



Local Law 108/2019 *Notification Regarding Sanctions for False or Non-Compliant Professionally-Certified Filings*

Pursuant to **Local Law 108 of 2019**, the New York City Department of Buildings is required to send annual notifications to Registered Design Professionals (RDPs) advising of the grounds upon which they may be excluded, suspended or otherwise sanctioned in connection with submissions of professionally-certified filings. As an RDP, it is your obligation to familiarize yourself with all applicable laws, and to comply with such. Furthermore, failure to comply with applicable laws subjects you to discipline as set forth in the provisions below:

Less Than Full Examination of Application for Construction and Related Document Approval

- **§28-104.2.1.3 Mandatory program requirements.** Registered design professionals participating in such program shall be subject to sections 28-104.2.1.3.1 through 28-104.2.1.3.2.
 - **§28-104.2.1.3.1 Probation.** A registered design professional shall not be eligible to participate in the program during any period of probation imposed as a sanction by the board of regents pursuant to section 6511 of the education law.
 - **§28-104.2.1.3.2 Mandatory sanctions.** The commissioner shall, after the opportunity for a hearing before the office of administrative trials and hearings in accordance with department rules, exclude, suspend or otherwise condition the participation of a registered design professional who (i) knowingly or negligently submits a professional certification of an application and/or construction and other related documents that contains false information or is not in compliance with all applicable provisions of law, or (ii) submits two professionally certified applications for construction document approval within any 12-month period containing errors that result in revocation of an associated permit or that otherwise demonstrate incompetence or a lack of knowledge of applicable laws. The term “otherwise condition” shall mean limitations on such professional’s participation in the program, such as, but not limited to, audits and monitoring of the registered design professional’s applications and other submissions. For the purposes of this section, a professionally certified application shall include the professional certification of construction and other related documents and the satisfaction of objections issued at plan examination.
 - **§28-104.2.1.3.2.1 Reinstatement.** A registered design professional who is excluded from the program in accordance with section 28-104.2.1.3 may apply for reinstatement one year or more after such exclusion. An applicant who the commissioner finds is qualified to resume participation in the program shall be on probation for a period of not less than 6 months after reinstatement and during that time shall as a condition of such reinstatement attend one or more training or continuing education courses, approved by the department, related to compliance with the building code and related laws and rules and the zoning resolution. The professional shall submit satisfactory proof of the successful completion of such training or continuing education courses to the department.
 - **§28-104.2.1.3.2.2 Mandatory permanent revocation.** The commissioner shall permanently revoke, without the opportunity of restoration, the professional certification privileges of an engineer or architect who, while on probation,

professionally certifies an application, plans, construction or other related documents that contains false information or is not in compliance with all applicable provisions of law or who otherwise demonstrates incompetence or a lack of knowledge of applicable laws.

- *§28-104.2.1.3.2.3 Construction.* Nothing herein shall be construed to limit the commissioner's power, consistent with state and local law, to adopt rules that include additional grounds to limit the filing privileges of or otherwise sanction registered design professionals, after the opportunity for a hearing, who it determines, knowingly or negligently submit applications or other documents to the department that contain false information or are not in compliance with all applicable provisions of law or that otherwise demonstrate incompetence or a lack of knowledge of applicable law or standards.
- **§28-104.2.1.6 Notice to the state department of education.** The department shall provide written notice to the New York state department of education of any registered design professional who was the subject of any disciplinary proceeding where there has been an adverse determination or sanction by the department including any settlement agreement that is reached between the parties that resulted in a sanction of privileges being imposed by the department. Such notice shall be sent within ten business days after a determination is made in any such disciplinary proceeding or after a settlement of such proceeding has been reached, and shall include the name, and business firm name and address of such registered design professional, as well as any supporting documentation for the sanction imposed. The department shall also provide such notice to the state department of education of any registered design professional that has been the subject of any disciplinary proceeding where there has been an adverse determination or sanction by the department within the five calendar years immediately preceding the effective date of this section.

False Statements

- **§28-211.1 False statements in certificates, forms, written statements, applications, reports, or certificates of correction.** It shall be unlawful for any person to knowingly or negligently make or allow to be made a material false statement in any certificate, professional certification, form, signed statement, application, report or certification of the correction of a violation that is either submitted directly to the department or that is generated with the intent that the department rely on its assertions.
 - §28-211.1.2 Additional penalty for false statements. In addition to any other penalty provided by law, the commissioner may refuse to accept an application or other document submitted pursuant to or in satisfaction of a requirement of this code or of a rule of any agency promulgated there under that bears the signature of a person who has been found, after a hearing at the office of administrative trials and hearings pursuant to the department's rules, to have knowingly or negligently made a false statement or to have knowingly or negligently falsified or allowed to be falsified any certificate, form, signed statement, application, report or certification of the correction of a violation required under the provisions of this code or of a rule of any agency promulgated there under.

1 RCNY §21-02 Exclusion from Limited Supervisory Check and/or Professional Certification Programs

Grounds for exclusion. The Commissioner may exclude an architect or engineer from the Department's programs for limited supervisory check and/or professional certification of applications, plans and removal of objections if the Commissioner finds that the architect or engineer has:

- (1) Displayed negligence or incompetence with regard to, or lack of knowledge of, the Building Code, the Zoning Resolution, the Department's regulations, or other applicable laws, rules or regulations as demonstrated by plans, applications, certifications, or inspection reports submitted by the architect or engineer to the Department; *or*
- (2) Submitted plans, applications, certifications or inspection reports to the City that were required to be prepared by the architect or engineer or under his or her supervision but that were not prepared by the architect or engineer or under his or her supervision; or engaged in conduct evidencing a delegation of professional responsibilities to a person where the architect or engineer knew or had reason to know that such person was not qualified, by training, by experience or by licensure, to perform them; *or*
- (3) Knowingly or negligently made false or misleading statements on or knowingly or negligently falsified, altered or allowed a person under his or her control and/or supervision to falsify or alter any certificate, form, signed statement, application or report filed with the City, or knowingly or negligently failed to file a report or obtain any approval, certification, waiver or reconsideration required by law or the City or willfully impeded or obstructed such filing, or induced another person to do so; *or*
- (4) Been convicted of a criminal offense where the underlying act arises out of the architect or engineer's professional occupation or business dealings; *or*
- (5) Had knowledge that any project or application filed with the Department with which the architect or engineer is involved in any capacity was fraudulent or dishonest in character and failed to report such fraudulence or dishonesty to the Department, the Department of Investigation or other relevant authority; *or*
- (6) Engaged in misconduct regarding his or her Department-issued Photo Identification Card; *or*
- (7) Engaged in any conduct related to any activity performed in connection with his or her profession that evidences a failure to comply with the provisions of Federal, State or local law, rules or regulations or a Department order or requirement; *or*
- (8) Impeded, obstructed or failed to cooperate with an investigation or inquiry of or failed to provide documents requested by the Commissioner or his or her designee or the Department; *or*
- (9) Made a material misrepresentation to persons not affiliated with the Department regarding the status of applications and/or plans filed with the Department; *or*
- (10) Altered, defaced or destroyed Department property, or removed Department property, including permitted folders, from Department premises; *or*

- (11) Offered or attempted to offer a bribe or unlawful gratuity to a Department employee or other public servant; *or*
- (12) Failed to maintain a copy of plans and/or related documents approved by the Department for six years after the applicant has been issued a letter of completion, a Certificate of Occupancy, or an application sign-off, whichever occurs later; *or*
- (13) Permitted the improper use of, or had knowledge of or failed to promptly report to the Department any improper use of his or her professional stamp, signature, or license number; *or*
- (14) Within a period of six months, failed two Department audits that resulted in revocations.