

# TEXAS BOARD OF PROFESSIONAL ENGINEERS

## Policy Statement

Date: August 20, 2019

Approved:  Lance Kinney, Ph.D., P.E., Executive Director (LK Init / 8/22/19 Date)

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Director of Compliance & Enforcement

Title: Criminal History Policy for Licensees, Updated August 2019

Subject: Criminal Conviction Policy

Replaces: Criminal History Policy for Licensees (November 21, 2013)

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### **Policy Determination:**

Under Board Rule 137.5, licensees are required to notify the Board of any misdemeanor or felony convictions within 30 days of the action. In addition, at the time of annual renewal, all licensed engineers are asked to state whether he or she has, since the last renewal, been convicted of an offense for a felony or misdemeanor. The board may also, at its discretion, submit identifying information to the Texas Department of Public Safety and or other appropriate agencies requesting records for a licensee. All reported convictions will be documented in the licensee's board record and referred to the Compliance & Enforcement Division for review.

Board Rule 139.43 states that upon review of the reported criminal convictions, the Board may take any of the standard enforcement actions. Any felony convictions which result in incarceration shall result in revocation of the license.

Reported convictions meeting all of the following conditions may be handled by the Executive Director and staff without referral to the board:

- Minimal or no relationship of the crime to the person's ability to practice as a Professional Engineer in Texas;
- The conviction was a single occurrence during the previous year;
- The conviction was of misdemeanor level, not felony; and
- There was no incarceration associated.

Pursuant to the Texas Occupations Code, Chapter 53, and consistent with Board Rule 133.99, relating to Processing of Applications with a Criminal Conviction, the Board

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

- any felony or misdemeanor which involves disregard for the health, safety, or welfare of the general public or individuals, including violent crimes or crimes involving drugs or alcohol;
- any felony or misdemeanor of which theft, fraud or deceit is an essential element;
- any felony or misdemeanor which demonstrates a lack of professional judgment expected of a Professional Engineer;
- any felony or misdemeanor involving financial or other loss for a client(s) or the public; or
- any felony or misdemeanor reflecting adversely upon the client's fitness to practice engineering.

If a licensee's self-reported criminal conviction or the results of a staff initiated criminal history record check indicate that a conviction for any of the above felony or misdemeanor has occurred, a formal enforcement case may be opened.

Staff will consider the factors found in the Texas Occupations Code, Chapter 53 when evaluating the proposed resolution to any opened enforcement case.

**Applicable Rules:**

*Title 22 Texas Administrative Code §137.5 Notification of Name Change, Address Change, Employer Change, and Criminal Convictions*

*Title 22 Texas Administrative Code §139.43 License Holder with Criminal Convictions*

**Statutory Authority:**

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

*Texas Occupations Code §1001.3035 Criminal History Record Information Requirement for License Issuance*

*Texas Occupations Code §1001.3535 Criminal History Record Information Requirement for License Renewal*

*Texas Occupations Code, Chapter 53 Consequences of Criminal Conviction*

**Other References:**

*N/A*

**Keywords:**

*Criminal Convictions*

*Licensees*