

**MASSACHUSETTS BOARD OF REGISTRATION OF PROFESSIONAL
ENGINEERS AND PROFESSIONAL LAND SURVEYORS
POLICY BULLETIN REGARDING APPLICANTS WITH CRIMINAL
CONVICTIONS OR PENDING CRIMINAL CHARGES**

The Board of Registration of Professional Engineers and Professional Land Surveyors voted on May 24, 2007, to adopt the following policy guidelines outlining when an applicant who has criminal convictions or pending criminal charges must receive further review by the Board and/or appear before the Board during the application process. These policy guidelines are intended as the Board's guidelines for eligibility for those applicants who have met the MINIMUM requirements to sit for examination or receive a license but have been convicted of a felony or misdemeanor.

Policy No. 07-001 (as revised 5/28/09 and 2/28/19)

Purpose: To provide guidance to applicants and to Board staff members regarding the type, age and disposition of conviction and pending criminal case information requiring further review and/or the applicant's appearance before the Board to determine eligibility for registration as a professional engineer or professional land surveyor.

Policy: At its regularly scheduled meeting on February 28, 2019 the Board of Registration of Professional Engineers and Professional Land Surveyors voted to update the following policy, which was originally adopted by the Board on Thursday, May 24, 2007 and updated on May 28, 2009:

Under G.L. c. 112, § 81J, the Board of Registration of Professional Engineers and Professional Land Surveyors is prohibited from issuing a license to practice to any person "who is not of good character and reputation." In order to determine suitability for licensure, the Board has become certified by the Criminal History Systems Board for access to all conviction and pending criminal case data for all candidates for initial licensure and license renewal as an engineer or land surveyor.

Pursuant to Chapter 69 of the Acts of 2018 (An Act Relative to Criminal Justice Reform), the Board is required to provide "a list of the specific criminal convictions that are directly related to the duties and responsibilities for the licensed occupation that would disqualify an applicant from eligibility for a license." The Board has determined that no type of conviction, on its own, automatically disqualifies an applicant from obtaining an engineering or surveying license. However, relevant factors, such as the nature of the conviction, the conviction being very recent, the applicant having a history of other criminal convictions, or the conviction involving aggravating factors (such as a crime being caused by substance abuse issues, the crime being part of a pattern of

violence, the matter leading to a level 3 Sex Offender designation, etc.) might justify denying a license to an otherwise eligible candidate. As a result, any conviction could lead to a license denial. This includes ALL the crimes listed on the Master Crime List issued by the Massachusetts Sentencing Commission and found at this link:

<https://www.mass.gov/files/documents/2016/08/my/mastercrimelist.pdf>

The Executive Director and Associate Executive Director are authorized, in conjunction with Board Counsel, to review the records of criminal convictions and pending criminal cases received from the Criminal History Systems Board or otherwise made available to the Board to determine whether review or an appearance before the Board is necessary for an applicant who has a criminal conviction. In determining who must appear before the Board, the Executive Director, Associate Executive Director and Board Counsel shall act in a manner consistent with the following guidelines:

An applicant must be reviewed and/or appear at a Board meeting where:

1. The applicant has been convicted of an offense, whenever it occurred, that resulted in a term of incarceration of more than three (3) years.
2. The applicant has been convicted of an offense in the last ten (10) years that resulted in a term of incarceration of 30 days or more.
3. The applicant has been convicted of any felony within ten (10) years of the application date.
4. The applicant has been convicted of more than 2 misdemeanor convictions within the past ten years.
5. The applicant has a pending criminal case concerning an open felony criminal charge, not including motor vehicle operation related offenses, for which a disposition has not yet been entered.
6. The applicant has been convicted or has a pending criminal case that relates to fraudulent activities in his or her professional practice.
7. The applicant has failed to disclose a criminal conviction and such conviction is not a misdemeanor that occurred more than 10 years ago. In such instances, Board staff will request a statement explaining the reasons for the non-disclosure prior to Board review.

In addition to the above, the Executive Director, Associate Executive Director or Board Counsel are authorized to require Board review and/or an appearance before the Board of any applicant whose record contains any conviction or pending charge that the Executive Director, Associate Executive Director or Board Counsel believe the Board should review. In evaluating whether an appearance is necessary, the Executive Director, Associate Executive Director and Board Counsel will consider multiple factors, including but not limited to, whether the applicant has been convicted of an offense that involved fraud,

dishonesty or deceit or an offense that calls into question the applicant's ability to practice engineering/land surveying profession with a reasonable degree of skill and safety and in accordance with accepted standards of sound professional practice.

The purpose of the Board review of certain convictions is to determine whether the individual's practice of the profession would pose a risk to the public. Factors that the Board considers in determining an applicant's suitability for licensure may include, but not be limited to the following:

- (a) the requirements of public protection, as determined by the Board;
- (b) the relationship between practicing as a surveyor/engineer and public protection;
- (c) the time since the conviction;
- (d) the age of the applicant at the time of the offense(s);
- (e) the seriousness and specific circumstances of the offense(s);
- (f) the number of offenses;
- (g) whether the applicant has pending charges;
- (h) any relevant evidence of rehabilitation or lack thereof;
- (i) the submission of false information on an application for licensure and/or failure to provide required notification of new information;
- (j) any other relevant information, including information submitted by the applicant or requested by the Board.

If the Board is inclined to make an adverse decision based on the results of a CORI check, the applicant must be notified immediately. The applicant shall be provided with a copy of this policy, the DPL CORI policy, a copy of the CORI, and the source(s) of the CORI. The applicant must then be provided with an opportunity to dispute the accuracy of the CORI. The applicant must also be provided a copy of DCJIS' Information Concerning the Process for Correcting a Criminal Record. It shall be the burden of the applicant challenging the accuracy of CORI to provide a corrected CORI or certified court records to show that the original CORI was inaccurate.

The applicant will be notified of the Board's decision regarding the applicant's suitability for licensure and the basis for it in a timely manner. The applicant must also be notified of any hearing rights pursuant to the standard denial of licensure process and the DPL policy on CORI.