

Opinion No. 82-17

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OPINION OF: Jeff Bingaman, Attorney General

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TO: Gloria Garcia, Secretary of the Board, New Mexico State Board of Registration for Professional Engineers & Land Surveyors, P.O. Box 4847, Santa Fe, New Mexico 87501

LICENSES AND LICENSING

Although professional engineer members of the State Board of Registration for Professional Engineers and Land Surveyors must have been engaged in the practice of engineering for at least twelve years, they need not have been registered as professional engineers in New Mexico for twelve years.

QUESTIONS

Must a person have been registered as a professional engineer in New Mexico for 12 years in order to be appointed and to serve as a professional engineer member of the State Board of Registration for Professional Engineers and Land Surveyors?

CONCLUSIONS

No.

ANALYSIS

Section 61-23-9 NMSA 1978 requires that every member of the New Mexico State Board of Registration for Professional Engineers and Land Surveyors be a United States citizen and a New Mexico resident. Each of the five professional engineer members shall also "be a registered professional engineer . . . , shall have engaged in the practice" of engineering "for at least twelve years, and shall have been in responsible charge of work for at least five years." Section 61-23-6C NMSA 1978 states that "professional engineer means a person who" "is qualified to practice engineering as attested by legal registration as a professional engineer in the state." Thus, the professional engineer members must hold current registrations as professional engineers in the State of New Mexico.

OPINION

It is clear that the professional engineer members must also have been engaged in the practice of engineering for at least twelve years. This requirement is in a separate

clause from, and therefore separate from, the requirement of registration as a professional engineer in New Mexico. "Practice of engineering" is defined in Section 61-23-6A NMSA 1978 as

"the performance of any professional service or creative work requiring engineering education, training and experience, and the application of special knowledge of the mathematical, physical and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design and observation of construction for the purpose of assuring substantial compliance with specifications and design, in connection with the utilization of the forces, energies and the materials of nature in the development, production and functioning of engineering processes, apparatus, machines, equipment, facilities, structures, buildings, works or utilities, or any combination or aggregations thereof employed in or devoted to public or private enterprise or uses and wherein the public welfare, or {³¹⁰} the safeguarding of life, health or property is concerned or involved. Such practice includes the performance of architectural work incidental to the practice of engineering. . ."

Section 61-23-6A does not limit the definition of "practice of engineering" to performance of professional services within New Mexico or while registered in New Mexico. Thus, a person could satisfy this requirement if he or she had been engaged in the practice of engineering as defined in Section 61-23-6A, above, either in New Mexico or elsewhere for twelve years prior to appointment to the Board.

The professional engineer board members must also "have been in responsible charge of work for at least five years." "Responsible charge of work" is defined in Section 61-23-6D NMSA 1978 as

"the independent control and direction, by using initiative, skill and independent judgment, of the investigation or design of engineering work or the observation of such projects."

Neither Section 61-23-9 nor 61-23-6D limit this requirement to work performed in New Mexico.

ATTORNEY GENERAL

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