculum from a school or college wherein the same engineering curriculum at the undergraduate level is approved by the board as of satisfactory standing....

as well as:

a specific record of four (4) years of qualifying engineering experience indicating that the applicant is competent to practice engineering.

Regarding the contents of the professional engineer application for licensure, MISS. CODE ANN. § 73-13-25 (1972) states:

Applications...for licensure as a professional engineer...shall contain statements made under oath, showing the applicant's education and detailed summary of the applicant's qualifying experience. Applications for licensure or relicensure as a professional engineer shall also contain not less than five (5) references, of whom three (3) or more shall be engineers having personal knowledge of the applicant's engineering experience.

Finally, MISS. CODE ANN. § 73-13-27 (1972) establishes the requirement for examination prior to licensure as a professional engineer according to methods and procedures prescribed by the board.

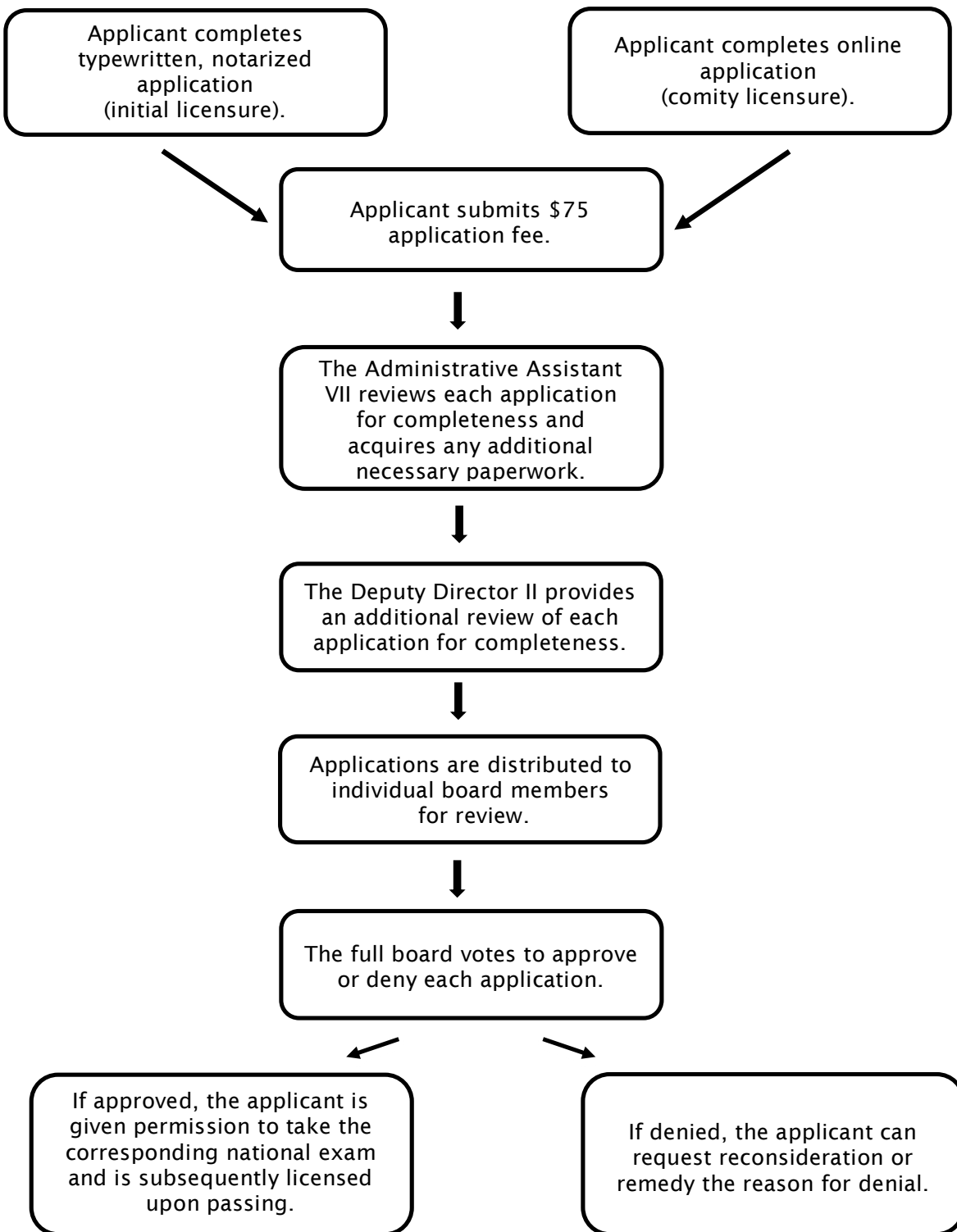
Requirements for licensure as a professional surveyor prescribed in MISS. CODE ANN. §§ 73-13-75 through 73-13-81 (1972) provide essentially the same requirements for licensure as a professional engineer in references, application, and examination.

The principal difference between the two professions appears in MISS. CODE ANN. § 73-13-77 (1972), which deals with surveyor education and experience requirements and states the following as evidence satisfactory for licensure as a professional surveyor:

- (i) *A bachelor's degree in geomatics, surveying or surveying technology approved by the board consisting of a minimum of one hundred twenty (120) semester hours...and a specific record of four years of qualifying surveying experience; or*
- (ii) *A bachelor's degree in a related science curriculum defined by board rule, consisting of sixty-two (62) semester hours in surveying curriculum subjects...and a specific record of five (5) years of qualifying surveying experience; or*
- (iii) *A bachelor's degree in a related science curriculum defined by board rule, and a specific record of six (6) years of qualifying surveying experience; or*
- (iv) *An associate degree, or its equivalent, in a curriculum approved by the board consisting of sixty-two (62) semester hours in surveying curriculum...and a specific record of (7) years or more of qualifying surveying experience; or*
- (v) *A high school diploma, or its equivalent, and a specific record of twelve (12) years or more of qualifying surveying experience.*

When submitting an application for licensure to the board, an applicant completes the process outlined in Exhibit 5, page 13.

Exhibit 5: Application Process for Licensure



SOURCE: Board rules and regulations.

Licensure Requirements for Professional Engineers and Surveyors

CODE sections and board rules and regulations set specific procedures, education requirements, and experience requirements with which licensees must comply to become licensed as a professional engineer or surveyor in Mississippi. Additionally, the board provides the following two paths for licensure as a professional engineer and/or surveyor: initial licensure and comity licensure (a courtesy extended to professional engineers and surveyors licensed in other states).

Initial Licensure

In addition to the requirements prescribed in state law, the board requires Mississippi residency (proven through the provision of a driver's license, voter registration, or a homestead exemption); a completed, notarized, and type-written application containing a 2x2-inch passport quality photograph; transcripts received directly from the college, university, and/or high school attended; and character reference forms.

Comity Licensure

Applicants for comity licensure must meet all aforementioned requirements for initial licensure, barring residency, and must be licensed and in good standing in another jurisdiction. Applicants for comity licensure can submit their records (experience, references, transcripts, test scores) through the database of the National Council of Examiners for Engineering and Surveying, which maintains these records for ease of comity licensure between jurisdictions.

Exhibit 6, page 15, provides a summary of the requirements of licensure.

Statutory Fulfillment of Licensing Obligations

Procedures for application review by agency staff and final review by the board are currently performed in a manner facilitating fulfillment of statutory obligations regarding licensing. Board and staff ensure that applicants comply with state law and board rules and regulations for submissions, and the board approves only those applicants who fully comply with licensure requirements.

Exhibit 6: Requirements for Licensure of Professional Engineers and Surveyors

Type of Professional	Education Requirement	Experience Requirements	Examination Requirements	Additional Requirements
Professional Engineer	A bachelor’s degree in engineering or an acceptable equivalent from an ABET*-accredited institution; or a bachelor’s degree and have graduated in a curriculum that is ABET-accredited at the undergraduate level	4 years of qualifying experience verified by the professional engineers under which the applicant worked	Pass the Fundamentals of Engineering Exam (prior to enrollment as an Engineer Intern). Pass the Principles and Practice of Engineering exam.	A completed, notarized application, meeting application deadlines and including 3 of 5 references from professional engineers, a passport quality photo, and a transcript received directly from the university or college. Initial applicants must be Mississippi residents.
Professional Surveyor <i>Note: Surveyor Education requirements 1-5 correspond with experience requirements 1-5.</i>	1) a bachelor’s degree in geomatics, surveying, or surveying technology <hr/> 2) a bachelor’s degree in a related science curriculum consisting of the 62 semester hours of surveying curriculum <hr/> 3) a bachelor’s degree in a related science <hr/> 4) an associate degree consisting of the 62 semester hours of surveying curriculum <hr/> 5) or a high school diploma or equivalent	1) 4 years of qualifying experience <hr/> 2) 5 years of qualifying experience <hr/> 3) 6 years of qualifying experience <hr/> 4) 7 years of qualifying experience <hr/> 5) 12 years of qualifying experience	Pass the Fundamentals of Surveying exam (prior to enrollment as a Surveyor Intern). Pass the Principles and Practice of Surveying Exam. Pass the Mississippi Section exam.	A completed, notarized application, meeting application deadlines and including 3 of 5 references from professional surveyors, a passport quality photo, and a transcript received directly from the university or college. Initial applicants must be Mississippi residents.

*Accreditation Board for Engineering and Technology.

SOURCE: MISS. CODE ANN. § 73-13-23-27, 77-81 (1972); the board website, and the board’s rules and regulations.

Does the board properly investigate and discipline persons violating state law or board rules and regulations?

Review of the board's investigative files indicated that the board's method for conducting investigations and disciplinary proceedings complies with state law. However, despite the lack of a set policy, the board equitably imposed fines against those found to be in violation of its rules and regulations during the years examined.

In enumerating the powers of the board, MISS. CODE ANN. § 73-13-15 (1972) states that the board may

Provide by appropriate rules and regulations...a system for taking the disciplinary actions provided for in Section 73-13-37, including the imposition of fines as provided therein.

MISS. CODE ANN. § 73-13-37 (1972) lists the following possible disciplinary actions that the board may take:

- (a) issue a public or private reprimand;*
- (b) require the guilty party to complete a course or courses, approved by the board, in ethics or other appropriate subjects;*
- (c) suspend or revoke the certificate of the accused, if the accused is a licensee; and/or*
- (d) in lieu of or in addition to such reprimand, course completion, suspension or revocation, assess and levy upon the guilty party a monetary penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00).*

(See Appendix B, page 42.)

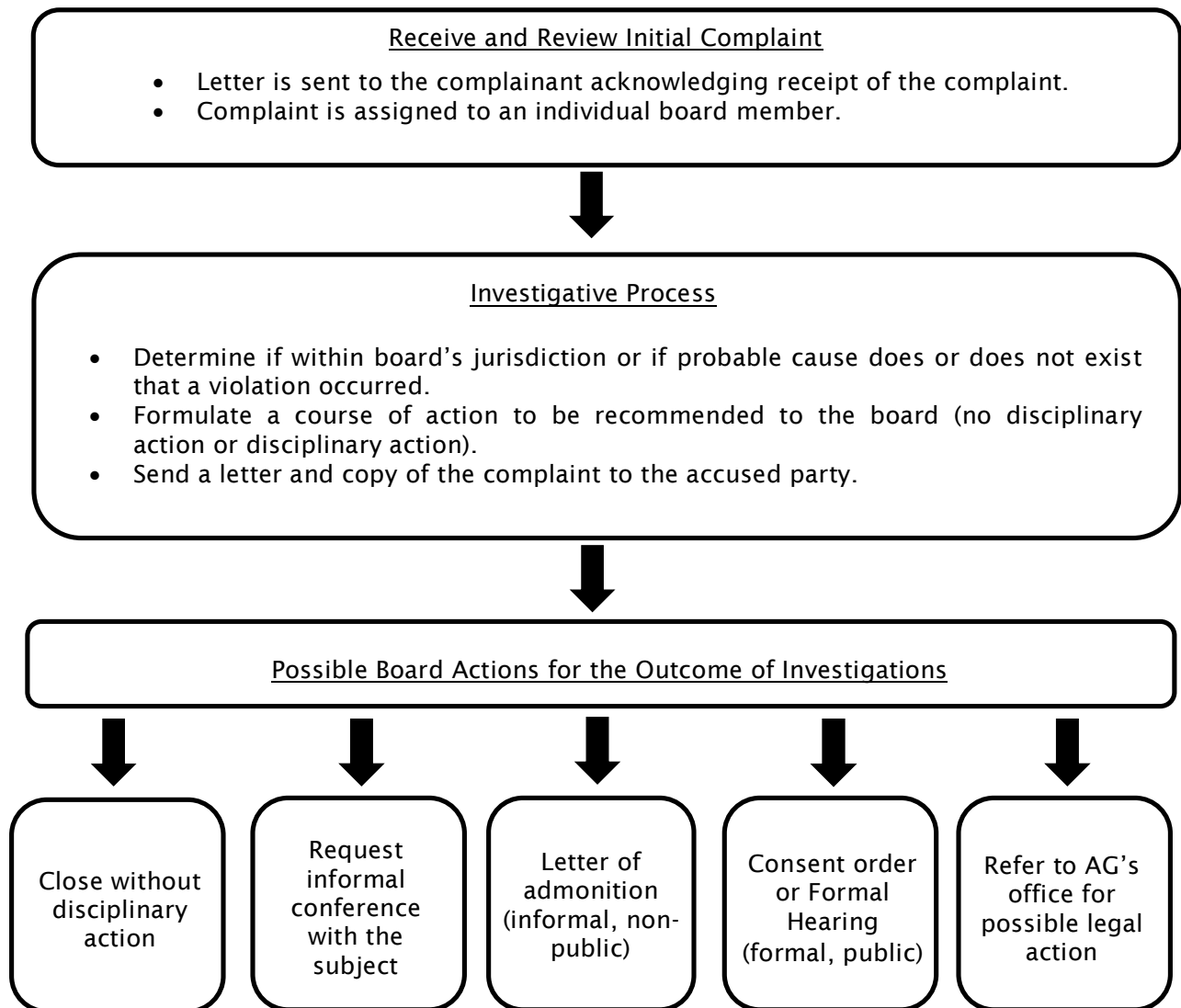
Overview of the Investigative and Disciplinary Process

All complaints must be made in writing using the complaint form prescribed by the board. In instances in which the board is presented with evidence of an infraction (prima facie evidence), the board requires a written statement of charges from the complainant.

Upon the receipt of a complaint or prima facie evidence, the board begins the investigative process. One board member serves as part of the Investigative Committee—along with the Executive Director, the Licensing Investigative Supervisor, and General Counsel—which reviews and formulates a course of action, provided to the subject. Within 15 days, the subject provides a written response to the complaint. The response and all supporting documentation are forwarded to the Investigative Committee board member for review by the Licensing Investigative Supervisor. The Licensing Investigative Supervisor prepares the case file, which contains the complaint, response, and other documents obtained during the investigation, and which all board members review before action is taken.

Exhibit 7, page 17, depicts the investigative process and possible outcomes.

Exhibit 7: Steps of Disciplinary Proceedings



SOURCE: MISS. CODE ANN. § 73-13-37 (1972).

PEER reviewed five investigative files—representative of each type of disciplinary action taken over the period reviewed and its respective fine—from 68 investigations conducted between FY 2014 and FY 2017 to determine (1) whether documentation demonstrated compliance with the board's rules and regulations and state law and (2) whether opportunities exist to increase efficiency within the investigative process. PEER determined the board to have sufficient documentation (e.g., formal complaint, evidence of violation, accused party response, and complaint resolution documentation) in the five cases reviewed to show due process, thorough investigation, and sufficient resolution in its investigations.

Disciplinary Outcomes

The five files reviewed each represented one of the following disciplinary actions and resulting fines:

- surveying standards of practice violation—\$250 fine;
- firm working without a certificate of authority license—\$500 fine;
- firm's submission of false certification for online renewal of certificate of authority—\$500 fine;
- individual's noncompliance with continuing professional competency (CPC) requirements and false certification of CPC—\$400 fine (\$200 for noncompliance and \$200 for false certification); and
- individual's noncompliance with CPC requirements in mailed-in renewal application—\$200 fine.

Two of the five possible outcomes of the disciplinary process can result in a fine: consent order or formal hearing.

A consent order is a proposed settlement agreement between the Investigative Committee and subject. After the subject and Investigative Committee agree to the terms of a consent order, it is presented to the board for approval at a scheduled meeting. The final order is public record. Should the subject reject the consent order, a formal hearing will be held.

Formal hearings are held at the office of the board and presided over by a hearing officer. The charges and notice of hearing are mailed to the subject a minimum of 30 days prior to the scheduled date of a formal hearing. Within 90 days after the hearing, the board's final order is sent to the subject via certified mail and the order is public record.

The board issued a fine in 58 out of 68 disciplinary investigations (85%) completed between FY 2015 and FY 2017. Despite the lack of a set policy, the board equitably imposed fines during the years examined.

Is the board in compliance with statutes regulating its own behaviors?

During review of board operations, PEER examined staff time cards, leave requests, leave balances, and monetary deposits for compliance with state law.

While conducting interviews, PEER became aware of possible leave infractions occurring during the tenure of both the former and current Executive Directors. PEER selected a time frame that encompassed two years under the former Executive Director (2014–2015) and two years under the current Executive Director (2016–2017) to identify possible improprieties and when they may have occurred. May and September were identified as months in which issues may have taken place and thus those months were examined for each of the four years reviewed (eight months total).

This chapter addresses the following question:

- Is the board in compliance with statutes regulating its own behavior?

Is the board in compliance with statutes regulating its own behavior?

Over approximately a two-year period, board administrative and personnel policy failed to comply with state law for staffing, leave, and deposits.

Noncompliance with Statutes Regarding State Office Staffing

During the period reviewed, the board office regularly closed before 5 p.m., which is a violation of state law. Time cards reviewed from May and September of 2014, 2015, 2016, and 2017 document 95.25 hours of staff time out of office on Fridays because of early closure.

MISS. CODE ANN. § 25-1-98 (1972) states the following with regard to hours of operation for state offices:

All state offices shall be open and staffed for the normal conduct of business from 8:00 a.m. until 5:00 p.m., Monday through Friday, except on legal holidays.

The board's staff records the number of hours worked each week by clocking in with a traditional paper-based time card. The time cards are frequently edited by hand to account for failures to clock in accurately or errors by the time clock in recording the correct date.

According to employee time cards reviewed by PEER for the months of May and September of 2014, 2015, 2016, and 2017, the board's staff frequently left the office early on Fridays and in some instances closed the office before 5 p.m., the time dictated by state law. Closing the office early on Fridays limited the access that licensees and the public had to conduct business with the board. Out of the eight total months PEER reviewed, this issue occurred in five months—May 2014, September 2014, May 2015,

September 2015, and May 2016—on every Friday in those months (22 weeks).

During the eight months that PEER selected for review, over the period from May 2014 to May 2016, various staff members listed the office on time cards as “closed early,” with typical closing times of 3 p.m. or 3:30 p.m., and one instance of a noon closing documented. However, the office did not entirely cease operations in all instances, as sometimes the Executive Director or other staff remained.

Friday closures resulted in a total of 90.25 hours total staff time lost, for an average of 22.5 hours paid time out of the office per staff member, excluding the former and current Executive Directors (see Exhibit 8). The overall impact could be greater if staff time cards from each month of the period between May of 2014 and May of 2016 were to be examined.

In addition, staff time cards show that in eight of the 22 weeks in which this issue occurred, all staff members, including the former Executive Director, left early, resulting in the office being closed—and board operations halted—during the statutorily required hours of operation. These complete office closures occurred in three out of four Fridays examined in May 2014 and five out of five Fridays examined in September 2014.

Exhibit 8: Friday Early Office Leave and Closures

	May 2014	September 2014	May 2015	September 2015	May 2016	Total
Total Staff Hours Lost on Fridays*	14.5	26.75	16.25	18.75	14	90.25

*All months are cumulative for four employees, excluding the former and current Executive Directors. It should be noted that the former Executive Director was under contract for a reduced schedule and left the office prior to the statutorily mandated closing time only after completing the agreed-upon weekly hours.

SOURCE: Staff time cards.

As a further by-product of early office closures, in one instance a staff member claimed a total of 5 hours of compensatory time for having been in training classes past the time of the early office closures.

Although the CODE does not provide penalties for closing a state office prior to the time allowable in statute, the practice deprived the board of working hours of its staff while limiting the public’s ability to make routine inquiries, file complaints, or conduct other business with the board. The practice was discontinued, as evidenced by staff time cards from September 2016, May 2017, and September 2017.

Noncompliance with Statutes Regarding Administrative Leave

At the direction of the former Executive Director and with the consent of the former board president, agency staff received paid days off from work—coded as administrative leave—for purposes outside those allowable by state law. From the eight months selected for review by PEER, five months (May and September 2014, May and September 2015, and May 2016) provide evidence of a total of 33 days of administrative leave taken by the staff.

PEER reviewed time cards, leave requests, and leave balances for the months of May and September of 2014, 2015, 2016, and 2017, and confirmed the existence of an “administrative leave program,” as it will be referenced hereafter. Under the administrative leave program, agency staff members (excluding the Executive Director) received one day of discretionary administrative leave per month, in addition to birthday and work anniversary. The birthday and work anniversary days typically could be taken at the employee’s discretion.

MISS. CODE ANN. § 25-3-92 (1972) states that employees may be granted administrative leave with pay for very specific circumstances only:

Serving as a witness or juror or party litigant... in the event of extreme weather conditions or in the event of a man-made, technological or natural disaster or emergency, and for service as a certified disaster service volunteer of the American Red Cross.

During the period beginning no later than May 2014 and ending no earlier than May 2016, staff received paid administrative leave for purposes that did not fall into these specific categories (see Exhibit 9).

Exhibit 9: Days of Administrative Leave Granted

Type of leave	Number of days in the months sampled
Monthly administrative day	24
Birthday	4
Employment anniversary	5*

*Two employees had work anniversaries in September; however, only one employee took the forthcoming September 2016 anniversary administrative leave day when the program ended in May 2016.

SOURCE: Staff time cards.

The documents reviewed by PEER detailed various days off from work that provided evidence of this informal administrative leave program in violation of state law. Staff members noted this time as administrative leave, or administrative time, on their physical

time cards but, in all instances but one, did not submit leave requests explicitly stating they would take administrative leave.

In the five months reviewed in which the administrative leave program occurred—May of 2014, 2015, and 2016 and September of 2014 and 2015—staff members received 24 monthly administrative days off, four birthdays off, and five work anniversaries off for a total of 33 days (neither the former or current Executive Director took part in the administrative leave program).

In May 2016, staff received their administrative birthday and work anniversary leave days regardless of the actual date at the Executive Director's instruction because he was discontinuing the administrative leave program. Additionally, one instance exists of a staff member claiming a full eight hours of compensatory time for an unused administrative leave day still existing at the program's end in May 2016.

The administrative leave program ended no earlier than May 2016 as indicated by staff time cards from September 2016 that show no administrative days taken.

The former Executive Director developed the administrative leave program, with the consent of the former board President, in an attempt to provide staff a nonmonetary benefit during 2014 when the board was unable to obtain a pay raise for staff.² The current Executive Director continued the program for a year until funds were appropriated for FY 2017 and board staff were reclassified, according to State Personnel Board staff.

It can be reasonably assumed that staff would expend administrative leave prior to expending earned compensatory time, personal leave, or major medical leave. When administrative leave is used and earned contrary to law, employees may accumulate personal, major medical, or compensatory leave in excess of the amount to which they are entitled. This excess accumulation can have a fiscal impact on the Public Employees' Retirement System (PERS) when an employee retires, as a greater amount of personal and major medical leave will be submitted to the retirement system for credit than the employee deserves. In addition, such accumulation could conceivably impact the board's budget if the agency has to pay for a greater amount of personal leave at the time an employee separates from the agency than it would have if administrative leave had not been provided.

PEER notes that review of the latest audit (2004) revealed previous issues with the expenditure of leave. In *Limited Internal Control and Compliance Review Management Report*, the Office of the State Auditor identified instances of noncompliant expenditures of major medical leave. PEER did not review expenditure of medical leave, but determined there to be noncompliant uses of administrative leave.

²Contrary to assertions that the administrative leave program provided staff a nonmonetary benefit, staff were paid for the days granted as administrative leave.

Noncompliance with Statutes Regarding Timely Deposits of Funds

In a randomly selected sample of 50 accounting transactions (25 online from November FY 2017 (during the middle of renewal season) and 25 paper transactions compiled from each month of FY 2017 with three from November), PEER found that, although the board complied with timely deposit laws and regulations for the receipt of online transactions, in two out of 25 instances the board did not comply with state law and regulations regarding timely deposits of paper checks within a week of receipt.

State law allows for a clearing account to be established for receipt of fees, stating in MISS. CODE ANN. § 7-9-21 (1972):

The State Treasurer is authorized to establish such clearing accounts in the State Treasury and such bank accounts in public depositories in conjunction with the State Fiscal Officer as may be necessary to facilitate the deposit, collection, investment, and disbursement of state funds in the State Treasury as required by law.

In addition, Mississippi Agency Accounting Policies and Procedures (MAAPP) Guideline Subsection 21.10.20 further establishes “a policy which continues to allow any state agency collecting or receiving less than \$1,000 in any given week to make weekly settlements.”

Electronic Transactions

The board primarily receives payment of fees through its online renewal process. Through the processing capabilities of the board’s website, facilitated by the state’s agency website provider, Mississippi Interactive (MSI), and the Department of Information Technology Services (ITS), online transactions are not handled by staff but automatically post to the electronic file of the individual or company paying the fee online and immediately transfer into the board’s special fund. The Executive Director reviews transactions to ensure that the renewal fee is reconciled with the proper licensee. Between FY 2015 and FY 2017, the board received an average of 88.97% of renewals online. Because the staff does not process electronic payments, risk of noncompliance in the receipt of online payments is minimal.

Manual Transactions

When the board receives a paper check, the Administrative Assistant VI enters the details into a database. The Deputy Director II then scans and deposits the check into the clearing account. The Executive Director reconciles statements from the clearing account with the checks and the accounts receivable list from the database. The Deputy Director II then writes a check from the clearing account, the Executive Director and board Secretary sign it, and it is manually deposited into the board’s special fund in the State Treasury.

In the 2004 audit, the Office of the State Auditor identified timeliness and procedural issues in a majority of deposits. Although the issue still exists, PEER notes significant agency improvement.

Review of 25 manual receipts taken from each month of FY 2017 revealed that only twice (8%) did deposits fail to comply with timeliness requirements. Although state law allows for weekly deposits, at minimum, as long as receipts don't exceed \$1,000, in both instances 10 days transpired between the time the check was entered into the board's database and the time it was deposited into the clearing account. This compares to an average time span from receipt to deposit of 3.4 days for the 23 compliant transactions.

A noncompliant deposit exposes the board to penalties and risk in audits, while also increasing the risk of theft, fraud, and lost investment earnings. The two instances of noncompliance represented a total of \$20 in untimely deposits. However, the checks were endorsed, entered into the board's database, and reconciled with the electronic file of the licensee or business that wrote each check in a timely manner.

Board staff noted that both cases of noncompliance occurred when the staff member with full responsibility for completing deposits was absent from the office for multiple days during a two-week period.

Is the board operating in the most efficient manner?

The board does not operate in the most effective manner with regard to maximizing the abilities of the board's database, tracking continuing education, maintaining a user-friendly website, disseminating board information and updating staff duties internally, and remaining current with licensing practices of peer boards.

This chapter addresses the following questions:

- Is the use of technology maximized in daily operations?
- Are staff duties defined and updated internally?
- Does the board efficiently fulfill its licensing responsibilities?

Is the use of technology maximized in daily operations?

The board staff does not fully avail itself of technology developed to assist state regulatory agencies and maximize efficiencies in daily operations.

The daily operations of regulatory agencies are largely managed through a database, frequently comprising a recordkeeping, licensee-tracking, and communication system. To assist state regulatory agencies in integration of technology into day-to-day operations, the Department of Information Technology Services (ITS) developed a computer application that contains a database of the licensing and renewal components of regulatory work, while also containing modules that maximize efficiency in the areas of receiving payments, tracking work product, and transitioning to electronic recordkeeping. The database is known as the Licensing and Reporting System, or LARS.

LARS is a browser-based application developed by ITS over the past decade to assist in the day-to-day licensing functions of various regulatory agencies within the state government. LARS is frequently updated as regulatory staff make specific requests (e.g., ITS frequently updates LARS as regulatory staff make requests for improvement). All regulatory agencies that use LARS utilize the core modules but licensing and renewal components are customized to agency needs. LARS permits flexibility in allowing agencies to choose the modules needed for their specific operations.

According to ITS, in addition to its application/licensing capabilities, LARS has the following functions:

- public license verification,
- document management,
- correspondence and report creation,
- data extraction,
- continuing education and compliance tracking,
- exam scheduling and tracking,

- complaint tracking,
- payment processing/MAGIC³ interfacing,
- accounts receivable creation,
- bond tracking, and
- nightly processing of jobs and correspondence.

ITS frequently trains agency heads in managing LARS, who, in turn, train agency staff. The former Executive Director of the Board of Licensure for Professional Engineers and Surveyors had the responsibility to train staff following the board's implementation of the database.

However, limited staff training in the use of LARS has prevented the board from realizing efficiencies the system can provide for its day-to-day operations.

Continuing Education Tracking Deficiencies

Although the board's current system for tracking continuing professional competency is not in violation of state law, it is inadequate in determining whether licensees are obtaining the necessary CPC hours and fails to make use of existing technology within LARS to track CPC and maintain records.

The board's rules and regulations define, in Chapter 23, the continuing professional competency (CPC) standards that licensees must meet on an annual basis, and state that the purpose of CPC is to ensure a continuing level of competency of professional engineers and/or professional surveyors in their respective fields (see Appendix C, page 42). Currently, the board's rules and regulations require 15 professional developments hours (PDHs) for a licensed engineer, 12 PDHs for a licensed surveyor, and 18 PDHs for a dual surveyor/engineer licensee to meet CPC requirements.

These PDH requirements are accompanied by details of allowable yearly carryover of PDHs, conversion of college credits or seminars to PDHs, and specific types of PDHs (e.g., ethics) that must be acquired once every two years. Chapter 23, the CPC section of the board's rules and regulations, is detailed on acceptability of specific types of CPC and suggests that CPC development plays an integral role in the competency of engineers and surveyors. Although LARS has the capability to perform the necessary tracking for the board, the agency does not utilize all available modules.

MISS. CODE ANN. § 73-13-15 (1972) states that the board has the power to:

Promulgate rules requiring a demonstration of continuing education...and investigate, prosecute or initiate prosecution for violation of the laws of this state pertaining to the practices of engineering and

³MAGIC (Mississippi's Accountability System for Government Information and Collaboration), the statewide accounting and procurement system of record.

surveying, or matters affecting the rights and duties or otherwise related thereto.

As such, the board has a wide breadth by which it can create and enforce rules regarding the maintenance of professional competency through continuing education. To achieve this oversight, the board establishes, in its rules and regulations, a practice of auditing 10% of licensees each year to verify whether they have obtained the required CPC. While this practice is not in violation of state law, the board cannot guarantee that licensee requirements for CPC are being met beyond the 10% of licensees whose CPC records are audited annually. Although LARS has the capability to perform the necessary tracking of CPC, the staff does not have the training to utilize the available modules to do so.

Current audit procedures allow for the Licensing Investigative Supervisor to select licensees in a random manner of her own design from the National Council of Examiners for Engineering and Surveying records database or from late renewals submitted to the board while also selecting random dates to determine licensees for audit.

To achieve maximum efficiency in tracking licensees' CPC, the board could avail itself of available LARS technology. The staff currently utilizes LARS to process licensing and renewals but fails to use its module for tracking continuing education, which would allow the board to verify CPC for all licensees. LARS' capability for tracking CPC allows the licensees to upload CPC documents as part of the renewal process, and informs licensees at the time of renewal that they are either compliant or noncompliant with CPC requirements. Additionally, the staff could upload CPC records to each licensee's file in LARS. Finally, the board could create a predefined spreadsheet containing CPC courses and upload the spreadsheet into LARS, which would then assign the CPC from the spreadsheet to each licensee's file on a nightly basis. Each option for tracking CPC through LARS allows for the generation of reports that indicate hours of CPC earned, in what subjects, and whether all licensees have met annual CPC requirements.

The Mississippi Real Estate Commission and State Board of Public Accountancy, for example, both employ this module. Because the staff does not utilize this readily available feature in LARS, and audits only 10% of licensees, the agency must rely on the integrity of licensees in meeting annual CPC requirements. As such, obtaining CPC becomes optional for licensees willing to risk the penalties of an audit. By employing the CPC tracking module in LARS, the board will be capable of tracking all licensees' CPC as it is submitted, and know, without the delay of an audit, which licensees are compliant with CPC rules and regulations.

Limitations of the Board's Website

The board's website design hinders ease of use, reduces navigability, and fails to provide convenient access to high-priority information (e.g., board newsletters, staff contacts, the complaint process), potentially limiting licensee and/or public use of the site as a resource.

In the 21st century, it is crucial to maintain an internet presence in order to communicate information and increase visibility.⁴ In addition to maintaining an online presence, government websites prove crucial for maintaining transparency and delivering services—two important aspects of the board's regulatory work.⁵ However, having a website is simply the first step, while navigability and user-friendliness are key components in communicating vital information to website visitors.⁶

The Department of Information Technology Services has contracted with Mississippi Interactive for e-commerce and website design. The contract provides a free template that many small agencies utilize.

While the board's website possesses some elements of design best practices, such as having a site map and a top navigation bar, it fails to convey the most relevant content prominently and in a user-friendly format. The top navigation bar contains only "Home," "Site Map," and "Contact Us," and omits other high-priority elements, such as licensure requirements, the complaint process, or frequently asked questions.

Limited top navigation results in crowding in the left navigation, which contains 23 links to subject areas. Among those, "Licensure/Enrollment Requirements," is the second tab, "Frequently Asked Questions" the fifth tab, and "The Complaint Process" the 20th tab.

In addition, users often have to click through several options to access the information they seek, for example, board newsletters, the primary method by which the board communicates information to licensees. To access a newsletter, a visitor must first select the "Board Information" tab—the 16th option on the left navigation bar—and then "Board Newsletters," which opens a new window with links to individual issues by date. This multistep process hinders access to information and decreases website value.

Furthermore, although the top navigation bar contains a "Contact Us" option, it leads only to a generic email address. By comparison, on the Louisiana Professional Engineering and Land Surveying Board website, a "Contact Us" button leads to a full list

⁴"Importance of Business Website," Solutions Resource, accessed July 23, 2018, <https://solutionsresource.com/importance-of-business-website/>.

⁵UNICOM Government, Inc., "The importance of having an engaging government website," Unicom Global, September 16, 2015, <https://www.unicomgov.com/blog/importance-having-engaging-government-website/>.

⁶Renee C. Quinn, "Twelve Key Components to Building a Successful Website," IPWatchDog, February 3, 2011, <http://www.ipwatchdog.com/2011/02/03/twelve-components-building-a-successful-website/id=14952/>.

of staff members' contact information and area of responsibility (e.g., licensing, investigations, renewals) for each.

PEER reviewed other engineering and surveying regulatory board websites and other Mississippi regulatory board websites for comparison as well. Exhibit 10 provides a description of some of the expanded information available on the websites of other regulatory boards.

Exhibit 10: Various Regulatory Board Website Offerings

	Staff Contact or Email Address Listed	User-Friendly Top Navigation Bar
Other Engineer/Surveyor Regulatory Boards	Arkansas, Louisiana, Alabama, Georgia	Arkansas, Louisiana, Tennessee, Alabama, Georgia
Other Mississippi Regulatory Boards	Board of Public Accountancy, Board of Animal Health, Parole Board, Board of Pharmacy, Board of Nursing	Board of Public Accountancy, Board of Animal Health, Parole Board, Board of Pharmacy, Board of Nursing

SOURCE: Websites of each regulatory board listed.

The board's current website design does not efficiently serve the board, licensees, or the public. However, PEER notes current efforts under way in coordination with MSI to create a format that encapsulates the board's preferences and accurately conveys information to the public and licensees in an organized, easily navigable manner.

Inefficient Dissemination of Information

The board's mandate to receive pre-board meeting information and investigative case files in hard copy is inefficient and wasteful of resources.

Paperless board meetings and electronic receipt of pre-meeting information provide greater ease in accessing information relevant to discussion during meetings and decision-making. On top of functionality, paperless board meetings, or decreased usage of paper, represent potential cost savings and provide flexibility for last-minute additions to board meeting materials.⁷

Prior to board meetings, the Executive Director compiles a binder of prior meeting minutes, the agenda, communications from stakeholders and professional organizations, and applications, among other items that the board will discuss during the upcoming board meeting. The Executive Director prints, assembles, and mails the binders to each board member in advance of the meeting. This practice is inefficient, considering

⁷Todd Gibby, "Paperless Board Meetings: When It Comes to Paper, Less is More," *Board Effect*, accessed July 23, 2018, www.boardeffect.com/blog/paperless-board-meetings-when-it-comes-to-paper-less-is-more/.

the time it takes for the Executive Director to compile the binders, the cost of supplies, and cost of shipping the binders.

The Executive Director's previous attempts to send pre-meeting information in an electronic format were unsuccessful because board members preferred receiving hard copies of documents. Board reluctance to transition to paperless or paper-limited board meetings causes increased spending on shipping costs and office supplies and demonstrates inefficient use of technology.

In addition, the Licensing Investigative Supervisor distributes paper copies of the Investigative Committee case files to board members, which include the hard copies of the complaint, response, and related documents.

Are staff duties clearly defined and updated internally?

Staff job duties, as described in internal documents, do not reflect current staff responsibilities, which could lead to ambiguity and inefficient execution of board workflow.

Staff members' job descriptions have not been updated since August of 2014 and do not fully describe the current duties being performed.

The only descriptions of the staff positions in state law are found in MISS. CODE ANN. § 73-13-17 (1972), which states

The board shall employ an executive director and may employ such clerical or other assistants as are necessary for the proper performance of its work, and may make expenditures for any purpose which in the opinion of the board are reasonably necessary for the proper performance of its duties under this chapter.

According to the Human Resources Council, a clear and accurate job description helps staff members understand their duties and responsibilities; the relative importance of their duties; and how their position contributes to the mission, goals, and objectives of the organization.⁸

In addition to State Personnel Board position descriptions, which are generic in nature, the board has two documents that generally describe staff duties. One provides a summary of expectations for staff members and describes general tasks to be performed. However, it is outdated and does not reflect the responsibilities of, or even include, the current Executive Director. Neither does it recognize advancements of other staff members, which may affect workflow or morale.

The other document contains a listing of "duty statements," but these are not assigned to any particular position and do not reflect all areas of board operations. For example, the job duties of the Administrative Assistant VI make no reference to review of

⁸"Getting the Right People," HR Council, accessed July 23, 2018, <http://hrcouncil.ca/hr-toolkit/right-people-job-descriptions.cfm>.

engineer intern enrollments, a duty performed by that staff member. Rather, the job duties of the Administrative Assistant VII list such review.

Although staff members generally understand their roles—either from their tenure or as set by the Executive Director—a lack of clarification in and updates to internal documents may jeopardize board operations.

Does the board efficiently fulfill its licensing responsibilities?

In accordance with MISS. CODE ANN. § 73-13-31 (1972), the board currently employs an annual renewal cycle, which results in heavy annual workloads for the board's staff. In contrast, surrounding state boards employ biennial renewal cycles, which have the potential to reduce heavy workloads on staff during renewal periods and lessen the burden on licensees.

Renewal Cycle of the Board

In accordance with state law, the board employs an annual renewal cycle, with licenses and certificates of authority expiring on December 31 of each year. MISS. CODE ANN. § 73-13-31 (1972) states:

Certificates of licensure shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed under this chapter of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for one (1) year.

Licensees and firms are eligible to renew their license or COA starting October 1 and ending December 31. A late renewal period (with an added fee) extends from January 1 to June 30 of each year following the annual renewal period. During the October-December renewal period, staff stress is high due to an average of 13,838 renewals annually over the past four years.

It is common practice in surrounding states to utilize a biennial renewal cycle:

- The Louisiana Professional Engineering and Land Surveying Board divides its licensees by profession and provides a biennial schedule for expiration and renewal. In Louisiana, surveyor licenses expire May 31, while engineer licenses expire September 30. These expirations occur on a biennial schedule, meaning that some surveyor licenses will expire May 31, 2018, and some on May 31, 2019, with the same biennial principle applying to engineer licenses expiring on September 30, 2018, or September 30, 2019.⁹
- The Arkansas State Board of Licensure for Professional Engineers and Professional Surveyors allows licenses ending in even

⁹<https://www.lapels.com/renewals.html>.

numbers to expire during even-numbered years. Arkansas licenses that end in odd numbers expire in odd-numbered years.¹⁰

- The Georgia Board of Professional Engineers & Land Surveyors allows for individual licenses to expire December 31 of each even-numbered year and certificates of authority (firm licenses) to expire on June 30 of even-numbered years.¹¹ In Georgia, licensees and firms must renew before the expiration date of their license of certificate.
- The Alabama Board of Licensure for Professional Engineers and Land Surveyors and the Tennessee Board of Architectural and Engineering Examiners also employ biennial renewal cycles, though the details of each state's renewal cycle were not readily available.

During the annual renewal cycle of calendar year 2018, the board and its staff could face renewal of 13,704 licensees and COAs should all licensees from fiscal year 2018 renew. By employing an annual renewal cycle, the board is simply following requirements, as prescribed in CODE but is at risk of falling behind the practices of peer boards and creating an undue burden on its licensees and staff.

National Trend toward Decoupling

A national trend reflected in the National Council of Examiners for Engineers and Surveyors' model law encourages regulatory boards to decouple (i.e., allowing engineer interns to take the Principles and Practice of Engineering [PPE] exam prior to gaining the requisite four years of experience). MISS. CODE ANN. § 73-13-23 (1972) provides the board with discretion in prescribing the timeline of exam requirements for applicants.

Although Mississippi is not yet an outlier in its current practice of requiring four years of engineering experience before granting permission to take the PPE, a growing number of states are considering or have implemented decoupling. Currently, Alabama, California, Illinois, Kansas, Kentucky, Michigan, Nevada, North Carolina, Oregon, Puerto Rico, Utah, and Wisconsin have decoupled the experience requirement from sitting for the PPE exam.

An independent statistical analysis of the Nevada Board of Professional Engineers and Land Surveyors showed a nonsignificant relationship between applicants taking the PPE exam before reaching the necessary experience requirement for licensure and applicants taking the exams upon or after gaining the necessary experience requirements. In response to a PEER questionnaire sent to engineering regulatory agencies, the Nevada, California, Oregon, Michigan, and Kentucky agencies reported that the main benefit of decoupling has been to staff—specifically, being able to review more applications quickly while spreading the workload over the year (rather than having two application deadlines that many boards, including Mississippi, use).

¹⁰<http://www.pels.arkansas.gov/other-engineer-forms>.

¹¹http://sos.ga.gov/index.php/licensing/plb/22/georgia_board_of_professional_engineers_and_land_surveyors_renewal_and_reinstatements.

The Texas Board of Professional Engineers indicated that due to the time and effort to refresh and prepare for the licensure exam, the examination process can be a hurdle for engineers who are beginning their careers and considering pursuing licensure.¹² However, the Board of Licensure for Professional Engineers and Surveyors has not considered decoupling and has expressed hesitation at the idea of decoupling despite its growing relevance as a national trend.

¹²“Decoupling of PE and Experience Requirement,” Texas Board of Professional Engineers, accessed July 23, 2018, <http://engineers.texas.gov/decoupling.html>.

Issues Related to Agency Working Environment

Over the course of PEER’s review of the Board of Licensure for Professional Engineers and Surveyors, it became evident that the agency is operating with personnel conflicts that may jeopardize the future ability of the board to fulfill its statutory obligations.

As stated on page 1, the Board of Licensure for Professional Engineers and Surveyors requested the PEER Committee to authorize a review of the agency’s operations and management. Board members recognized that certain issues involving the board, the agency’s executive director, and the agency’s administrative staff had the potential to affect the agency’s ability to fulfill its statutory obligations.

In early 2015 the former Executive Director informed the board that she would be retiring at the end of FY 2015 after serving as the agency’s executive director for nearly 30 years. In preparation to hire a new executive director, the board selected three board members to serve as a hiring committee. The hiring committee first consulted with State Personnel Board staff and reviewed position descriptions of other state regulatory boards in order to develop a position description and candidate requirements for the agency’s new executive director.

The State Personnel Board assisted with advertising the executive director vacancy. In response to the recruitment efforts, the board received more than 50 applications from interested individuals. Of the applications received, the board interviewed four applicants, one of whom was a current employee of the board, and voted to hire the current Executive Director in May 2015. The current Executive Director was employed by the Board of Technical Professions in South Dakota prior to accepting this position. The current Executive Director served in the same role in South Dakota, although he oversaw architects and landscape architects in addition to engineers and surveyors. He has a background in electrical engineering and construction but is not a licensed professional engineer.

Board and Staff Dynamics Following the Executive Director Transition

According to relationship experts, the following characteristics contribute to good, healthy working relationships:¹³

- *Trust*—Trust is the foundation of every good relationship. When colleagues trust each other, they form a powerful bond that helps everyone to work and communicate more effectively. If individuals trust their colleagues, they can be open and honest in their thoughts and actions—i.e., they do not have to waste time and energy “watching their backs.”
- *Mutual Respect*—When individuals respect their colleagues, they value their input and ideas. Working together,

¹³Content Team, “Building Great Relationships,” MindTools.com, accessed July 23, 2018, <https://www.mindtools.com/pages/article/good-relationships.htm>.

colleagues can develop solutions based on their collective insight, wisdom, and creativity.

- *Mindfulness*—This attribute means taking responsibility for your words and actions. Individuals who are mindful are careful and attend to what they say and do not let their own negative emotions impact the people around them.
- *Welcoming diversity*—People with good relationships not only accept diverse people and opinions, but they welcome them.
- *Open communication*—Individuals communicate all day, whether through face-to-face meetings or email. The better and more effectively an individual communicates with others, the richer the relationships will be. All good relationships depend on open, honest communication.

Through interviews with board members and agency staff, PEER determined that the relationships between board members, the Executive Director, and the staff do not reflect the characteristics of good working relationships. Specifically, there is a lack of trust and mutual respect between board members and agency staff, as discussed below.

- *Board members' perspective*—Since his employment, the majority of board members have observed that the Executive Director has not exhibited the interpersonal skills to deal with board members or agency staff. The members believe that the Executive Director “micromanages” and does not delegate work to the appropriate staff members. The members have concerns that the Executive Director does not follow through with directives from the board or does not do so in a timely manner. Board members have observed tension between the Executive Director and staff members during board meetings. A minority of board members maintain that the Executive Director is still adjusting and has made improvements.
- *Executive Director's perspective*—The Executive Director asserts that agency administrative staff are not receptive to feedback. He believes the staff is not respectful of his position as executive director and are resistant to his efforts to improve and change the administrative culture of the agency.
- *Staff's perspective*—Staff members believe the Executive Director has no discernable management style. They assert that the Executive Director is unfamiliar with the processes utilized by the staff to accomplish the agency's mission. They believe the Executive Director is not very accountable for his actions.

Board members acknowledged to PEER that there are less-than-ideal working relationships between the board, the Executive Director, and the administrative staff. The board members' desire is to address the relationship issues so that the agency can operate at optimal efficiency.

Board members stated that they have counseled with the Executive Director during closed sessions in an effort to improve the working relationships and, to date, have observed few noticeable improvements. Given the small nature of the agency's administrative staff—i.e., five employees—it is important that the working relationships are improved before experienced, tenured employees choose to leave the agency.

Recommendations

1. In conjunction with the Board of Architecture, the Board of Licensure for Professional Engineers and Surveyors should encourage its particular representatives on the jurisdictional joint committee (see page 9) to conclude their work as expeditiously as possible. When the work is completed, each board should disseminate to its licensees relevant guidance or work products designed to address issues that caused jurisdictional confusion in the past.
2. Although the board equitably imposed fines on licensees who had been noncompliant with rules and regulations during the period reviewed by PEER, the board should develop a disciplinary manual or matrix that outlines when board members should impose fines and the amounts to be imposed for specific infractions.
3. Board members should ensure that the agency's Executive Director and administrative staff consistently adhere to MISS. CODE ANN. § 25-1-98 regarding the operating hours required of state offices.
4. With regard to the agency's improper use of administrative leave, board members should conduct an internal review and determine the number of hours of administrative leave granted improperly to each employee and subtract such amounts from each employee's current personal leave balance. Board members should also request the Office of the State Auditor to include a comprehensive review of the agency's leave records in the Auditor's next fiscal audit of the agency to identify any other improper awarding of administrative leave for periods not reviewed by PEER.

Because salaried employees, such as the board's administrative staff, are expected to complete their assigned jobs, regardless of the time it takes to fulfill their responsibilities, the use of a time clock is not necessary for salaried employees. The board should evaluate its current methods for documenting time worked by agency employees to ensure time accountability and compliance with state leave laws.

5. Board members should ensure that the Executive Director and administrative staff consistently comply with MISS. CODE ANN. § 7-9-21 (1972) regarding timely deposits of funds received by the agency. The Executive Director should ensure that staff are cross-trained so that deposits can be made on time when the primary employee responsible for making such deposits is absent from the office.
6. In order to achieve maximum technological efficiency in the operations of the agency, the board should consult with the Department of Information Technology Services (ITS) and request that ITS provide training to agency staff regarding the use and capabilities of the Licensing and Reporting System (LARS). The agency's Executive Director should undergo

extensive training with ITS in order to serve as the agency contact with other staff for remedying issues that arise during staff interaction with the LARS database.

7. Because of the importance of continuing professional competency (CPC) in maintaining professional capabilities and ensuring public safety, agency staff should utilize the CPC tracking capabilities of LARS to ensure that all licensees annually obtain and document their required continuing professional competency credits. In cases in which licensees do not comply with the annual CPC requirement, the board should consider suspending the licenses of such practitioners until they become current with their CPC credits.
8. The agency's Executive Director should consult with ITS's contractor, Mississippi Interactive, in an effort to improve the navigation and user-friendliness of the agency's website. Improvements such as an expanded top navigation bar with direct access to a listing of fees, staff contact information, and newsletters (the board's primary method of communication with its licensees) should be considered in order to increase transparency and access to vital information.
9. In consultation with board members and ITS staff, the agency's Executive Director should continue exploring electronic methods to provide board meeting information and investigative files to board members.
10. In consultation with State Personnel Board staff, board members and the agency's Executive Director should conduct desk audits in order to update each employee's position description to reflect the current activities of the employees. In addition, the board should form a committee to analyze the current responsibilities of the Executive Director, update the Executive Director's position description, and specify the responsibilities on which the Executive Director's performance will be evaluated.
11. The Legislature should consider amending MISS. CODE ANN. § 73-13-31 to allow the board to institute a biennial renewal cycle to maximize efficiency and lessen staff burden during the current annual October-December renewal period.
12. The board should continue monitoring the national trend of decoupling the examination and experience requirements for becoming a licensed engineer. The board should also consult with states that have implemented the decoupling concept to determine any efficiencies gained by practitioners or agency operations from such implementation.
13. Regarding issues related to the agency's working environment, the board should
 - require all agency staff to participate in the following courses offered by the State Personnel Board:
 - "Workplace Collaboration"
 - "Crucial Conversations"

- require the Executive Director to participate in the following courses offered by the State Personnel Board and the Council on Licensure, Enforcement and Regulation:
 - “Overcoming the Five Dysfunctions of a Team”
 - “The Basic Supervisory Course”
 - “The Executive Leadership Program for Regulators”
- seek mediation assistance from a human resources or counseling professional in order to provide leadership coaching and relationship-building skills.

If such efforts are not successful in addressing the working environment issues, the board should consider taking personnel actions to improve the agency’s work environment and ensure the agency’s sustainability.

Appendix A: Members of the Board of Licensure for Professional Engineers and Surveyors, Geographic Base of Appointment, and Terms of Office

Board Member	Profession	Supreme Court District	Date Term Expires
Sarah Tracy	Professional Engineer	1 st	7/1/2020
Bill Mitchell	Professional Engineer/ Professional Surveyor	2 nd	7/1/2021
Joseph F. Lauderdale	Professional Engineer/ Professional Surveyor	3 rd	7/1/2018
Joseph E. Lauderdale	Professional Engineer/ Professional Surveyor	1 st	7/1/2019
Steven A. Twedt	Professional Engineer	2 nd	5/31/2020
Dr. Dennis D. Truax	Professional Engineer	3 rd	7/1/2017*
Richard T. Tolbert	Professional Surveyor	1 st	7/1/2020
Joe W. Byrd	Professional Surveyor	2 nd	7/1/2017*
Shannon D. Tidwell	Professional Surveyor	3 rd	7/1/2018

*MISS. CODE ANN. § 73-13-5 (1972) permits that board members may serve “until their successors are duly appointed and qualified.”

SOURCE: PEER analysis of information from the board’s website.

Appendix B: CODE Sections Establishing Disciplinary Procedures

MISS. CODE ANN. § 73-13-15 (1972) defines the powers of the board, among which is the power to investigate and prosecute persons for the violation of laws or board established rules and regulations—a power also enumerated in this CODE section.

MISS. CODE ANN. § 73-13-37 (1972) enumerates the reasons and processes under which the board may initiate disciplinary proceedings. Reasons include fraud, deceit, gross negligence, professional misconduct as defined by the board's rules and regulations, practicing on an expired license, substance addiction/abuse, or violation of MISS. CODE ANN. § 73-13-1 through 73-13-105 (1972).

MISS. CODE ANN. § 73-13-37 (1972) lists the disciplinary proceeding and hearing requirements that the board must undertake if a complaint is filed and an investigation is brought forth.

Further, MISS. CODE ANN. § 73-13-37 (1972) lists the following possible disciplinary actions that the board may take:

- (a) issue a public or private reprimand;*
- (b) require the guilty party to complete a course or courses, approved by the board, in ethics or other appropriate subjects;*
- (c) suspend or revoke the certificate of the accused, if the accused is a licensee; and/or*
- (d) in lieu of or in addition to such reprimand, course completion, suspension or revocation, assess and levy upon the guilty party a monetary penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00).*

MISS. CODE ANN. § 73-13-39 (1972) prohibits practicing engineering without being licensed by the board and subjects such offender to the same penalties as a licensee in violation of the above stated sections of state law or the board's rules and regulations.

Finally, MISS. CODE ANN. §§ 73-13-89, 73-13-93, and 73-13-95 (1972) establish the same procedures for surveying offenses, making reference to MISS. CODE ANN. §§ 73-13-37 and 73-13-39 (1972).

Appendix C: Chapter 23 (Continuing Professional Competency) of the Board's Rules and Regulations

Part 901 Chapter 23: CONTINUING PROFESSIONAL COMPETENCY

Rule 23.1

1. Introduction

- a. The purpose of the continuing professional competency requirement (CPC) is to insure a continuing level of competency of Professional Engineers and/or Professional Surveyors in their respective fields of engineering and/or surveying practice.*
- b. Every licensee shall meet the continuing professional competency requirements of these regulations for professional development as a condition for licensee renewal.*

2. Definitions - Terms used in this section are defined as follows:

- a. Professional Development Hour (PDH) - A contact hour (nominal) instruction/or presentation. 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 hours of class 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 article 5 of this rule.*
- d. Course/Activity - Any qualifying course or activity with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice in engineering and/or surveying.*
- e. Licensee - A person who is licensed as a Professional Engineer or a Professional Surveyor.*
- f. Dual Licensee - A person who is licensed as both a Professional Engineer and a Professional Surveyor.*
- g. Renewal Period Year - January 1 to December 31 of each year.*
- h. Board - The Board of Licensure for Professional Engineers & Surveyors.*

3. Requirements

- a. Every Professional Engineer licensee is required to obtain 15 PDH units during the renewal period year.*
- b. Every Professional Surveyor licensee is required to obtain 12 PDH units during the renewal period year.*

- c. *Dual Licensees - The number of PDH units required shall be 18, at least 1/3 of which shall be obtained in each profession.*
- d. *As of January 1, 2010, every licensee shall be required to obtain one (1) PDH unit of Ethics training every two years. After 2010, excess ethics PDH may not be carried forward.*
- e. *Professional Surveyors licensed in Mississippi are required to obtain training in Mississippi Standards of Practice. Professional Surveyors with five (5) years or less licensure in Mississippi are required to obtain one PDH unit in Mississippi Standards of Practice annually. Professional Surveyors with more than five (5) years licensure in Mississippi are required to obtain one PDH unit in Mississippi Standards of Practice biennially. Courses of surveying standards in other states may not be used to meet this requirement. However, standard courses from other states may be used as a portion of the licensee's remaining PDH. Excess Mississippi Standards PDH may not be carried forward.*
- f. *If a licensee exceeds the annual requirement in any renewal period, PDH units may be carried forward into the subsequent renewal period as follows: a maximum of 18 PDH units by a Professional Engineer/Professional Surveyor licensee; a maximum of 15 PDH units by a Professional Engineer licensee; a maximum of 12 PDH units by a Professional Surveyor licensee, with the exception of Ethics and Standards of Practice, in which case 3d and 3e will govern. PDH units may be earned as follows:*
 - (1) Successful completion of college courses.*
 - (2) Successful completion of continuing education courses.*
 - (3) Successful completion of correspondence, televised, videotaped, electronic and qualifying short courses/tutorials.*
 - (4) Presenting or attending qualifying seminars, in-house courses, workshops, or professional or technical presentations made at meetings, conventions, or conferences.*
 - (5) Teaching or instructing in (1) through (4) above.*
 - (6) Authoring published papers, articles, or books.*
 - (7) Active participation in professional or technical societies, or active participation in educational outreach activities.*

4. Units - The conversion of other units of credit to PDH units is as follows:

- a. *1 College or unit semester hour 15 PDH*
- b. *1 College or unit quarter hour 10 PDH*
- c. *1 Continuing Education Unit 10 PDH*
- d. *1 Hour of professional development in course work, seminars, 1 PDH or professional or technical presentations made at meetings, conventions, or conferences*
- e. *For teaching apply multiple of 2**
- f. *Each published paper, article, or book 10 PDH*

- g. Active participation in professional and technical society. ** 1 PDH (1 PDH per organization with a maximum of 3 PDH.)*
- h. Active participation in educational outreach activities 1 PDH (maximum of 3 PDH)*

**Teaching credit is valid for teaching a course or seminar for the first time only. Teaching credit does not apply to full-time faculty.*

***Active participation will be defined as each member paying his/her annual dues.*

5. 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.

- a. Credit for college or community college approved courses will be based upon course credit established by the college and approved by the Board.*
- b. Credit for qualifying seminars and workshops will be based on one PDH unit for each hour of attendance. Attendance at qualifying programs presented at professional and/or technical society meetings will earn PDH units for the actual time of each program.*
- c. Credit determination for activities 4f, publishing paper, article, or book, is the responsibility of the licensee (subject to review as required by the Board), but shall not exceed 10 PDH units per renewal period year.*
- d. Credit for activity 4g, active participation in professional societies, limited to 1 PDH per organization with a maximum of 3 PDH, requires that a licensee be an active member of the organization. PDH units are not earned until the end of each renewal period year.*

6. Record keeping - The responsibility of maintaining records to be used to support credits claimed is the responsibility of the licensee.

- a. 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 or other documents supporting evidence of attendance; or*
 - (3) records as maintained by the NCEES's CPC Tracking Program, NSPE's Professional Development Registry for Engineers & Surveyors, or other similar repositories;*
- b. These records must be maintained for 3 years; copies may be requested by the board for audit verification purposes.*



**MISSISSIPPI BOARD OF LICENSURE
FOR PROFESSIONAL ENGINEERS & SURVEYORS**
660 North Street • Suite 400
JACKSON, MISSISSIPPI 39202
(601) 359-6160

August 3, 2018

Mr. James Barber
PEER Committee
P.O. Box 1204
Jackson, MS 39215

RE: A review of the Board of Licensure for Professional Engineers and Surveyors

Dear Mr. Barber,

Thank you for accommodating our request for a review of the operations and management of the Board of Licensure for Professional Engineers and Surveyors. As stated in the draft report, the Board is charged with safeguarding life, health, and property and to promote public welfare. We are pleased to see the findings show this mission is being accomplished.

We also appreciate the opportunity to review the draft of the PEER report and to provide a response for inclusion in the final report. During our review, we made your staff aware of a few errors of fact which it is our understanding have been corrected. Specifically:

- It now includes the amount "\$500,000" in the exhibit note regarding the transfer to the Capital Expense Fund,
- It has been noted that the board Secretary also signs the check for deposit into the special fund at the State Treasury, and
- The two instances in the discussion of decoupling where it was originally noted that eight years of engineering experience was required for licensure have been changed to the correct, four years of engineering experience being required.

We would also like to note at this time that each of the 13 recommendations outlined in the report are either in the process of being implemented or that we have plans to attempt to address these in the near future. To elaborate:

1. We will continue to work with the Board of Architecture to produce a publication that provides guidance to building officials. We will also continue holding joint meetings to work through any jurisdictional issues and refer inquiries and complaints to the appropriate body.

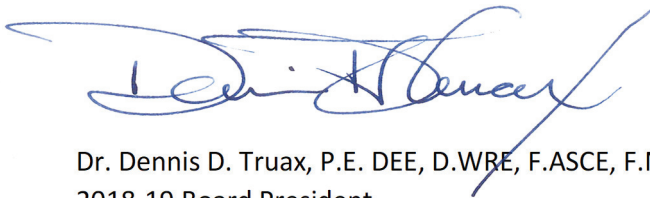
2. As noted, fines imposed on licensees for non-compliance have been consistent. This is due in large part to there has been very few changes in board membership and the longevity of the staff. As this stability no longer exists, we will be developing a matrix for use as a guide in defining future fines. This matrix will document the process and ensure that consistency is maintained.
3. The office hours will be maintained as required by law.
4. The Board will work with the Office of the State Auditor to review agency leave records and resolve any issue of improperly awarded leave. We would note that the practice that lead to this issue, as identified during the review, was ended prior to the review. Furthermore, our plan is to dispense with the use of the existing time clock system and find an alternatives approach to accounting for staff time and leave.
5. The report cites that, during the time frame reviewed, two of 25 deposits were made several days after the 7-day time limit required by law. We would note that the two instances occurred when the staff member assigned to this task was on extended leave. However, cross-training will be conducted to ensure that this does not happen in the future.
6. The Board will consult with the Department of Information Technology Services (ITS) to implement training for staff and Board members, as appropriate, on LARS in an effort to improve efficiency by fully utilizing appropriate features of the software..
7. The Board will also consult with ITS to determine if the database component of LARS can be used to track licensee Continuing Professional Competency (CPC) hours that are required to maintain licensure. If feasible, it will be employed to help verify CPC for all of our licensees in contrast to our current audit practices only verify 10% of our licensees.
8. The Board will consult with ITS and their contractor regarding development of an interactive and more user-friendly website.
9. The Board will continue to explore options to use electronic means of providing board information and categorizing and filing data. These options could include a digital agenda book distribution, a searchable digital database of approved meeting minutes, and other digital record management opportunities.
10. The Board will consult with the State Personnel Board to update employee position to reflect current activities of the employees. This effort will include an evaluation of job classifications to determine if reclassification is warranted.
11. While current state statute precludes biennial renewal of licenses and certificates of authorization, the Board will investigate opportunities to work with the legislature to effect changes which would allow for increased efficiency or flexibility in the renewal process.

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12. The Board will continue to monitor the trend of decoupling the examination and experience requirements of licensure and will consult with states that have successfully implemented this practice.
13. The Board will require the staff to take the recommended State Personnel Board classes in an effort to improve trust, mutual respect, mindfulness, acceptance of diversity and open communications among staff members.

In closing, thank you again for the review and the opportunity to respond to the draft report. Your staff conducted the review in a thorough and professional manner and produced a report that will be helpful in our efforts to improve efficiency and customer service. The Board places great value on the recommendation provided and will implement them as soon as possible.

Yours truly,



Dr. Dennis D. Truax, P.E. DEE, D.WRE, F.ASCE, F.NSPE
2018-19 Board President

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