

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW**

AGENCY: BOARD FOR)	DECISION OF DISAPPROVAL
PROFESSIONAL ENGINEERS)	OF REGULATORY ACTION
AND LAND SURVEYORS)	
)	(Government Code section 11349.3)
ACTION: Amend sections 404)	
and 424 and Repeal section 460)	OAL file No. 05-0715-03 S
of title 16 of the California Code)	
of Regulations)	
_____)	

BACKGROUND

The Board for Professional Engineers and Land Surveyors (“Board”) proposed changes to the definitions of various Board approved curricula and an increase in the years of experience credit available to some engineering students who graduate from an approved post-graduate curriculum. On July 15, 2005, these changes were submitted by the Board to OAL for review and on August 25, 2005, OAL disapproved the proposed changes. This Decision of Disapproval explains the reason for OAL’s action.

DECISION

The Board’s proposed action is inconsistent with controlling law because it would grant qualifying work experience credit in excess of the maximums set forth in Business and Professions Code section 6753.

DISCUSSION

An applicant for registration as a professional engineer must have the work experience required by Business and Professions Code section 6751, subdivision (b), paragraph (2), which provides that an applicant shall:

“Furnish evidence of six years or more of qualifying experience in engineering work satisfactory to the board evidencing that the applicant is competent to practice the character of engineering in the branch for which he or she is applying for registration, and successfully pass the second division of the examination.”

Business and Professions Code section 6753 specifies the amount of qualifying work experience available for listed educational activities. It provides:

“With respect to applicants for registration as professional engineers, the board:

“(a) Shall give credit as qualifying experience of four years, for graduation with an engineering degree from a college or university the curriculum of which has been approved by the board.

“(b) May at its discretion give credit as qualifying experience up to a maximum of two years, for graduation with an engineering degree from a nonapproved engineering curriculum or graduation with an engineering technology degree in an approved engineering technology curriculum.

“(c) May at its discretion give credit as qualifying experience of up to one-half year, for each year of successfully completed postsecondary study in an engineering curriculum up to a maximum of four years credit. A year of study shall be at least 32 semester units or 48 quarter units.

“(d) May at its discretion give credit as qualifying experience not in excess of one year, for a postgraduate degree in a school of engineering with a board approved postgraduate curriculum.

“(e) May at its discretion give credit as qualifying experience for engineering teaching, not in excess of one year, if of a character satisfactory to the board. The sum of qualifying experience credit for subdivision (a) to (e), inclusive, shall not exceed five years.”

The Board’s current regulation section 424 makes Business and Professions Code section 6753 more specific by defining terms, setting forth some limitations, and providing, in effect, that the Board shall grant applicants experience credit in amounts that are the same as the maximum levels described in section 6753. Of interest for the purposes of this discussion, the current regulation allows two years experience credit for graduation from a nonapproved engineering curriculum or an approved engineering technology curriculum and one additional year of experience credit for graduation from an approved post-graduate engineering curriculum.

The proposed regulation provides that the Board will grant “[f]ive years experience credit for graduation from an approved post-graduate engineering curriculum.” The intent here is to combine the credit for undergraduate study and graduate study into one number. When applied to graduates of both an approved undergraduate curriculum (4 years credit) and an approved post-graduate curriculum (one additional year credit), the result of 5 years experience credit is consistent with Business and Professions Code section 6753. On the other hand, when applied to graduates of a nonapproved engineering curriculum (2 years credit) who go on to graduate from an approved post-graduate engineering curriculum (one additional year credit), the 5 years experience credit that would be granted exceeds the sum of the maximums allowed for each of these types of educational achievement under section 6753.

In support of this change, the Board explained in the statement of reasons that “schools that offer ABET accredited post-graduate engineering programs have strict criteria in reviewing the student’s undergraduate degree in order to determine admission to the post-graduate program. A school with a post-graduate degree program accredited by ABET would require students to meet those requirements before admittance to the post-graduate program.” Without disagreeing with the Board’s rationale, OAL must simply note that

that Business and Professions Code section 6753 prescribes the *maximum* years of experience credit that may be granted for graduation from a nonapproved engineering curriculum or graduation from an approved engineering technology curriculum. The Board cannot combine this education, which is sufficient for 2 years of credit with post-graduate education sufficient for one year credit to yield 5 years of experience credit. Simply stated, the Board cannot grant experience credit in excess of the statutory maximums.

CONCLUSION

OAL disapproved the amendment of section 424 because the proposed changes are inconsistent with Business and Professions Code section 6753. The proposed changes to sections 404 and 460 depend in part upon the amendment to section 424, and for this reason the entire rulemaking action has been disapproved.

August 25, 2005

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