

# **General Rules of Procedures and Practices**

Revised August 2016

## **The Board**

### ***§661.1. Name.***

The name of the Board shall be Texas Board of Professional Land Surveying. For the purpose of brevity in succeeding rules this organization shall be subsequently referred to as the Board.

### ***§661.2. Headquarters.***

The headquarters of the Board shall be in Austin.

### ***§661.3. Chair.***

The chair shall, when present, preside at all meetings, except as otherwise provided herein. The chair shall appoint such committees as the Board may authorize from time to time. The chair shall sign all certificates.

### ***§661.4. Vice Chair.***

The vice chair may in the absence or incapacity of the chair exercise the duties and may possess all the powers of the chair, as permitted by law.

### ***§661.5. Executive Director.***

The Executive Director shall conduct and care for all correspondence in the name of the Board. The Executive Director shall maintain all records prescribed by law. The Executive Director shall keep a record of all meetings and maintain a proper account of all business of the Board. The Executive Director shall be the custodian of the official seal and affix the seal to all certificates and other official documents upon the orders of the Board. The Executive Director shall check and certify all bills and check all vouchers (claims) and shall approve same, if appropriate, and shall perform such other duties as directed by the Board. The Board shall furnish the Executive Director the necessary equipment, supplies, and assistance, paying for these items directly on vouchers (claims) handled as prescribed herein and by law.

### ***§661.7. Executive Committee.***

The executive committee may consist of three members of the Board. Its duties shall be to transact all business instructed by the Board, during the intervals between Board meetings, and to report thereon to the Board at its meetings. It shall also recommend to the Board such actions in respect to policies and procedures as it may consider desirable.

### ***§661.8. Standing Committees.***

For the purpose of administering examinations there shall be two standing committees.

(1)The Licensed State Land Surveyors Committee shall prepare, administer, and grade the licensed state land surveyor's examination. This committee shall be made up of the commissioner or his/her authorized representative and all of the licensed state land surveyors on the Board. A quorum shall be a majority of the committee members.

(2)The Registered Professional Land Surveyors Committee shall attend to the preparation and grading of the registered professional land surveying examination. This committee shall be made up of all the members of the Board. A quorum shall be a majority of the committee members.

***§661.9. Special Committees.***

Special committees shall have such duties as may be assigned by the chair of the Board, with the consent of the Board.

***§661.10. Financial.***

(a) Payment of all salaries and other approved operating expenses of the Board shall be made by itemized vouchers (claims). Such vouchers (claims) shall be approved by the Executive Director of the Board. The Executive Director shall maintain complete records of the financial transactions of the Board as prescribed by the state comptroller and by law.

(b) Pursuant to the requirements of §2161.003 of the Government Code, the Texas Board of Professional Land Surveying adopts the rules of the Comptroller of Public Accounts relating to the Historically Underutilized Business (HUB) Program and stated at 34 TAC Part 1, Chapter 20, Subchapter B, §§20.10 - 20.19.

***§661.11. Vacancies.***

If for any reason, a vacancy shall occur in the Board, the chair may call a special meeting for the purpose of preparing a notice to the governor asking for the appointment of a new member to fill the unexpired term. If the vacancy shall occur in the office of the chair, the vice chair may call the meeting.

## **Meetings**

***§661.23. Notice of Meetings.***

Notice of meetings shall be published and posted in compliance with law. The Executive Director shall provide notice of all meetings to each member at his/her last known address at least one week prior to said meeting.

**§661.24. Proceedings.**

Robert's Rules of Order shall govern the proceedings of the Board except as otherwise provided herein or by statute.

## **Definitions of Terms**

**§661.31. Definitions.**

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Act--The Professional Land Surveying Practices Act and Amendment.
- (2) Board seal--The seal of the Board shall be as authorized by the Board.
- (3) Certificate of registration and certificate of licensure--A license to practice professional land surveying in Texas. A certificate of licensure is a license to practice state land surveying in Texas.
- (4) Construction estimate--"construction estimate", as used in §1071.004 of the Act, means a depiction of a possible easement route for planning purposes.
- (5) Contested case--A proceeding, including, but not restricted to, ratemaking and licensing, in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for adjudicative hearing.
- (6) Direct supervision--To be able to recognize and respond to any problem that may arise; give instruction for the solution to a problem; give instructions for such research of adequate thoroughness to support collection of relevant data; the placement of all monuments; the preparation and delivery of all Documents.
- (7) Firm--Any business entity including but not limited to a partnership, limited partnership, association, corporation, limited liability company, limited liability partnership and/ or other entity conducting business under an assumed name.
- (8) Offer of surveying services--Any form of advertisement which contains the firm contact information and offers land surveying services, including but not limited to verbal offer, hard copy, electronic web site, telephone listing, written proposal or other marketing materials.
- (9) Renewal--The payment of a fee annually as set by the Board within the limits of the law for the certificate of registration or the certificate of licensure.
- (10) Report--Survey drawing, written description, and/or separate narrative depicting the results of a land survey performed and conducted pursuant to this Act.
- (11) Rule--Any Board statement of general applicability that implements, interprets, or prescribes law or policy, or describes the procedure or practice requirements of the Board. The term includes the amendment or repeal of a prior rule but does not include statements concerning

only the internal management or organization of the Board and not affecting the private rights or procedures.

(12) Seal--An embossed or stamped design authorized by the Board that authenticates, confirms, or attests that a person is authorized to offer and practice land surveying services to the public in the State of Texas and has legal consequence when applied.

***§661.33. Easement Depiction.***

(a) An easement depiction prepared by any person registered or licensed under the Act shall adhere to all rules promulgated by the Board except where:

(1) the easement area can be clearly ascertained without reference to a metes and bounds description of the easement; and

(2) the easement does not bisect or protrude into the tract (leaving non-easement areas on opposite sides of the easement strip).

(b) An easement's legal description or plat depiction meets the requirements of the exception to this rule when the easement:

(1) is a blanket easement; or

(2) the easement:

(A) is within a tract of land or lot depicted in a recorded subdivision plat;

(B) can be clearly defined and located without a metes and bounds description; and

(C) is adjoining to a platted boundary line.

(c) A "construction estimate", as used in §1071.004 of the Act, means a depiction of a possible easement route for planning purposes.

## **Applications, Examinations, and Licensing**

***§661.41. Applications.***

(a) An applicant qualified by law who wishes to take an examination for certification or for registration to practice professional land surveying and/or state land surveying in Texas shall be furnished duplicate application forms, one to be returned to the office of the Board, the other to be retained by the applicant. Applications received by the Board shall be examined by the Executive Director for conformity with the rules and regulations governing applications as established by the Board. Applications accompanied by proper fees and in the form prescribed by the Board shall be entered in the records of the Board. Applications not accompanied by proper fees or not conforming to the rules and regulations shall be returned to the applicant. Each applicant shall be required to furnish all information requested on the application form. The application form shall contain general information regarding the applicant, a recent passport type photograph, other registration and memberships, references and qualifications, formal education information with certified transcripts of college work, personal surveying experience, and instructions for filing the form.

(b) The application shall be neatly typed or lettered and all questions must be answered. If the answer is negative, the applicant shall use the word "no" or "none." It is the applicant's responsibility to see that certified transcripts of college work and any other information required or requested by the Board are received in the office of the Board on or before July 15 or January 15 in order for the applicant's file to be considered for the ensuing examination. Experience time will be counted only up to the date of the filing of the application with fee. Applications will not be considered if essential information is lacking.

(1) It is important that the experience record of the applicant be completed in detail giving character of work performed, particularly with respect to percentage of time engaged in boundary land surveying as opposed to engineering surveying, title of position, employer, amount of time, and responsibility in each engagement listed. Experience in responsible charge will be counted only if under the direct supervision of a registered professional land surveyor. Give total time in actual land boundary surveying in each engagement. If the space provided in the forms is not sufficient, the applicant may attach as many sheets as necessary. If the experience is of the character that it cannot be described properly in the tabulated form, the applicant may submit a complete narrative account of his/her education, professional, or business career. All documents filed with the application shall be maintained by the Board pursuant to the state's record retention schedule.

(2) Accompanying this application shall be two sample survey reports (sketch, map or plat) completed under the direction of a Registered Professional Land Surveyor. Submissions should be paper copies and also digital copies on a CD, DVD, or USB accessible medium. Each survey report should be on a single piece of paper not to exceed 11" x 17". The digital copy should be in pdf or similar format. Each survey report should include a certification and a list of all documents reviewed in preparation of the survey. However, a signature and seal are not necessary. One survey should be an urban type survey (residential or commercial platted property) with the other being a rural type survey (metes and bounds). Each report will be evaluated for compliance with the existing Act and Rules. All documents filed with the application shall remain in the permanent files of the Board.

(c) Application files are considered initiated the date the application is received with fee. If an application is not received within 90 days after date of receipt of reference forms and required information, that file will be closed and the applicant so notified at his/her last known address. If the applicant does not take the examination within one year from the date the application is approved, the file will be closed, and for further consideration by the Board, the applicant will be required to file a complete new application with fee and references.

(d) No credit will be considered for experience obtained in violation of the Professional Land Surveying Practices Act or any applicable prior Act governing the surveying profession. Only that experience obtained in regular full-time employment, or as otherwise specifically allowed in the act and rules, will be considered in evaluating an applicant's record.

(e) Certificate Requirements for Surveyors-In-Training in Other States, Territories or Possessions of the United States. An individual is eligible to be certified as a surveyor-in-training in Texas upon:

(1) Successfully passing the National Council of Examiners for Engineering and Surveying (NCEES) fundamentals of land surveying exam; and

(2) Obtaining certification as a surveyor-in-training by a state, territory or possession of the United States other than Texas.

(f) The Texas certification as a surveyor-in-training is valid for eight years from the date the surveyor-in-training certificate was issued by the original issuing state, territory or possession of the United States.

(g) The Board will recognize degrees conferred by the Accreditation Board for Engineering and Technology (ABET), the Southern Association of Colleges (SAC) and the Applied Science Accreditation Commission (ASAC) or their equivalent.

(h) Degrees not accredited by ABET/SAC/ASAC must be evaluated by an organization approved by the Board and shall be done at the expense of the applicant. The Board will consider recognizing degrees on a case-by-case basis upon submission of the evaluation.

(i) All foreign language documentation submitted must be accompanied by certified translations.

(j) Applicants must speak and write the English language. Proficiency in English may be evidenced by possession of an accredited bachelor degree taught exclusively in English, or passage of the Test of English as a Foreign Language (TOEFL) with a score of at least 550 and passage of the Test of Spoken English (TSE) with a score of at least 45, or other evidence such as significant academic or work experience in English acceptable to the Board.

**§661.42. Fees.**

(a) All fees are payable by cashier's check or money order and are not refundable.

(b) In addition to the application fee, an examination fee not to exceed the examination cost and fees for administering the exam is required.

(c) New registrants will be required to pay a prorated part of the annual licensing fee according to their date of registration or licensure.

(d) In compliance with the Public Information Act, the Texas Board of Professional Land Surveyors will recover the costs of providing copies of public information according to current state guidelines and/or requirements.

***§661.43. References.***

(a) All references shall be chosen carefully for their personal knowledge of the applicant's experience and qualifications. All applicants shall submit to the Board the names and complete addresses, including zip codes, of not less than three references unrelated to the applicant. Such reference shall be registered or licensed surveyors and have personal knowledge of the applicant's surveying experience and qualifications.

(b) No member of the Board will be accepted as a reference unless the Board member is the registered professional land surveyor with the most knowledge of the applicant's experience. The Board prefers that when an applicant is employed by an organization that includes registered professional land surveyors, the applicant use only one reference from a registered professional land surveyor who is associated with him in such organization. The Board reserves the right to ask for additional references.

***§661.44. Rejections.***

Should the Board reject the application of any applicant; the Board will retain the fee accompanying the application. If an application is rejected for any reason, the applicant will be notified by first class mail. The applicant may thereafter file with the Board any further evidence or reason to support a claim for reconsideration on or before the next application deadline date (§661.41(b) of this title relating to Applications), either July 15 or January 15. It is the policy and intention of the Board to give a rejected applicant every reasonable opportunity to support a claim for reconsideration and to consider such evidence as may have been omitted from or overlooked in the original application. An applicant may timely apply for a hearing pursuant to Title 2, Occupations Code, Chapter 53.

***§661.45. Examinations.***

(a) Registered professional land surveyor examinations shall be written and so designed to aid the Board in determining the applicant's knowledge of land surveying, mathematics, land surveying laws, and his/her general fitness to practice the profession as outlined in the Professional Land Surveying Practices Act. The applicant will be notified at least 10 days in advance of the date, time, duration and place of the examination. If an applicant fails to appear for two successive examinations, the applicant's file will be closed and will not be reopened without the filing of a new application and fee.



(b) Calculators will be permitted to be used during any examination. Only Board approved calculators will be permitted for use during examinations. No communication/imaging device of any type will be permitted, including but not limited to pagers and cellular phones. Devices or materials that might compromise the security of the examination or the examination process are not permitted in the examination room.

(c) An applicant that fails to make a passing grade on any portion of the examination will be required to repeat the entire examination.

(d) Licensed state land surveyors' examinations shall be written and so designed to test the applicant's knowledge of the history, files, and functions of the General Land Office, survey construction, legal aspects pertaining to state interest in vacancies, excesses, and unpatented lands, and familiarity with other state interests in surface and subsurface rights as covered by existing law.

(e) The licensed state land surveyor examination will be in two four-hour sections and each part graded independently. If an applicant fails either part, that applicant will be required to file an updated application with fee and repeat the entire examination.

(f) The contents of all examination materials are confidential. Any registrant and/or applicant who take an action with the intent to compromise the confidentiality of the examination is subject to disciplinary sanction, administrative penalties, or both. Each candidate will be required to sign a statement that they will neither copy nor divulge any examination problem or solution, and that any violation thereof will be sufficient grounds for invalidating the candidate's examination. In assessing an appropriate penalty or sanction, the Board may do any one or more of the following:

- (1) Impose the penalties and sanctions set out in the Act;
- (2) Disqualify the applicant from taking future examinations for a period of three years;
- (3) Disqualify the applicant from taking future examinations until the applicant successfully completes a Board-approved study of professional ethics;
- (4) Disqualify the applicant from further consideration for certification or registration;
- (5) Invalidate the candidate's examination.

(g) Examination candidates who have been called into active U.S. military duty or who are re-assigned military personnel and will not be available to sit for an examination may request the examination cycle be postponed and any paid examination fees encumbered toward a future examination date. Such candidates shall submit adequate documentation, including copies of orders, and a request to postpone the examination to the Board. The candidate shall notify the Board of their availability to resume the examination cycle within 60 days of release from active duty or when they are deployed to a location that will proctor the examination.

(h) Beginning January 1, 2011, any applicant who is unsuccessful in three attempts to pass any part of a SIT or RPLS examination shall not have an application approved for a subsequent taking of the same examination for a period of one year from the date of notice of failure of the third exam. Applications submitted subsequent to the one year waiting period shall include documented evidence satisfactory to the Board that the applicant has acquired additional education and experience indicative that the applicant would better be able to pass a subsequent



examination. This rule applies to all SIT and RPLS examinations administered by the Board, both past and future.

**§661.46. Seal and Oath.**

(a) At the time the applicant receives a certificate of registration/licensure, the applicant will secure a seal of the type specified by the Board.

(b) At the time an applicant receives a certificate of registration/licensure, before he/she can offer land surveying services, they shall sign and affix their seal to the following oath and forward same to the Board office:

I, \_\_\_\_\_, Registered Professional Land Surveyor, Certificate Number \_\_\_\_\_, hereby affirm that I will place the interest of the public above all others in my practice of Professional Land Surveying and I will adhere to the Texas Professional Land Surveying Practices Act and General Rules of Procedures and Practices adopted by the Board.

(c) At the time a registrant renews their certificate of registration/licensure, he/she shall affirm the oath in subsection (b) of this section.

**§661.47. Reciprocal Registration.**

(a) Applicants applying for reciprocal registration under the Professional Land Surveying Practices Act (the Act), §1071.259, shall file with the Board application forms as described in these rules and such other forms as required by the Board

(b) The Board shall determine whether the licensing standards of the governmental authority under which the reciprocal applicant is licensed are substantially equivalent to those standards required in the State of Texas at the time of licensure by the reciprocal state.

(c) If the Board determines that such standards are not substantially equivalent, the Board may require the reciprocal applicant to take and pass an examination not to exceed four (4) hours as required for applicants under the Act, §1071.259.

(d) Any cost for administering a reciprocal examination for this Board by another state will be at the expense of the applicant.

**§661.50. Surveyor In Training (SIT) Experience Requirements.**

The following standards are to be used in evaluating the two years of experience (although some forms provided by the Board may allow an experience breakdown in hours, it is the intent of the Board that the required experience be obtained over a minimum time period of two calendar years) required for the Surveyor in Training, hereinafter referred to as Surveyor In Training (SIT), under the direct supervision of a designated Registered Professional Land Surveyor (RPLS) acceptable to the Board:

(1) All experience must be obtained under the direction and guidance of one or more registered professional land surveyors designated by the SIT. The Board will be notified in writing of the name or names of the designated RPLS prior to the beginning of the internship. If during the internship any designated RPLS changes, the SIT must notify the Board that a new RPLS has been designated by the SIT and the date of change.

(2) The two years of experience are to be obtained in the area of boundary surveying and boundary determination only. This minimum of two years begins with the date the applicant passes the National Council of Examiners for Engineering and Surveying (NCEES) fundamentals of land surveying portion of the examination. Since only boundary related surveying experience will be accepted, the actual time to complete the internship may take longer than two calendar years. Adequate documentation of the conditions of employment as well as the experience gained therein will be required. Regardless of the total number of acceptable hours of experience gained in this manner, a minimum total time of 4,000 hours of experience extended over a minimum of two calendar years will still be required.

(3) The required experience is divided into two possible types of experience, which are as follows:

(A) Office experience. The required office experience will consist of at least three months of acceptable experience within each of the following categories, herein referred to as "acceptable office experience" for a minimum of one year:

- (i) Research of county records and records search;
- (ii) Legal principles, boundary reconciliation, and deed sketches;
- (iii) Computations/traverse accuracy analysis;
- (iv) Documentation/description/monumentation/preparation of final surveys. A detailed outline of the SIT's required experience will be furnished to the Board by the SIT. All two years of the experience requirement may be obtained as office experience.

(B) Field experience. The remaining acceptable experience, if not within the previously listed office experience categories, must be within the categories following:

- (i) Field accuracies and tolerances;
- (ii) Field traverse notes;
- (iii) Monument search based on deed sketches.

(4) The SIT is solely responsible for the documentation necessary to verify the acceptable completion of the required experience. The Board will furnish a form, which will be completed by the SIT and signed by both the SIT and the designated RPLS for verification. This form will require the SIT to describe the specific experience that he/she has obtained during the internship within the categories listed in paragraph (3)(A) of this section. In addition, the SIT is to keep a log of the boundary surveying projects and the specific experience obtained for each project.

(5) The SIT must notify the designated RPLS in writing that the SIT will be using the RPLS for verification of the required experience.

(6) The designated RPLS will agree in writing to the Board to provide the required experience for the SIT and to provide the required supervision and experience verification.

(7) The designated RPLS will conduct periodic reviews of the SIT's performance so that any problems with the required experience can be corrected prior to completion of the time period.

(8) Only one RPLS is required to be designated for the two-year period if all the experience is obtained under that RPLS. Additional RPLSs will not be required unless the direct supervision of the SIT changes during the period or the SIT is under several RPLSs' supervision.

(9) The SIT experience requirements listed previously will be required for any SIT who passes the NCEES fundamentals of land surveying portion of the examination on or after January 1, 1993.

***§661.51. Surveyor-In-Training Education Requirement.***

(a) As a condition for retaining a Surveyor-In-Training (SIT) certificate during the eight year period of working towards completion of registration, the certificate holder must complete professional education activities.

(b) Professional education activities include successful completion of courses in areas supporting development of skill and competence in professional land surveying; participating in programs, seminars, workshops or conferences which provide increased professional knowledge related to the practice of professional land surveying and other continuing education activities which are approved by the Board.

(c) At the end of the eight year period if the certificate holder has not successfully completed registration but wishes to maintain the SIT certification, the Board will require written proof of completion of at least 32 hours of acceptable continuing education during the eight year period as set out in subsection (b) of this section. The certificate can then be renewed on a yearly basis. As a condition for renewal of an SIT certificate, the Board shall require a certificate holder to

successfully complete eight hours of continuing professional education courses per year and compliance with Chapter 664 of this title (relating to Continuing Education).

**§661.52. Inactive Status.**

- (a) A Surveyor whose registration is in good standing may apply for Inactive Surveyor registration status on a form prescribed by the Board.
- (b) An Inactive Surveyor may not practice professional land surveying. If an Inactive Surveyor engages in the practice of professional land surveying, the Inactive Surveyor's registration may be suspended or revoked and he/she may be fined as allowed by the Professional Land Surveying Practices Act.
- (c) An Inactive Surveyor shall not use their seal during any period that the registration is Inactive.
- (d) An Inactive Surveyor shall pay an annual fee as prescribed by the Board.
- (e) In order to return the registration to active status, an Inactive Surveyor who has been Inactive must meet the following requirements:
  - (1) The Surveyor must apply by completing and submitting an application form prescribed by the Board.
  - (2) The Surveyor must pay the full renewal fee as prescribed by the Board.
  - (3) The Surveyor must fulfill the continuing professional educational requirement as specified in the Act for the previous year.
  - (4) Once the application form, fee, and proof of continuing professional education have been received by the Board Office, the Executive Director may approve and the registration will be Active. At the discretion of the Executive Director, he/she may refer the application to the Board for consideration.

**§661.53. Active Duty Military.**

Registrants are exempt from any increased fee or other penalty for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the Board (copies of orders) that the individual failed to renew the license in a timely manner because the individual was on active duty in the United States armed forces serving outside Texas. An applicant who is a military service member or military veteran with relevant military service, training or education in land surveying or a land surveying career field, may receive credit for service, training or education upon Board verification and evaluation.

**§661.55. Registration of Land Surveying Firms.**

- (a) A Firm shall not offer land surveying services until the Firm applies for and receives a Firm Registration Certificate with the Board, which identifies:

(1) The business and legal names and addresses of the association, partnership, or corporation;

(2) The names and license numbers of all persons registered or licensed under this Act employed by the association, partnership, or corporation.

(b) A person registered or licensed under the Act shall ensure that any Firm employing them complies with the filing requirements set forth in subsection (a) of this section.

(c) A person registered or licensed under the Act and employed by a Firm shall notify the Board in writing within five (5) business days prior to leaving employment or no later than five (5) business days after leaving employment.

(d) The Board may refuse to issue or renew and may suspend or revoke the registration of a firm and may impose an administrative penalty against the owner of a firm for a violation of this chapter by an employee, agent, or other representative of the entity, including a registered professional land surveyor employed by the entity at the time of the violation.

(e) The Board may refer to the Texas Attorney General for appropriate action any person registered or licensed under the Act or any Firm offering surveying services that fails to comply with this section.

(f) A nonrefundable fee, as established by the Board, will be submitted with the registration form.

(g) At the time the firm receives a certificate of registration, before it can offer land surveying services, a responsible party on behalf of the firm shall sign the following and submit it to the Board:

I, \_\_\_\_\_, \_\_\_\_\_, (state position with Firm) on behalf of \_\_\_\_\_, Business Entity Certificate Number \_\_\_\_\_, hereby affirm that this Business Entity will always place the interest of the public above all others in our practice of Professional Land Surveying and this Business Entity will adhere to the Texas Professional Land Surveying Practices Act and General Rules of Procedures and Practices adopted by the Board.

***§661.56. Land Surveying Firm Renewal and Expiration.***

(a) The certificate of registration shall be valid until December 31 of the year registered. At least one month in advance of the date of the expiration, the Board shall notify each firm holding a certificate of registration of the date of the expiration and the amount of the fee that shall be required for its renewal for one year. The renewal notice shall be mailed to the last address provided by the firm to the Board. The certificate of registration may be renewed by completing the renewal application and paying the annual registration renewal fee set by the Board. It is the sole responsibility of the firm to pay the required renewal fee prior to the expiration date, regardless of whether the renewal notice is received.

(b) A certificate of registration which has been expired for less than one year may be renewed by completing the renewal statement sent by the Board and payment of two (2) times the normal renewal fee. When renewing an expired certificate of registration, the authorized official of the firm shall submit a written statement of whether surveying services were offered, pending, or performed for the public in Texas during the time the certificate of registration was expired.

(c) If a certificate of registration has been expired for more than one year, the firm must re-apply for certification under the laws and rules in effect at the time of the new application and shall be issued a new certificate of registration firm number if the new application is approved.

(d) The renewal fee will not be refundable.

***§661.57. Land Surveying Firms Compliance.***

A Firm shall not offer to perform or perform land surveying services for the public unless registered with the Board pursuant to the requirements of §661.55 of this title (relating to Registration of Land Surveying Firms).

(1) A Firm shall not offer land surveying services to the public unless the offer of services contains the Certificate of Registration firm number.

(2) A Firm shall designate a surveyor of record for the primary and for each branch office. The surveyor of record must be an active license holder who is employed full-time by the Firm and shall perform or directly supervise all survey work and activities that require a license. The surveyor of record shall not be designated as the surveyor of record for more than one primary or branch office.

(3) An active license holder who is a sole practitioner shall satisfy the requirement of the regular, full-time employee.

(4) No surveying services are to be offered to or performed for the public in Texas by a Firm while that Firm does not have a current Certificate of Registration.

(5) A firm that offers or is engaged in the practice of surveying in Texas and is not registered with the Board or has previously been registered with the Board and whose registration has expired shall be considered to be in violation of the Act and Board rules and will be subject to administrative penalties as set forth in §1071.451 and §1071.452 of the Act and §661.99 of this title (relating to Sanctions and Penalty Schedule).

(6) The Board may revoke a certificate of registration that was obtained in violation of the Act and/or Board rules including, but not limited to, fraudulent or misleading information submitted in the application or lack of employee relationship with the designated professional surveyor for the Firm.

(7) If a Firm has notified the Board that it is no longer offering service to the public or performing surveying services for the public, including the absence of a regular, full-time

employee who is an active professional surveyor licensed in Texas, the Certificate of Registration will expire.

(8) In addition to any other penalty provided in this section, the Board shall have the power to fine, refuse to issue or renew and/or revoke the registration of a firm where one or more of its officers, directors, partners, members, or managers have been found guilty of any conduct which would constitute a violation of the Board's Act or Rules.

(9) A Firm shall cooperate in Board investigations concerning complaints against a current or former Registered Professional Land Surveyor or Licensed State Land Surveyor employed by the Firm, by making all files and other pertinent records available to the surveyor so that he or she may respond to the complaint.

(10) Any firm furnishing contract land surveying crews must have a RPLS as a full-time employee in that firm and as reflected in its registration form filed with the Board. A full-time employee is an individual employed by a company in an on-going position with a minimum of 35 scheduled work hours per week, 52 weeks per year.

## **Contested Cases**

### ***§661.60. Responsibility to the Board.***

(a) A registrant/licensee/SIT/Firm whose registration/license/certification is current or has expired but is renewable under the Texas Professional Land Surveying Practices Act and Board rules, is subject to all provisions of the Act and Board rules. A registrant/licensee/SIT/Firm shall respond fully and truthfully to all Board inquiries and furnish all maps, plats, surveys or other information or documentation requested by the Board within 30 days of such registrant's, licensee's, SIT's or Firm's receipt of a Board inquiry or request concerning matters under the jurisdiction of the Board. An inquiry or request shall be deemed received on the earlier of:

(1) The date actually received as reflected by a delivery receipt from the United States Postal Service or a private courier; or

(2) Two days after the Board request or inquiry is deposited in a postage paid envelope in the United States Mail addressed to the registrant, licensee, SIT or Firm at his/her last address reflected in the records of the Board.

(b) Any registrant, licensee, SIT or Firm subject to Board decisions or orders shall fully comply with the final decisions and orders within any time periods which might be specified in such decisions or orders. Failure to timely, fully and truthfully respond to Board inquiries, failure to furnish requested information, or failure to timely and fully comply with Board decisions and orders, shall constitute separate offenses or misconduct subject to such penalties as may be imposed by the Board as provided under the Act and Rules.



(c) The registrant/licensee/SIT/Firm is required to cooperate with all investigations of the Board, including but not limited to site inspections, records review and allowing interviews with employees regarding compliance with the Act and Rules.

**§661.62. Complaint Process.**

(a) All complaints and requests for hearings shall be filed with the Executive Director.

(b) Filing of Complaints.

(1) Complaints may be submitted on complaint forms provided by the Board or complaints may be submitted in a written format that includes the following information that is reasonably available to the complainant:

(A) Name, address and phone number of complainant and respondent (i.e. person charged with alleged violation);

(B) Nature and description of the complaint;

(C) Copies of factual evidence and other information that supports the complaint;

(D) Names and addresses of witnesses; and

(E) Signature of complainant recognizing the serious nature of the complaint process and consequences of falsifying a government document.

(2) All signed complaints filed will be investigated. Anonymous complaints will be investigated if witnesses or other evidence clearly supports a credible or factual foundation.

(3) Withdrawal of a complaint will not impact an on-going investigation or the actions taken by the Executive Director.

(c) Investigations.

(1) The Board will hire an investigator or contract with an investigator to investigate complaints.

(2) Upon receipt of a complaint, the respondent shall receive a copy of the complaint and have an opportunity to respond.

(3) If investigation fails to substantiate violations of the Act or Board Rules the complaint will be dismissed by the Executive Director upon concurrence of the Board Complaint Review Panel. The Complaint Review Panel shall include one public Board member, one registered or licensed Board member, the Executive Director, the investigator and the Board shall be notified at the next scheduled meeting after dismissal.

(4) The person making a complaint that is dismissed may request reconsideration of the dismissal by sending a written request for such within 20 days of receipt of the notice of dismissal.

(5) The investigator may make initial determination of violations.

(6) The investigator may recommend sanctions to the Executive Director.

(7) The Executive Director may recommend an administrative penalty.

(d) Determination of Violations. If the Executive Director finds that a violation of the Board's Act or Rules has occurred, the Executive Director shall send notice, within 20 days, to both the respondent and the Board outlining the violation and recommending an administrative penalty and/or sanction and/or restitution. In determining the amount of the recommended penalty, the Executive Director shall consider items identified in §1071.452(b) of the Professional Land Surveying Practices Act.

(e) Request for Administrative Hearing.

(1) A respondent who is the subject of proposed administrative action by the Executive Director may appeal the Executive Director's determination by requesting a contested case hearing or an Informal Settlement Conference as provided herein within 20 business days of receiving notice of the violation. The request must be in a written form that references the complaint number and indicates that the respondent intends to request a contested case hearing. Upon receipt of the request for hearing, the Executive Director will set a hearing and provide a copy of the complaint and notice of the hearing to the respondent.

(2) If the respondent fails to request an administrative hearing within 20 days of receiving the notice of violation report, the respondent will be subject to a default order and the Board will set the matter for a hearing on the proposed default order as well as provide notice of the hearing on the proposed default order to the respondent.

(3) The Complaint and Notice of Hearing shall be sent to the respondent by registered or certified mail, addressed to the respondent at his/her most recent address as shown in the records of the Board. Service of the Complaint and Notice of Hearing shall be completed at the time the notice is deposited, postage-paid and properly addressed in a post office or official depository of the United States Postal Service.

(4) All contested case hearings will be conducted pursuant to the Board rules, the State Office of Administrative Hearings (SOAH) rules and the Administrative Procedures Act.

(5) After conclusion of the hearing, SOAH will make a proposal for decision to be presented at a duly noticed Board meeting. The Board may adopt, amend, or reject the proposal for decision as submitted by SOAH.

(f) Informal Settlement Conferences.

- (1) After the Executive Director has rendered a finding that a respondent violated the Act or Rules, the respondent may request an Informal Settlement Conference to present additional evidence or attempt to negotiate a settlement.
- (2) The Informal Settlement Conference committee shall include two Board members, one of which will be a public member, the Executive Director, the investigator, and others as deemed necessary.
- (3) The Settlement Conference committee members shall be informal and need not follow the procedure established in the State Office of Administrative Hearings (SOAH) rules for contested cases. The respondent, his/her attorney and conference members may question witnesses, make relevant statements, present affidavits or statements of persons not in attendance, and may present such other evidence as may be appropriate.
- (4) At the conclusion of the Informal Settlement Conference the complaint may be dismissed or an agreement may be reached regarding a recommendation to be made to the Board at the next scheduled meeting or a formal hearing may be scheduled.
- (5) The Board may order the respondent to pay restitution to a consumer; the amount may not exceed the amount the consumer paid for the service. The Board may not require payment of other damages or estimate harm in the restitution order.

(g) Notice of Decision by Board. The Board shall give notice of the Board's order to the person charged. The notice must include:

- (1) The findings of fact and conclusions of law separately stated;
- (2) The amount of any administrative penalty imposed;
- (3) A statement of the person's right to judicial review of the Board's order; and
- (4) Other information required by law.

(h) Enforcement of Penalty. If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the Board may refer the matter to the Attorney General for enforcement.

(i) Cost of Administrative Hearings.

- (1) Default Judgments. In administrative penalty cases brought before the State Office of Administrative Hearings (SOAH), in the event that the Respondent/Licensee is adjudged guilty of an administrative violation by default, the Board has the authority to assess, in addition to the penalty imposed, cost of the administrative hearing in an amount not to exceed Two Hundred (\$200) Dollars.

(2) Trial on the Merits. In administrative penalty cases brought before SOAH, in the event that the Respondent/Licensee is adjudged guilty of an administrative violation after a contested case trial on the merits, the Board has the authority to assess, in addition to the penalty imposed, the actual costs of the administrative hearing. Such may include the costs of witnesses, costs of adjudication before SOAH, and any other costs that are necessary for the preparation of the Board's case, including the cost of any transcriptions of testimony.

***§661.63. Frivolous Complaints.***

(a) Within sixty (60) days following a final decision of the Board on a complaint, which has been dismissed with no finding of any Rule violations, the license holder who was the subject of the complaint may submit a written request to the Board that the complaint be found frivolous.

(b) A written request shall provide a reasoned justification showing that the complaint was made for the purpose of harassment and that the complaint does not demonstrate harm to any person.

(c) The Executive Director and investigator shall review each written request that a complaint be found frivolous and recommend to the Board whether the request should be granted or denied.

(d) A complaint may be considered to have been made for the purpose of harassment if, among other things:

(1) The complaint is filed as a threatening, abusive, or retaliatory tactic;

(2) The complaint is filed as a litigation tactic;

(3) The complaint is politically motivated; or

(4) The complaint is based on allegations that are beyond the scope of the Board's jurisdiction under the Act.

(e) In evaluating whether a complaint is frivolous, when a complaint is filed or sworn to by a license holder, the Board will take into account that all license holders are charged with knowledge of the Act and rules and with the professional and technical standards of land surveying.

***§661.64. Computation of Time.***

(a) Computing time. In computing any period of time prescribed or allowed by the Board's rules, by order of the Board, or by any applicable statute, the period shall begin on the day after the act, event, or default in controversy and conclude on the last day of such computed period, unless it be a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor a legal holiday.

(b) Extensions. Unless otherwise provided by statute, the time for filing any pleading may be extended by order of the Executive Director upon written motion duly filed prior to the expiration of the applicable period of time for the filing of the same, showing that there is good cause for such extension of time and that the need therefore is not caused by neglect, indifference, or lack of diligence of the movant.

***§661.65. Agreements To Be in Writing.***

Stipulations or agreements between parties, their attorneys, or representatives, with regard to any matter involved in any proceeding before the Board shall be reduced to writing and signed by the parties or their authorized representatives, or dictated into the record by them during the course of a hearing, or incorporated into an order bearing their written approval. This rule does not limit a person's ability to waive, modify, or stipulate any right or privilege afforded by the Board's rules, unless precluded by law.

***§661.67. Conduct and Decorum.***

Every party, witness, attorney, or other representative shall comport himself in all proceedings with proper dignity, courtesy, and respect for the Board, the Executive Director, and all other parties. Disorderly conduct will not be tolerated. Attorneys and other representatives of parties shall observe and practice the standards of ethical behavior prescribed for attorneys at law by the Texas State Bar.

***§661.68. Appearances Personally or by Representative.***

A party may appear and be represented by an attorney at law authorized to practice law in the State of Texas.

***§661.86. Final Decisions and Orders.***

(a) All final decisions, recommendations, and orders of the Board shall be in writing and shall be signed by the Board Chair. Based on the findings of fact, conclusions of law, and proposal for decision, the Board by order may determine that:

- (1) a violation occurred, and impose an administrative penalty or other sanction authorized by law; or
- (2) a violation did not occur.

(b) Parties shall be notified of any decision or order. A copy of the decision, recommendation, or order shall be delivered or mailed to the party and to his/her attorney of record. The notice of the decision must inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

***§661.87. Administrative Finality.***

(a) A decision is final in the absence of a timely motion for rehearing, and is final and appealable on the date of rendition or the order overruling the motion for rehearing, or on the date the motion is overruled by operation of law.

(b) If the Executive Director finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a final decision or order in a contested case, it shall recite the finding in the decision or order as well as the fact that the decision or order is final and effective on the date rendered, in which event the decision or order is final and appealable on the date rendered and no motion for rehearing is required as a prerequisite for appeal.

***§661.88. Motion for Rehearing.***

A motion for rehearing is a prerequisite to an appeal. A motion for rehearing must be filed by a party within 20 days after the date the party or his/her attorney of record is notified of the final decision or order. Replies to a motion for rehearing must be filed with the Board within 30 days after the date the party or his/her attorney of record is notified.

***§661.97. Action in Another Jurisdiction.***

A Texas registered land surveyor or firm who receives a disciplinary action relative to the practice of land surveying in another jurisdiction shall report such final disciplinary action to the Texas Board within 30 days. An authenticated copy of the order, adjudication, decision, or evidence of other final action by or on behalf of the regulatory authority in another jurisdiction, which serves substantially the same function as the Texas Board, may be conclusive evidence of such violation, and may be sufficient to support disciplinary action in this state.

***§661.99. Sanctions and Penalty Matrix.***

The Board, the Executive Director, Investigator, Administrative Law Judge or the participants in an Informal Settlement Conference may arrive at a greater or lesser sanction and penalty than suggested in this Rule. The minimum administrative penalty is \$100 per violation. The maximum administrative penalty shall be \$1500 per violation. In addition to the sanctions and penalties noted below, the Board may order restitution, suspension, probation and/or additional educational courses. Allegations and disciplinary actions will be set forth in the final Board Order and the severity of the disciplinary action will be based on the following factors:

- (1) The seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts;
- (2) The economic damage to property caused by the violation;
- (3) The history of previous violations;
- (4) The amount necessary to deter a future violation;
- (5) Efforts to correct the violation; and

(6) Any other matter that justice may require.

Suggested Sanctions:  
Suggested Sanctions:

Citation	Violation	Sanction on a First Offense
1071.251(b)	Engaging in the practice of professional land surveying without registration	Injunction/1500
(c)	Offering to practice professional land surveying without registration	Injunction/1500
(d)	Using a title or advertising a title or description that tends to convey the impression that a non registered/licensed person is a professional land surveyor	Injunction/1500
1071.261(b)	Failure to display the certificate or license at a person's place of business or practice	Reprimand/100
1071.263(a)	The practice of professional surveying while license has been placed on Inactive Status.	Revocation/1500
1071.351(c)	Failure to secure an authorized seal (661.46)	Reprimand/100
(d)	Application of name, seal or certification to surveying work that is not prepared by registrant/licensee or full time	Revocation/1500



Citation	Violation	Sanction on a First Offense
	employee supervised by registrant/licensee	
(e)	Allowing a non registrant/licensee to exert control over surveying work	Revocation/1500
1071.352(a)	Offering surveying services by a non-registered entity or with no RPLS employed full-time where the services are offered	Injunction/ 1500 Reprimand/1500
(b)	Failure of group practice to properly identify the registrant responsible for the practice	Injunction/ 1500 Reprimand/1500
1071.353	Failure to file notice of assumed name	Reprimand/100
1071.359(a)	Failure to sign and notate "Licensed State Land Surveyor"(LSLS) on all LSLS official field notes	Reprimand/100
1071.359(b)	Failure to conform LSLS field notes and plats to specifications contained in Section 21 of the Natural Resources Code.	Reprimand/100
1071.360 (1), (2)	Failure of the LSLS to notify person who has undisclosed public land enclosed and/or forward a	Reprimand/100

Citation	Violation	Sanction on a First Offense
	report of undisclosed public land and the acreage to the commissioner.	
1071.361(a)	Failure to allow LSLs access to County Surveyor's records	Reprimand/1500
(c)	Failure to comply with any regulations prescribed by the county surveyor or the commissioners court for protecting and preserving the records	Reprimand/1500
1071.401(a) (1)	Fraud or deceit in obtaining a certificate or license	Revocation/1500
(a)(2)	Gross negligence, incompetence, or misconduct in the practice of surveying	Revocation/1500
(a)(3)	Violation of the Act or Board Rule	Revocation/1500
1071.401(b)	LSLs directly or indirectly interested in the purchase or acquisition of title to public land	Revocation/1500
1071.504(b)(1)	Engaging or offering land surveying services without being registered/licensed	Injunction/1500
(b)(2)	Presents or attempts to use another person's certificate, license or seal	Revocation/1500 Injunction/1500

Citation	Violation	Sanction on a First Offense
(b)(3)	Giving false or forged evidence to obtain or assist another in obtaining a registration/license	Revocation/1500
(b)(4)	Violation of the Act or Board Rule	Reprimand/1500
661.45(f)	Actions to compromise the examination.	Disqualification/1500
661.46(a)	Failure to secure a seal of the type specified by the Board.	Reprimand/100
(b)	Failure to sign and affix their seal to the oath and submit to the Board	Reprimand/100
661.52(b)	Engaging in the practice of professional land surveying while registrant/license is in Inactive Status.	Suspension/Revocation/ 1500
(c)	Using seal during Inactive Status.	Suspension/Revocation/ 1500
661.55(a)	Failure of Firm to apply for and receive a Firm Registration Certificate with the Board.	Injunction/1500
(b)	Failure by Registrant/Licensee to ensure Firm employing them complies with filing requirements.	Reprimand/1500
(c)	Failure of Registrant/Licensee employed by a Firm to notify the Board in writing within (5) business	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	days prior to or after leaving employment.	
(g)	Failure of registered Firm to sign oath and submit it to the Board.	Suspension/Revocation/Reprimand/1500
661.57(1)	Failure of Firm to include Certificate of Registration firm number on offer to perform surveying services to the public.	Reprimand/1500
(2)	Failure of Firm to designate a surveyor of record for main office and for each branch office.	Reprimand/1500
(4)	Firm offering or performing surveying services without a current certificate of Firm registration.	Injunction/Reprimand/1500
(9)	Failure of Firm to cooperate in Board investigations by being unwilling to make files and pertinent records available to the registrant/licensee.	Reprimand/1500
(10)	Failure of Firm providing contract field crews to employ a full time R.P.L.S.	Reprimand/1500

Citation	Violation	Sanction on a First Offense
661.60 (a)	Failure to respond to Board inquiries/orders	Reprimand/1500
661.62 (f) or 661.68	Failure to attend hearing if requested.	Default Judgment
661.97	Failure of a registrant/licensee or Firm who receives a disciplinary action relative to the practice of land surveying in another jurisdiction to report such final disciplinary action to the Texas Board within 30 days.	Reprimand/1500
663.1	Failure of registrant/licensee to conduct practice with highest degree of moral and ethical standards.	Reprimand/1500
663.1(2)	Failure to notify the Board of any change of mailing address as it occurs	Reprimand/100
(3)	Failure to notify consumers of the name, mailing address, and phone number of the Board	Reprimand/100
663.3 (1)	Failure to accurately and truthfully represent ones capabilities and qualifications	Reprimand/100
(2)	Performing services for which he/she is not qualified	Reprimand/100

Citation	Violation	Sanction on a First Offense
(3)	Evading statutory responsibility to client or employer	Reprimand/100
663.4 (1)	Performing surveying services if there exists any financial or other interest that may be in conflict with the obligation to render a faithful discharge of such services	Reprimand/1500
663.4 (4)	Failure to withdraw from employment at any time during such employment or engagement when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client or employer	Reprimand/1500
(5)	Accepting remuneration from any party other than his/her client or employer for a particular project nor have any other direct or indirect financial interest in other services or phase of service to be provided for such project	Reprimand/1500
(6)	Failure to keep inviolate the confidences of his/her client or employer	Reprimand/1500

Citation	Violation	Sanction on a First Offense
663.5	Failure to perform work with integrity, truthfulness and accuracy. Misleading the public.	Suspension/Revocation/Reprimand/1500
(1)	Allowing a person who is not registered or licensed to exert control over professional work.	Reprimand/1500
(2)	Indulging in publicity that is false, misleading or deceptive.	Reprimand/100
(3)	Misrepresenting the amount or extent of prior education or experience to any employer, client, or the Board.	Reprimand/100
(4)	Representing themselves as being engaged in a partnership or association when no partnership or association exists.	Suspension/Revocation/Reprimand/1500
(5)	Recommend to a client services of another for the purpose of collecting a fee for himself, without the knowledge and consent of client.	Reprimand/100
663.6 (1)	Failure to make known to the board any unauthorized practice of which the registrant has	Reprimand/1500



Citation	Violation	Sanction on a First Offense
	personal knowledge.	
(2)	Failure to divulge any information, of which the registrant has personal knowledge, related to any unauthorized practice to the Board upon request.	Reprimand/100
(3)	Delegate responsibility to, or aid or abet, an unauthorized person to practice or offer to practice.	Reprimand/1500
663.8 (1)	Failure to abide by and conform to the registration and licensing laws of the state.	Reprimand/1500
(2)	Failure to abide by and conform to the provisions of the state code and all local codes and ordinances.	Reprimand/1500
(3)	Violate, aid and abet another in violating a rule of conduct or engage in any conduct adversely affecting his/her fitness to practice.	Suspension/Revocation/Reprimand/1500
(4)	Signing or impressing ones seal or stamp upon documents not prepared by	Suspension/Revocation/Reprimand/1500

Citation	Violation	Sanction on a First Offense
	him/her or knowingly permit ones seal or stamp to be used by any other person.	
(5)	Submitting a request or a competitive bid to perform professional surveying services for a governmental entity or political subdivision of the State of Texas unless specifically authorized by state law.	Reprimand/100
663.9 (a)	Offering or promising to pay any commission, contribution, gift, favor, gratuity, or reward as an inducement to secure any specific work without full disclosure to all interested parties.	Reprimand/100
(b)	Making, publishing or cause to be made or published any representation or statement concerning ones professional qualifications or those of his/her partners or associates that is misleading.	Reprimand/100
(c)	Failure to have personal knowledge of documents, plats,	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	maps or reports that bear the surveyor's seal or signature.	
(d)	Failure of the surveyor and/or Firm to maintain in a retrievable format all records and files pertaining to the preparation of a land survey document for a minimum of ten (10) years from the date of the document.	Reprimand/1500
663.10 (1)	Violating any provision of the Act or Rules.	Reprimand/1500
(2)	Circumventing or attempting to circumvent any provision of the Act or Rules.	Reprimand/1500
(3)	Participate in any plan, scheme or arrangement attempting to or having as its purpose the evasion of any provision of the Act or Rules.	Reprimand/1500
(4)	Failure to exercise reasonable care or diligence to prevent his/her partners, associates or employees from engaging in conduct which, if done by him/her, would violate any	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	of the provisions of the Act or Rules.	
(5)	Engaging in any conduct that discredits or attempts to discredit the profession of surveying.	Reprimand/1500
(6)	Permit or allow ones professional identification, seal, form, business name or service to be used or made use of to make it possible to create the opportunity for the unauthorized practice of professional surveying by any person, or firm in this state.	Suspension/Revocation/Reprimand/1500
(7)	Allowing an omission or making an assertion or representation that is fraudulent, deceitful or misleading or tends to create a misleading impression	Reprimand/1500
(8)	Aid or abet any unlicensed person in connection with the authorized practice of professional surveying or any firm or corporation in the practice of	Suspension/Revocation/Reprimand/1500

Citation	Violation	Sanction on a First Offense
	professional surveying unless carried on in accordance with the Act.	
663.15	Failure to report areas to the least significant number compatible with the precision of closure	Reprimand/100
663.15	Failure to use equipment and methods of practice capable of attaining the tolerances specified	Reprimand/1500
663.16 (1)	Failure to respect junior and senior rights for boundary retracement.	Reprimand/1500
(2)	Failure to follow the footsteps of the original surveyor.	Reprimand/1500
(3)(A)	Failure to rely upon appropriate deeds and/or other documents including those for adjoining parcels, for the location of the boundaries of the subject parcel(s).	Reprimand/1500
(3)(B)	Failure to assume the responsibility for such research of adequate thoroughness to support the determination of the location of intended boundaries of the	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	land parcel surveyed.	
(3)(C)	Failure to connect all boundaries to identifiable physical monuments related to corners of record dignity. In the absence of such monumentation, failure to report the surveyor's opinion of the boundary location by other appropriate physical evidence.	Reprimand/1500
(4)	Failure to follow the intent of the boundary location as evidenced by the record.	Reprimand/1500
(5)	Failure to respect the proper application of the rules of dignity (priority) of calls, and applicable statutory and case law of Texas.	Reprimand/1500
663.17 (a)	Failure to set monuments at sufficient depths to retain a stable and distinctive location or be of sufficient size to withstand the deteriorating forces of nature or be of such material that in the surveyor's judgment will best achieve this goal.	Reprimand/1500

Citation	Violation	Sanction on a First Offense
(b)	Failure to set, or leave as found, an adequate quantity of monuments of a stable and reasonably permanent nature to represent or reference the property or boundary corners. Failure to show and describe survey markers with sufficient evidence of the location of such markers on the surveyors' drawing, written description or report.	Reprimand/1500
(c)	Failure to tie corners of record to the boundary of the affected tract in metes and bounds descriptions prepared to be used in easements.	Reprimand/1500
(d)	Failure to mark, in a way that is traceable to the responsible registrant or associated employer, all monuments set; when practical.	Reprimand/1500
663.18 (a)	Failure to personally apply surveyor's seal to all documents representing professional surveying	Reprimand/1500

Citation	Violation	Sanction on a First Offense
(b)	Failure of registrant/licensee to ensure that document complies with all standards certified to.	Reprimand/1500
(c)	When preparing preliminary documents, failure to identify the purpose of the document, the surveyor of record and the surveyor's registration number, and the release date. Failure to note the following statement in the signature space: "Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document."	Reprimand/1500
663.19 (a)	Failure to delineate the relationship between record monuments and the location of boundaries surveyed. Failure to show such relationship on the survey plat, if a plat is prepared, and/or separate report and failure to recite such in the description with	Reprimand/1500



Citation	Violation	Sanction on a First Offense
	the appropriate record referenced thereon and therein.	
(b)	Failure to provide a definite and unambiguous identification of the location of boundaries and describe all monuments found or placed for descriptions prepared for defining boundaries.	Reprimand/1500
(c)	Failure to reference courses by notation upon the survey drawing to an identifiable and monumented line or an established geodetic system for directional control.	Reprimand/1500
(d)	Failure to note the firm name, Firm Registration Number, surveyor's name, address, and phone number who is responsible for the land survey, his/her official seal, his/her original signature and date surveyed on the plat.	Reprimand/1500
(e)	Failure to note and describe, upon the survey drawing, which boundary monuments were found or placed by	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	the surveyor and failure to note other monuments of record dignity relied upon to establish the corners of the property surveyed.	
(f)	Failure to cite a reference on the drawing and the prepared description to the record instrument that defines the location of adjoining boundaries, if appropriate.	Reprimand/1500
(g)	If any report consists of more than one part, failure to note the existence of the other part or parts	Reprimand/1500
(h)	If a written narrative is prepared in lieu of a drawing/sketch to report the results of a survey, and there is a failure to contain sufficient information to demonstrate the survey was conducted in compliance with the Act and rules of the Board.	Reprimand/1500
663.11(a)(1)	Failure of the registrant to notify the Board in writing within 90 days of any felony	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	or misdemeanor conviction	
(a) (2)	Failure of an applicant to state if he/she has ever been convicted of a felony or misdemeanor	Application Rejected Revocation
(a) (3)	Failure of the registrant/applicant to provide a summary of the conviction in sufficient detail to allow the Board to determine if it is applicable to the practice of land surveying	Application Rejected Revocation
663.20 (1)	Failure to apply and adhere to the rules of the Texas Board of Professional Land Surveying when establishing or delineating the perimeter boundary of the proposed subdivision.	Reprimand/1500
(2)	Failure to abide by, and conform to the provisions of the state code and any local codes and ordinances as to any other platting requirements.	Reprimand/1500
663.21 (1)	Falsifying the purpose of a metes and bounds description when preparing a description for a	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	Political Subdivision	
(2)	Preparing a description for a Political Subdivision that is ambiguous and non-locatable on the ground by ordinary surveying procedures	Reprimand/1500
(3)	Failure to ensure record monuments or physical monuments called for in the description prepared for a Political Subdivision	Reprimand/1500
(4)	Failure to perform an on the ground survey for any course and distance recited in the description when such is not referenced in a recited record	Reprimand/1500
(5)	Failure to place the required notation on descriptions prepared for Political Subdivisions, “ This document was prepared under 22 TAC 663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except	Reprimand/1500

Citation	Violation	Sanction on a First Offense
	those rights and interest implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.”	
664.6	Failure to maintain records to be used to support continuing education claimed in the event of an audit.	Reprimand/1500

**§661.100. Probation Guidelines.**

(a) In addition to or in lieu of an action to revoke, suspend, reprimand, refuse to renew or assess a penalty the Board may initiate an action, which will result in the affected registrant or licensee being placed on probationary status. The following factors may be considered in making a decision regarding probation:

- (1) Type and severity of violation;
- (2) Economic harm;
- (3) History of violations;
- (4) Efforts to correct the violation;

- (5) Action premeditated or intentional;
- (6) Motive;
- (7) Attempted concealment of violation;
- (8) The likelihood of future misconduct as shown by:
  - (A) Degree of remorse;
  - (B) Remedial procedures to prevent future violations; and
  - (C) Rehabilitative motivation or potential.
- (9) Any other relevant circumstances or facts.

(b) If the Board determines that probation is appropriate to deter future violations of the Act and Board Rules by the Respondent, probation shall be administered consistently under the following guidelines:

- (1) For violations with greater potential to jeopardize public health, safety, welfare, or property, the term of the probation may not be less than one year or more than five years; and
- (2) For violations with less potential to jeopardize public health, safety, welfare, or property, the term of the probation may not be less than six months or more than one year.

(c) The Board may prescribe conditions of probation on a case-by-case basis depending on the severity of the violation that will include reporting requirements, restrictions on practice, site inspections, and/or continuing education requirements as applicable as described in this subsection. The Board reserves the right to reconsider the terms of probation based upon any extenuating circumstances.

(d) The Board will determine the reporting requirements for each probation and will include a list of Board probation requirements and schedule for completion of those requirements in which the Board may require the license holder to submit documentation including, but not limited to, survey plats, client lists, job assignments, proof of continuing education participation, restricted practice reports, and other documents concerning the probation to demonstrate compliance with the conditions of probation. As a condition of probation, the license holder shall accept that schedule deadlines are final.

(e) The Board will receive and date stamp documentation on the day received and track compliance with probation requirements for each probated suspension. The Board shall honor postmarks for date of submittal; however, if not received by the required deadline, the license

holder shall have the burden of proof to demonstrate documentation was submitted by the schedule deadline.

(f) As a condition of probation, the Board may require the license holder to obtain continuing education in addition to the minimum requirements of §664.3 of this title (relating to Numerical Requirements for Continuing Education) and may prescribe formal classroom study, workshops, seminars, and other specific forms of continuing education.

(g) Failure to comply with probation requirements shall result in revocation of probation and reinstatement of the original sanction.

***§661.102. Alternative Dispute Resolution for Personnel and Contracting Matters.***

(a) It is the Board's policy to encourage the resolution and early settlement of all disputed matters, internal and external, through voluntary settlement procedures.

(b) The Executive Director shall designate at least one employee of the Board to serve as the Board's alternative dispute resolution coordinator to:

(1) Coordinate the implementation of the Board's alternative dispute resolution policies;

(2) Serve as a resource for any training needed to implement the procedures for alternative dispute resolution; and

(3) Collect data concerning the effectiveness of these procedures, as implemented by the Board.

(c) The Board, a respondent, the Executive Director, or any other party involved in an internal or external disputed matter may request that the matter be resolved through any manner of alternative dispute resolution specified in Chapter 154, Civil Practice and Remedies Code, including mediation, arbitration, and moderated settlement conferences, or through the appointment of an ombudsman.

(d) The allocation of the costs of alternative dispute resolution is subject to negotiation and agreement between the parties. The party who requests alternative dispute resolution may be liable for the cost of any third-party mediator, moderator, arbitrator, or ombudsman and shall otherwise bear her or his own cost arising from alternative dispute resolution.

(e) Any resolution reached as a result of an alternative dispute resolution procedure is intended to be through the voluntary agreement of the parties. Any resolution that purports to bind the Board must be approved by the Board at a meeting subject to the Texas Open Meetings Act, Chapter 551, Government Code.

(f) The Board is subject to the Texas Public Information Act, Chapter 552, Government Code. Any written record, communication, or other material is confidential only to the extent provided by law and subject to the exemptions provided in that Act.

### ***§661.104. Negotiated Rulemaking.***

- (a) It is the Board's policy to encourage public input and employ negotiated rule making procedures in the Board's rule making process when appropriate. When the Board is of the opinion that proposed rules are likely to be complex, or controversial, or to affect disparate groups, negotiated rulemaking will be considered.
- (b) When negotiated rulemaking is to be considered, the Board may elect to develop a draft rule either through an informal process or through the formal process described in Chapter 2008, Government Code.
- (c) If the Board elects to use an informal process, the Executive Director shall identify persons likely to be affected and invite them to participate in a public process for development of a draft rule.
- (d) If the Board elects to use a formal process, the Board will appoint a convener to assist it in determining whether it is advisable to proceed. The convener shall have the duties described in Chapter 2008, Government Code, and shall make a recommendation to the Executive Director to proceed or to defer negotiated rulemaking. The recommendation shall be made after the convener, at a minimum, has considered all of the items enumerated in Government Code, §2008.052(c).
- (e) Upon the convener's recommendation to proceed, the department shall initiate negotiated rulemaking according to the provisions of Chapter 2008, Government Code.

## **Standards of Professional Responsibility and Rules of Conduct**

### **General Practice Standards**

#### ***§663.1. Ethical Standards.***

Inasmuch as the practice of the land surveying profession is essential to the orderly use of our physical environment, and inasmuch as the technical work resultant thereof has important effects on the welfare, property, economy, and security of the public, the practice shall be conducted with the highest degree of moral and ethical standards. And inasmuch as the state legislature has vested in the Board the authority, power, and duty to establish and enforce standards of conduct and ethics for professional surveyors and licensed state land surveyors to ensure compliance with and enforcement of the Texas Board of Professional Land Surveying, the following standards of professional responsibility and rules of conduct are hereby promulgated and adopted by the Board.



(1) So that every applicant for registration as a professional land surveyor or licensed state land surveyor shall be fully aware of the great obligation and responsibility due the public, the standards of responsibility are promulgated by the Board. In furtherance of this intent, every registrant shall endorse and carry out the standards of responsibility.

(2) It is the responsibility of each registrant to notify the Board of any change of mailing address no later than five (5) business days after occurrence.

(3) Each Firm offering surveying services to the public shall notify consumers and service recipients of the name, mailing address, and telephone number of the Board for the purpose of directing complaints to the Board. This can be accomplished by:

(A) A sign prominently displayed in the place of business of each registrant offering professional land surveying services;

(B) On a bill for professional land surveying service;

(C) On each written contract for services; or

(D) On a Firm's website.

### ***§663.3. Offer to Perform Services.***

The client, employer, or the public is entitled to a careful and competent performance of services. Competence in performance of services requires the exercise of proficiency, reasonable care, and diligence. Therefore, every effort should be made to remain proficient in a field of endeavor, and employment for services to be rendered should not be accepted unless such services can be competently performed. The registrant:

(1) Shall accurately and truthfully represent to any prospective client, employer, or the public his/her capabilities and qualifications to perform the services to be rendered;

(2) Shall not offer to perform, nor perform, services for which he/she is not qualified by education or experience in any of the technical fields involved, without retaining the services of another who is so qualified; and

(3) Shall not evade his/her statutory responsibility nor his/her responsibility to a client, employer, and the public.

### ***§663.4. Conflicts of Interests.***

The acceptance of employment, or engagement to perform services, requires the faithful performance of services, and the avoidance of any conflict of interests. All dealings with a client, employer, or the public, and all matters related thereto including the land survey product(s) shall be kept in the closest confidence. Should an unavoidable conflict of interest arise, the client,

employer, or the public shall be immediately informed of any and all circumstances, which may hamper or impair the quality of the services to be rendered. The registrant:

- (1) Shall not agree to perform services for a client, employer, or the public if there exists any significant financial or other interest that may be in conflict with the obligation to render a faithful discharge of such services, except with the full knowledge, approval, and consent of the client or employer and all other parties involved;
- (2) Shall not continue to render such services without informing the client or employer, and all other parties involved, of any and all circumstances involved which may in any way affect the performance of such services, and then only with the full approval of the client or employer;
- (3) Shall not perform, nor continue to perform services for a client, employer, or the public if the existence of conflict of interest would impair independent judgment in rendering such services;
- (4) Shall withdraw from employment at any time during such employment or engagement when it becomes apparent that it is not possible to faithfully discharge the duty and performance of services owed the client, employer, or the public;
- (5) Shall not accept remuneration from any party other than his/her client or employer for a particular project nor have any other direct or indirect financial interest in other services or phase of service to be provided for such project, unless the client or employer has full knowledge and so approves; and
- (6) Shall keep inviolate the confidences of his/her client or employer, except as otherwise required in the rules of conduct.

**§663.5. Representations.**

The highest degree of integrity, truthfulness, and accuracy should be paramount in all dealings with, and representations to, others by not misleading in any way the other's understandings of personal qualifications or information regarding a project. The registrant:

- (1) Shall not allow any person, employee, employer, or supervisor, who is not registered or licensed under the Professional Land Surveying Practices Act to exert control over the end product of his/her professional land surveying work;
- (2) Shall not indulge in publicity that is false, misleading, or deceptive;
- (3) Shall not misrepresent the amount or extent of prior education or experience to any employer or client, nor to the Board;
- (4) Shall not hold out as being engaged in partnership or association with any person or Firm unless there exists in fact a partnership or associations; and

(5) Shall not, without the knowledge and consent of his/her client, recommend to a client the services of another for the purpose of collecting a fee for himself for those services.

**§663.6. *Unauthorized Practice.***

All registrants shall provide reasonable assistance to the Board in preventing the unauthorized practice of land surveying. Unauthorized practice shall not be aided in any way. The registrant:

- (1) Shall make known to the Board any unauthorized practice of which he/she has personal knowledge;
- (2) Shall divulge to the Board any information, of which he/she has personal knowledge, related to any unauthorized practice upon request of the Board or its authorized representatives; and
- (3) Shall not delegate responsibility to, nor in any way aid or abet, an unauthorized person to practice, or offer to practice.

**§663.8. *Adherence to Statutes and Codes.***

Strict adherence to practice requirements of related sections of the statutes, the state code, and all local codes and ordinances shall be maintained in all services rendered. The registrant:

- (1) Shall abide by, and conform to, the registration and licensing laws of the state;
- (2) Shall abide by, and conform to, the provisions of the state code and any local codes and ordinances not consistent with this Act. Any surveyor subdividing land into tracts subject to statutory requirements providing for an approval process by a governing body for such subdivision shall notify the individual whose intent it is to create the subdivision of the existence of the statutory requirements that pertain to and affect the development of the proposed subdivision prior to commencing the survey. It is recommended that this notification be in writing and a copy be maintained within the surveyor's permanent records;
- (3) Shall not violate nor aid and abet another in violating a rule of conduct nor engage in any conduct that may adversely affect his/her fitness to practice;
- (4) Shall not sign nor impress his/her seal or stamp upon documents not prepared by him/her or under his/her control or knowingly permit his/her seal or stamp to be used by any other person; and
- (5) Shall not submit or request, orally or in writing, a competitive bid to perform professional surveying services for a governmental entity or political subdivision of the State of Texas unless specifically authorized by state law.

(A) For purposes of this section, the Board considers competitive bidding to perform professional surveying services to include the submission of any monetary cost information in the initial step of selecting qualified professional land surveyors. Cost information or other information from which cost can be derived must not be submitted until the second step of negotiating a contract.

(B) This section does not prohibit competitive bidding in the private sector.

**§663.9. Professional Conduct.**

(a) The surveyor shall not offer or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, or reward as an inducement to secure any specific surveying work or assignment; provided, however, this rule shall not prevent a professional surveyor from offering or accepting referral fees or from discounting fees for services performed, with full disclosure to all interested parties. Further provided, however, a surveyor may pay a duly licensed employment agency its fee or commission for securing surveying employment in a salaried position.

(b) The surveyor shall not make, publish, or cause to be made or published, any representation or statement concerning his/her professional qualifications or those of his/her partners, associates, Firm, or organization which is in any way misleading, or tends to mislead the recipient thereof, or the public concerning his/her surveying education, experience, specialization, or any other surveying qualification.

(c) The surveyor, in using his/her seal, signature, or professional identification on documents, plats, maps, reports, plans, or other land surveying services or products, is representing to the public that the surveyor whose identification appears thereon has knowledge thereof and accepts professional responsibility therefor.

(d) The surveyor and/or the survey Firm shall maintain in a retrievable format all records and files pertaining to the preparation of a land survey document for a minimum of ten (10) years from the date of the document pursuant to §16.011 of the Texas Civil Practice and Remedies Code.

**§663.10. Disciplinary Rules.**

The land surveyor shall not:

- (1) Violate any provision of the Professional Land Surveying Practices Act (the Act) or Board rules thereof;
- (2) Circumvent or attempt to circumvent any provision of the Act or Board rules thereof through actions of another;
- (3) Participate, directly or indirectly, in any plan, scheme, or arrangement attempting to or having as its purpose the evasion of any provision of the Act and Board rules;

- (4) Fail to exercise reasonable care or diligence to prevent his/her partners, associates, or employees from engaging in conduct, which, if done by him, would violate any of the provisions of the Act or Board rules;
- (5) Engage in any conduct that discredits or attempts to discredit the profession of surveying;
- (6) Permit or allow any professional identification, seal, form, business name, or service to be used or made use of, directly or indirectly, in any manner whatsoever, so as to create the opportunity for the unauthorized practice of professional surveying by any person, or Firm, in this state;
- (7) Perform any acts, allow any omission, or make any assertions or representation which may be fraudulent, deceitful, or misleading, or which in any manner whatsoever, tend to create a misleading impression; or
- (8) Aid or abet, directly or indirectly, any unlicensed person in connection with the unauthorized practice of professional surveying or any Firm or corporation in the practice of professional surveying unless carried on in accordance with the Act and Board rules.

**§663.11. Criminal Convictions.**

(a) Pursuant to Title 2, Texas Occupations Code, Chapter 53, the following apply for registered professional land surveyors and applicants.

- (1) The registrant shall notify the Board in writing within 90 days of any conviction of any crime under the laws of the United States, or any state, territory or country thereof, which is a felony or a misdemeanor, whether related to the practice of surveying or not.
- (2) The applicant will be required to state on a form provided by the Board, whether he or she has ever been convicted of a felony or a misdemeanor.
- (3) Registrants or applicants are required to provide a summary of the conviction in sufficient detail to allow the Board to determine if it relates to the practice of professional land surveying or application for registration.
- (4) If the Board determines the conviction relates to the profession of land surveying, the Board staff will obtain sufficient details of the conviction to allow the Board to determine the effect of the conviction on the registrant's practice of surveying or the applicant's eligibility for registration.

(b) In determining whether a criminal conviction is applicable to a registrant's surveying practice or an applicant's application, the Board will consider the following:

- (1) The nature and seriousness of the crime;

(2) The relationship of the crime to the purposes for requiring a license to practice land surveying;

(3) The extent to which a license or registration might offer an opportunity to engage in further criminal activity of the same type as that which the individual had been previously involved; and

(4) The relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a Registered Professional Land Surveyor.

(c) In addition to the factors that the Board will consider under subsection (b) of this section, the Board shall consider the following in determining a person's fitness to perform the duties of a Registered Professional Land Surveyor:

(1) Extent and nature of the individual's past criminal activity;

(2) The age of the individual at the time the crime was committed, and the amount of time that has elapsed since the last criminal activity;

(3) The conduct and work activity of the individual prior to and following the criminal activity;

(4) Evidence of rehabilitation; and

(5) Other evidence of fitness to practice as a professional land surveyor.

(d) The application of any applicant deemed ineligible for registration because of a prior criminal conviction will be proposed for rejection and the applicant will be provided the following information in writing:

(1) The reason for rejecting the application;

(2) Notice of the administrative procedure used to conduct an informal conference and contested case hearing; and

(3) Notice that upon exhausting of the administrative appeal, an action may be filed in a district court of Travis County for review of the evidence presented to the Board and its decision. The person must begin the judicial review by filing a petition with the court within 30 days after the Board's decision is final.

(e) The Board shall revoke the certificate of registration of any registrant incarcerated or jailed as a result of conviction for a felony. The certificate of registration of any registrant shall also be revoked for felony probation revocation, revocation of parole, or revocation of mandatory supervision regardless of the date of the original conviction.

(f) The Board may revoke the certificate of registration of any registrant convicted of a misdemeanor or a felony if the crime directly relates to the duties and responsibilities as a professional land surveyor.

(1) Any registrant whose certificate of registration has been revoked under the provisions of this subsection will be advised in writing of the right to apply for registration. The application criteria are established in subsections (b) and (c) of this section.

(2) Any registrant whose certificate of registration has been revoked under the provisions of this subsection and who has exhausted administrative appeals may file an action in a district court of Travis County for review of the evidence presented to the Board and its decision. The person must begin the judicial review by filing a petition with the court within 30 days after the Board's decision or the decision is not subject to appeal.

(g) A person is convicted when an adjudication of guilt on an offense is entered against that person by a court of competent jurisdiction whether or not:

(1) The sentence is subsequently probated and the person is discharged from probation or community supervision; or

(2) The accusation, complaint, information or indictment against the person is dismissed and the person is released from all penalties and disabilities resulting from the offense.

(h) Imposition of deferred adjudication community supervision is not a conviction.

(i) Persons enrolled or planning to enroll in an educational program in preparation for applying to become a Registered Professional Land Surveyor may request a history evaluation to determine their eligibility for registration. It is the responsibility of the petitioner to obtain and send to the Board for each criminal offense in his or her criminal history (the entire court record), including final court orders noting sentencing information, conditions of probation, revocation of or release from probation, and any other information relating to the petitioner's criminal history, or requested by the Board, along with any recommendations of the prosecution, and/or law enforcement and/or correctional authorities regarding the offense(s). The petitioner shall also furnish documentation acceptable to the Board of prior/current employment status, evidence of court-ordered and/or voluntary rehabilitation, evidence of good conduct in their community, and evidence of payment of all outstanding court costs, supervision fees, fines, and restitution as ordered in the criminal cases in which they have been convicted, placed on deferred adjudication, community supervision and/or deferred disposition. The petitioner shall submit a fee in the amount of one hundred dollars (\$100) for the purpose of responding to the request.

## **Professional and Technical Standards**

### ***§663.13. Introduction.***

The Board establishes these minimum standards of practice to better serve the general public in regulating the practice of professional land surveying in Texas. Professional land surveying performed in Texas, unless otherwise specifically exempted herein, shall meet or exceed the requirements of these standards. The Board considers any survey, the purpose of which is to delineate, segregate, separate, or partition any interest in real property of any kind, under these standards except when prepared pursuant to §663.16 of this title (relating to Boundary Construction).

**§663.15. Precision and Accuracy.**

Survey measurements shall be made with equipment and methods of practice capable of attaining the accuracy and tolerances required by the professional land surveying services being performed.

Areas, if reported, shall be produced, recited, and/or shown only to the least significant number compatible with the precision of closure.

**§663.16. Boundary Construction.**

When delineating a boundary line as an integral portion of a survey, the land surveyor shall:

- (1) Respect junior/senior rights for boundary retracement;
- (2) Follow the footsteps of the original land surveyor;
- (3) Follow the documented records of the land title affecting the boundaries being surveyed;
  - (A) Rely on the appropriate deeds and/or other documents including those for adjoining parcels for the location of the boundaries of the subject parcel(s).
  - (B) A land surveyor assuming the responsibility of performing a land survey also assumes the responsibility for such research of adequate thoroughness to support the determination of the location of the boundaries of the land being surveyed. The land surveyor may rely on record data related to the determination of boundaries furnished for the registrants' use by a qualified provider, provided the registrant reasonably believes such data to be sufficient and notes, references, or credits the documentation by which it is furnished.
  - (C) All boundaries shall be connected to identifiable physical monuments related to corners of record dignity. In the absence of such monumentation the land surveyor's opinion of the boundary location shall be supported by other appropriate physical evidence, which shall be explained in a land surveyor's sketch or written report.
- (4) Follow the intent of the boundary location as evidenced by the record;



(5) Respect the proper application of the rules of dignity (priority) of calls, and applicable statutory and case law of Texas.

**§663.17. Monumentation.**

(a) All monuments set by registered professional land surveyors shall be set at sufficient depth to retain a stable and distinctive location and be of sufficient size to withstand the deteriorating forces of nature and shall be of such material that in the land surveyor's judgment will best achieve this goal.

(b) When delineating a property or boundary line as an integral portion of a survey (survey being defined in the Act, §1071.002(6) or (8)), the land surveyor shall set, or leave as found, an adequate quantity of monuments of a stable and reasonably permanent nature to represent or reference the property or boundary corners. All survey markers shall be shown and described with sufficient evidence of the location of such markers on the land surveyors' drawing, written description or report.

(c) All metes and bounds descriptions prepared as an exhibit to be used in easements shall be tied to corners of record related to the boundary of the affected tract in accordance with §663.17(b).

(d) Where practical, all monuments set by a Professional Land Surveyor to delineate or witness a boundary corner shall be marked in a way that is traceable to the responsible registrant or associated employer.

**§663.18. Certification.**

(a) The Registered Professional Land Surveyor shall personally apply his/her seal and signature to final documents released to the public representing professional land surveying as defined in the Act. The professional land surveyor shall maintain control and possession over his/her seal at all times.

(b) If the land surveyor certifies, or otherwise indicates, that his/her product or service meets a standard of practice in addition to that promulgated by the Texas Board of Professional Land Surveying, then the failure to so meet both standards may be considered by the Board, for disciplinary purposes, to be misleading the public.

(c) Preliminary documents released from a land surveyor's control shall identify the purpose of the document, the land surveyor of record and the land surveyor's registration number, and the release date. Such preliminary documents shall not be signed or sealed and shall bear the following statement in the signature space or upon the face of the document: "Preliminary, this document shall not be recorded for any purpose and shall not be used or viewed or relied upon as a final survey document". Preliminary documents released from the land surveyor's control which include this text in place of the land surveyor's signature need not comply with the other minimum standards promulgated in this chapter.

(d) A land surveyor shall certify only to factual information that the land surveyor has knowledge of or to information within his professional expertise as a land surveyor unless otherwise qualified.

(e) Registered professional land surveyors may certify, using the registrant's signature and official seal, services which are not within the definition of professional land surveying as defined in the Act, provided that such certification does not violate any Texas or federal law.

***§663.19. Survey Drawing/Written Description/Report.***

(a) All reports shall delineate the relationship between record monuments and the location of the boundaries surveyed; such relationship shall be shown on the survey drawing, if a drawing is prepared, and/or separate report and recited in the description with the appropriate record references recited thereon and therein.

(b) Every description prepared for the purpose of defining boundaries shall provide a definite and unambiguous identification of the location of such boundaries and shall describe all monuments found or placed.

(c) Courses shall be referenced by notation upon the survey drawing to an identifiable and monumented line or an established geodetic system for directional control.

(d) The survey drawing shall bear the Firm name and Firm Registration Number, the land surveyor's name, address, and phone number who is responsible for the land survey, his/her official seal, his/her original signature (see §661.46 of this title (relating to Seal and Oath), and date surveyed.

(e) Boundary monuments found or placed by the land surveyor shall be described upon the survey drawing. The land surveyor shall note upon the survey drawing, which monuments were found, which monuments were placed as a result of his/her survey, and other monuments of record dignity relied upon to establish the corners of the property surveyed.

(f) A reference shall be cited on the drawing and prepared description to the record instrument that defines the location of adjoining boundaries.

(g) If any report consists of more than one part, each part shall note the existence of the other part or parts.

(h) If a land surveyor provides a written narrative in lieu of a drawing/sketch to report the results of a survey, the written narrative shall contain sufficient information to demonstrate the survey was conducted in compliance with the Act and rules of the Board.

***§663.20. Subdivision Plat.***

When submitting a subdivision plat to a Political Subdivision of this state for review and recording, the surveyor shall apply and adhere to the rules of the Texas Board of Professional

Land Surveying when establishing or delineating the perimeter boundary of the proposed subdivision. The surveyor shall abide by, and conform to the provisions of the state code and any local codes and ordinances as to any other platting requirements.

***§663.21. Descriptions Prepared for Political Subdivisions.***

A registrant or licensee may prepare, sign, and seal a metes and bounds description from public land title records upon satisfying all of the following minimum conditions:

- (1) The description is prepared for a political subdivision of the State (which is defined as a county, city, district, or other body politic of the State having a jurisdiction over only a portion of the State) for the sole purpose of defining or modifying the boundaries of the political subdivision.
- (2) The description must be unambiguous and locatable on the ground by ordinary surveying procedures;
- (3) Any record monument or physical monumentation called for in the description must be in place at the time the surveyor prepares the description and the surveyor must have personal knowledge of such monument sufficient to give a proper current description for the monument and its accessories;
- (4) The surveyor signing the work must have performed an on the ground survey to support any course and distance recited in the description, except that the description may quote courses and distances from recorded documents (such as deeds) as long as the recording reference for any recited document is also quoted in the description; and
- (5) Any survey document prepared under this rule shall bear a note as follows: "This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared."

## **Continuing Education**

***§664.1. Purpose.***

The purpose of the sections in this chapter is the establishment of continuing professional education course or professional development activity requirements, which a registrant must complete periodically for the renewal of the certificate of registration.

***§664.2. Deadlines.***

Continuing education requirements for renewal shall be fulfilled during annual periods beginning on the first day of a registrant's renewal year and ending on the last day of the registrant's renewal year.

***§664.3. Numerical Requirements for Continuing Education.***

Beginning January 2011, a registrant, to be eligible for renewal of the certificate of registration, must accrue at least twelve (12) hours of completed board approved professional development activities during the immediate preceding twelve months in any annual period. Beginning January 2011 and every year thereafter, a minimum of three (3) of the twelve (12) hours shall be in board developed or approved hours on the Act, Rules, and/or ethics.

***§664.4 Types of Acceptable Continuing Education.***

Continuing education courses and professional development undertaken by a registrant shall be acceptable if the activity is approved by the Board and falls in one or more of the following categories:

- (1) Appointment, membership, or service on the Board or employment by the Board;
- (2) Completion of undergraduate or graduate academic courses with a passing grade in areas supporting development of skill and competence in professional land surveying at an institution which is accredited by ABET, Southern Association of Colleges and Schools or an equivalent;
- (3) Teaching or consultation in programs such as institutes, seminars, workshops which provide increased professional knowledge related to the practice of professional land surveying;
- (4) Participation in those sections of programs (e.g., institutes, seminars, workshops, and conferences) which provide increased professional knowledge related to the practice of professional land surveying and are conducted by persons qualified within their respective professions by appropriate state licensure or certification where state licensure or certification exists, or in states outside of Texas where licensure or certification does not exist by completion of a graduate degree and certification by their respective professional associations;
- (5) Author of a technical paper relating to professional land surveying published in a Board approved publication;
- (6) Appointment to and active participation by non-Board members on a committee of the Board;

- (7) Satisfactory completion of scheduled assignments in a correspondence course;
- (8) Meetings and activities such as in-service programs which are required as a part of one's job; and have been approved by the Board;
- (9) A maximum of four (4) hours of self-directed study in a topic related to the practice of surveying.

***§664.5. Procedure for Course Approval.***

Individuals and organizations may initiate requests for board approval and credits of specific programs for continuing education credit before these programs occur. Approval shall be given only for the specific program described in the request.

- (1) An approved sponsor is responsible for providing or arranging information necessary for verification of attendance at continuing education activities. Information provided must include the approved course number and date.
- (2) The registrant is responsible for compiling information necessary for the board to make a determination of the applicability of programs not previously approved by the Board.
- (3) Sponsors may initiate their own requests and may, when approval is obtained in advance, announce such approval in connection with the continuing education experience utilizing statements prescribed by the board.
- (4) Programs preapproved by registration boards of other jurisdictions will be accepted by this board at the same continuing education unit value assigned by the other board unless such program has been specifically disallowed by this board.

***§664.6. Reporting and Record Keeping.***

The registrant shall complete the application for renewal of a license with the required fee and declaration that he or she has obtained the required continuing education. Maintaining records to be used to support continuing education claimed in the event of an audit is the responsibility of the registrant.

***§664.7. Review and Audit Process.***

For each annual renewal period, the Board shall select, on a random basis, not less than five (5) percent of renewal applications for audit. The Board shall request each selected registrant to furnish a Continuing Education Log, on the form provided by the Board, chronicling the continuing education activities for the preceding year. The registrant must also furnish verification of attendance at the listed activities on the Board's Continuing Education Log. Upon receipt of the requested records, the Board may request the registrant to furnish further evidence necessary to satisfy the Board that the registrant has complied with the continuing education requirements of this rule.

If, through a complaint process, a violation of the Board's Rules or the Act is found the registrant will be subject to an audit as described above.

***§664.8. Failure to Complete Required Continuing Education.***

Failure to complete the continuing education requirements is a violation of Board rules and is subject to administrative penalties. If, after an audit is performed, it is determined that a registrant failed to complete all requirements for renewal of the certification of registration the registrant's license is suspended immediately upon the determination. The registrant's license shall be renewed upon submission of the required and approved continuing education report, payment of required late renewal fees, completion of required affidavits, and payment of any additional administrative penalties. The registrant will have 90 days after notification of license suspension to complete the required continuing education to avoid forfeiture of license. The ending dates of a registrant's subsequent annual continuing education cycles under §664.2 of this title (relating to Deadlines) are not changed or extended when a registrant did not meet continuing education requirements in any previous period(s).

***§664.9. Acceptable Carry-over Continuing Education Units/Hours.***

If a registrant exceeds the annual requirement in any renewal period, a maximum of 8 continuing education units/hours may be carried forward into the subsequent renewal period.

***§664.10. Exemptions.***

A Registrant may be exempt from the professional development educational requirements for one of the following reasons:

- (1) New Registrant by way of examination shall be exempt for their first renewal period.
- (2) A license holder serving on active duty and deployed outside Texas in or for the military service of the United States for a period of time exceeding one hundred twenty (120) consecutive days in a year shall be exempt from obtaining the professional development hours required during that year.
- (3) Registrants who list their status as "Inactive."

## **Examination Advisory Committees**

***§665.1. Introduction.***

The Board shall establish examination advisory committees for the purpose of developing and scoring examinations. Committees will be established to write exam questions, review selected exams for accuracy and resolution time and determine examination scores. Advisory committees will be responsible for developing and scoring examinations that will ensure a registrant's ability to protect the public safety, welfare and property. The goal of the committees will be to insure that only competent candidates pass the examination. The committees are established under the Professional Land Surveying Practices Act, §1071.552, which allows the Board to establish advisory committees. Except as provided by §1071.555 the committees are subject to Texas Government Code, Chapter 2110, concerning state agency advisory committees. The committee shall carry out any other tasks given to the committees by the Board.

***§665.2. Size, Quorum and Qualifications.***

(a) Each committee shall be composed of an odd number of not less than nine members from as varied geographic and practice areas as possible; committees will contain a minimum of:

- (1) Two members who have been registered less than seven years;
- (2) Two members who have been registered between seven and 15 years; and
- (3) Five members who have been registered more than 15 years.

(b) A simple majority of the membership of each committee constitutes a quorum.

(c) Existing members shall continue to serve until the Board appoints members under the new composition.

(d) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, is absent from more than half of the committee and subcommittee meetings during a calendar year, is absent from at least three consecutive committee meetings or is found to have practiced in violation of the Professional Land Surveying Practices Act and/or Board rules. The committee chair will notify the Board of such vacancies.

(e) Committee members must be currently registered and familiar with requirements for and capabilities of candidates who are minimally qualified to practice.

***§665.3. Process of Appointment.***

The Board will appoint advisory committee members pursuant to the qualifications listed in this section. All appointments made under this section shall be made without regard to race, creed, sex, religion or national origin. A member of the committee may be appointed to succeed him or herself.

***§665.4. Terms of Office.***

- (a) The term of office of each member shall be six years. Members shall serve after expiration of their terms until a replacement is appointed.
- (b) Members shall be appointed for staggered terms so that the terms of an equivalent number of members will expire on August 31st of each even-numbered year.
- (c) If a vacancy occurs, a person shall be appointed to serve the unexpired portion of that term.
- (d) The chair of the Board shall appoint a chair and vice chair of each committee. Each officer may holdover until his or her replacement is appointed by the chair of the Board.
- (e) The advisory committee chair shall preside at all committee meetings at which he or she is in attendance, call meetings in accordance with this section, appoint subcommittees of the committee as necessary, and cause proper reports to be made to the Board. The presiding officer may serve as an ex-officio member of any subcommittee of the committee.
- (f) The advisory committee vice chair shall perform the duties of the chair in case of the absence or disability of the presiding officer. In case the office of chair becomes vacant, the vice chair will serve until a successor is appointed to complete the unexpired portion of the term.
- (g) Members shall attend committee meetings as scheduled. Members shall attend meetings of subcommittees to which the member is assigned. A member shall notify the presiding officer or appropriate Board staff if he or she is unable to attend a scheduled meeting.
- (h) It is grounds for removal from the committee if a member cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability, is absent without cause from more than half of the committee and subcommittee meetings during a calendar year, or is absent without cause from at least three consecutive committee meetings.
- (i) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a member exists.
- (j) Staff support for the committee shall be provided by the Board.
- (k) Any action taken by the committee must be approved by a simple majority vote of the members present once quorum is established.
- (l) Each member shall have one vote.
- (m) The committee may establish subcommittees as necessary to assist the committee in carrying out its duties. The chair shall appoint members of the committee to serve on subcommittees and to act as subcommittee chairs. Subcommittees shall meet when called by the subcommittee chair or when so directed by the committee.



***§665.5. Non-binding Statements.***

The Board and the committee shall not be bound in any way by any statement or action on the part of any committee member except when a statement or action is in pursuit of specific instructions from the Board or committee.

***§665.6. Reimbursement for Expenses.***

In accordance with the requirements set forth in the Texas Government Code, Chapter 2110, a committee member may receive reimbursement for the member's expenses incurred for each day the member engages in official committee business if authorized by the General Appropriations Act or budget execution process.

- (1) A committee member who is an employee of a state agency may not receive reimbursement for expenses from the Board.
- (2) Each member who is to be reimbursed for expenses shall submit to staff the member's receipts for expenses and any required official forms no later than 14 days after each committee meeting.
- (3) Requests for reimbursement of expenses shall be made on official state travel vouchers prepared by Board staff.

***§665.7. Training.***

A person who is appointed to an advisory committee may not vote, deliberate, or be counted as a member until the person has received and reviewed the following:

- (1) The Professional Land Surveying Practices Act and Rules of the Board; and
- (2) Test Blueprints; and
- (3) Item Writers Guide.

***§665.8. Examination Process and Board's Interaction.***

The Board will select examinations using blueprints developed and approved by the Board.

- (1) Committees will be appointed to:
  - (A) Write examination questions based on content areas defined in the blueprint ;
  - (B) Review examinations before administration for accuracy and resolution time;
  - (C) Determine cut off scores; and
  - (D) For any other purposes determined necessary by the Board.

(2) Members of the Board may serve as liaison members to each committee. Each committee chair will either appoint or serve as a liaison to other committees as necessary to facilitate communication between committees.

***§665.9. Continuing Education Credit.***

Examination committee members are eligible to receive continuing education credit for time served in the commission of their duties and documented on forms signed by the chair of the committee and Executive Director of the Board.

***§665.10. Texas Guaranteed Student Loan Corporation Defaulters.***

(a) In accordance with the Texas Education Code, §57.491, holders of licenses as defined in that section who have been identified by the Texas Guaranteed Student Loan Corporation (TGSLC) as student loan defaulters are precluded from having their license renewed unless:

(1) The renewal is the first renewal following the Board's receipt of the list including the licensee's name among those in default; or

(2) The licensee presents to the Board a certificate issued by the TGSLC certifying that:

(A) The licensee has entered a repayment agreement on the defaulted loan; or

(B) The licensee is not in default on a loan guaranteed by the TGSLC.

(b) Whenever the Board has been notified by the TGSLC that a licensee is in default on a student loan the Board shall notify the licensee by certified mail of its intention not to renew his/her license upon the license's expiration. The licensee may, in writing within 30 days of receipt of the proposed action, request a hearing. In the absence of such a written request for a hearing the proposed intention not to renew will become final upon informal disposition, pursuant to Title 2, Texas Occupations Code, Chapter 53.

(c) Once the Board has received a certificate issued by the TGSLC that:

(1) The licensee has entered a repayment agreement on the defaulted loan; or

(2) The licensee is not in default on a loan guaranteed by the TGSLC, the licensee may apply for his/her license renewal subject to all other requirements for renewal.