

# CRIMINAL CONVICTIONS FAQ

## 1. How might a criminal conviction affect my application for licensure?

Applicants with past convictions may need to go through some extra steps in the review process when they apply for a license with the LATC. This does not necessarily mean that they won't be licensed; most go on to either receive an unrestricted license or are granted a license with certain probationary conditions to ensure public protection.

The LATC is unable to provide legal advice to applicants. Every situation is unique and is addressed on an individual basis. The LATC reviews each conviction based not only on the conviction itself in relation to the statutes, but also on the underlying issues that led to the conviction.

A conviction that does not, at first glance, appear to be substantially related to the qualifications, functions, or duties of a landscape architect, may, under closer scrutiny, be revealed otherwise. All information related to an applicant's criminal history is considered including: the specific conviction; when it occurred; the circumstances surrounding the conviction; the number of convictions; compliance with the court's terms and conditions; and rehabilitation are all factors considered when determining an applicant's eligibility for licensure.

## 2. Must I disclose all criminal convictions?

Effective January 1, 2022, the LATC no longer requires an applicant to disclose prior criminal record history. Any criminal record will be discovered upon receipt of fingerprint results, at which time, the LATC will request the applicant to voluntarily provide an explanation and evidence of rehabilitation.

Although Applicants with criminal convictions are not required to disclose a conviction on their application or provide supporting documentation, in order to expedite the review of convictions and the LATC's ultimate licensing decision, applicants may voluntarily provide the following for each conviction:

- A written explanation detailing the circumstances surrounding each conviction.
- A copy of the arrest/incident report(s) for **each** conviction.
- A certified copy of the court documentation for **each** conviction. Court documentation submitted should include, but is not limited to, the criminal complaint, court minutes, sentencing, and probation order.
- Current proof of compliance with probation may include, but is not limited to, participation in or completion of any drug and/or alcohol, anger management, domestic violence, or theft programs; payment of fees, fines or restitution; or completion of community service.

- A certified copy of any official document showing the date of release from incarceration if ordered pursuant to a criminal conviction.

An Applicant's disclosure of these items is voluntary – they may provide all, some, or none of them. An Applicant's decision to not provide any information will not be a factor in the LATC's decision to grant or deny an application for licensure. If information is not provided, the LATC may obtain arrest, court, prison or records from other sources to determine whether a conviction may be used as a basis for denying an application for licensure.

The LATC does not pre-screen applicants with criminal convictions to determine eligibility for licensure and cannot offer legal advice. Please consult an attorney if you have any questions about completing the application.

### **3. What if my conviction occurred several years ago?**

The Board may only deny a license if the applicant has been convicted of a crime within the preceding seven years from the date of application that is substantially related to the qualifications, functions, or duties of a landscape architect, regardless of whether the applicant was incarcerated for that crime, or the applicant has been convicted of a crime that is substantially related to the qualifications, functions, or duties of a landscape architect and for which the applicant is presently incarcerated or for which the applicant was released from incarceration within the preceding seven years from the date of application.

There are two exceptions to the seven-year limitation. Convictions for these types of crimes can lead to a denial regardless of age. They are as follows:

- A serious felony conviction. (See Penal Code Section 1192.7)
- A crime for which registration as a sex offender is required pursuant to Penal Code Section 290(d)(2) or (3) (as effective January 1, 2021).

### **4. What if my conviction has been expunged or dismissed?**

There are certain circumstances where a conviction cannot be a basis for license denial, even if it occurred within the preceding seven years. They are as follows:

- You have obtained a certificate of rehabilitation under Chapter 3.5 of Title 6 of Part 3 of the Penal Code;
- You have been granted clemency or a pardon by a state or federal executive;
- You have made a showing of rehabilitation under Business and Professions Code Section 482; or
- Your conviction was dismissed under Penal Code Sections 1203.4, 1203.4a, 1203.41, 1203.42, or 1203.425 (or another state's equivalent). (You may be asked to provide proof of this.)

## **5. What criteria will the LATC use to determine Substantial Relationship and Criteria of Rehabilitation?**

### **Substantial Relationship Criteria** (California Code of Regulations, title 16, section 2655)

A crime will be considered substantially related to the qualifications, functions, and duties of a landscape architect if to a substantial degree it evidences present or potential unfitness of a landscape architect in a manner consistent with the public health, safety, or welfare.

The following factors are used in making this determination:

1. The nature and gravity of the offense.
2. The number of years elapsed since the date of the offense.
3. The nature and duties of a landscape architect.

### **Rehabilitation Criteria** (California Code of Regulations, title 16, section 2656)

If the Applicant completed the criminal sentence for the crime without a violation of parole or probation, the following criteria will be considered to determine rehabilitation:

1. The nature and gravity of the crime(s).
2. The length(s) of the applicable parole or probation period(s).
3. The extent to which the applicable parole or probation period was shortened or lengthened and the reason(s) the period was modified.
4. The terms or conditions of parole or probation and the extent to which they bear on the applicant's rehabilitation.
5. The extent to which the terms or conditions of parole or probation were modified, and the reason(s) for modification.

If the Applicant completed the criminal sentence for the crime without a violation of parole or probation, the following criteria will be considered to determine rehabilitation:

1. The nature and gravity of the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.
2. Evidence of any act(s), professional misconduct, or crime(s) committed subsequent to the act(s), professional misconduct, or crime(s) under consideration as grounds for denial.
3. The time that has elapsed since commission of the act(s), professional misconduct, or crime(s).
4. Whether the applicant has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.
5. The criteria above relating to an Applicant who has completed their sentence without a violation of probation or parole, as applicable.
6. Evidence, if any, of rehabilitation submitted by the applicant.