

**DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. CALIFORNIA ARCHITECTS BOARD
LANDSCAPE ARCHITECTS TECHNICAL COMMITTEE**

**PROPOSED REGULATORY LANGUAGE
Issuance and Appeal of Citations**

Legend:	Added text is indicated with an <u>underline</u> .
	Omitted text is indicated by (* * * *)
	Deleted text is indicated by strikeout .

Amend Sections 2630 and 2630.2 of Article 1 of Division 26 of Title 16 of the California Code of Regulations to read as follows:

§ 2630. Issuance of Citations.

(a) The Board's executive officer is authorized to issue citations containing orders of abatement and/or administrative fines pursuant to Sections 125.9, ~~or 148,~~ or 149 of the Code against landscape architects or unlicensed persons who have committed any acts or omissions which are in violation of the Landscape Architects Practice Act or any regulation adopted pursuant thereto.

(b) Each citation:

(1) shall be in writing;

(2) shall describe with particularity the nature and facts of the violation, including specific reference to the provision or provisions of law alleged to have been violated;

(3) may contain one or more of the following:

(A) an assessment of an administrative fine;

(B) an order of abatement fixing a reasonable period of time for abatement of the violation;

(4) shall be served on the cited individual, in person, or at the address of record on file with the Board, or the last known address, by certified and regular mail with return receipt requested;

(5) shall inform the cited person that, if he or she desires an informal conference to contest the finding of a violation, the informal conference shall be requested by written notice to the Board within 30 calendar days from the service of the citation;

(6) shall inform the cited person that, if he or she desires a hearing to contest the finding of a violation, the hearing shall be requested by written notice to the Board within 30 calendar days from service of the citation;

(7) shall inform the licensed person that failure to pay the fine within 30 calendar days of the date of assessment, unless the citation is being appealed, may result in disciplinary action being taken by the Board. If a citation is not contested and the fine is not paid, the full amount of the assessed fine shall be added to the fee for renewal of the license. A license shall not be renewed without the payment of the renewal fee and fine;

(8) shall inform the unlicensed person that failure to pay the fine within 30 calendar days of the date of assessment, unless the citation is being appealed, may result in the executive officer applying to the appropriate superior court for a judgement in the amount of the fine;

(cA) The sanction authorized under this Section shall be separate from, and in addition to, any civil or criminal remedies.

Note: Authority cited: Sections 12.5, 125.9, 148, 5526, and 5630, Business and Professions Code. Reference: Sections 125.9, 148, and 149, Business and Professions Code.

§ 2630.2. ~~Appeal of Citations~~ Contest of Citations; Informal Conference.

(a) Any person served with a citation issued pursuant to Section 2630 may contest the citation;

(1) ~~By~~ submitting a written request for an administrative hearing to the Board within 30 calendar days of service of the citation. Such hearings shall be conducted pursuant to the Administrative Procedure Act, Chapters 4.5 and 5, (commencing with Section 11400) of Part 1 of Division 3 of Title 2 of the Government Code.

(2)~~(b)~~ In addition to requesting a hearing as described in subsection (a), paragraph (1), the cited person may, within 30 calendar days of service of the citation, submit a written request for an informal conference with the executive officer.

(3)~~(c)~~ The request for an administrative hearing to contest a citation is not waived if the executive officer or their designee affirms or modifies the citation at an informal conference.

(b~~d~~) The executive officer or their designee shall, within ~~30 working~~ 60 calendar days from receipt of a written request for an informal conference as provided in subsection (b~~a~~)(2), hold an informal conference with the cited person. The ~~60~~ 30-day period may be extended by the executive officer or their designee for good cause. Following the informal conference, the executive officer or their designee may affirm, modify, or dismiss the citation, including any administrative fine assessed or order of abatement

issued. An order affirming, modifying, or dismissing the original citation shall be served on the cited person within 30 calendar days from the informal conference. Said order shall state in writing the reasons for the affirmation, modification, or dismissal of the original citation. If the order affirms or modifies the original citation, said order shall fix a reasonable period of time for abatement of the violation or payment of the fine. Service of this order shall be made as provided in Section 2630.

~~(c) If the informal conference results in the modification of the findings of violation(s), the amount of the fine, or the order of abatement, the citation shall be considered modified, but not withdrawn. The cited person shall be entitled to an administrative hearing to contest the modified citation if he or she made a request for an administrative hearing within 30 calendar days after service of the original citation. The cited person shall not be entitled to an informal conference to contest a modified citation. If the cited person did not make a timely request for an administrative hearing after service of the original citation, the decision in the modified citation shall be considered a final order.~~

(d) Within 30 calendar days after service of an affirmed or modified citation following an informal conference, a cited person who did not initially request an administrative hearing within 30 days of being served the original citation may make a request for an administrative hearing in writing to the executive officer. A cited person may not request a second informal conference to contest a citation that has been affirmed or modified following an informal conference. If the cited person does not make a timely request for an administrative hearing after service of the affirmed or modified citation following the informal conference, the decision in the affirmed or modified citation shall be considered a final order. An administrative hearing conducted after a citation is affirmed or modified after the informal conference shall be conducted as provided in paragraph (4) of subdivision (b) of Section 125.9 of the Code.

(e) If the citation is dismissed after the informal conference, the request for an administrative hearing, if any, shall be deemed to be withdrawn.

(f) Submittal of a written request for an administrative hearing as provided in subsection (a)(1) or (d), an informal conference as provided in subsection (a)(2), or both, stays the time period in which to pay the fine.

(g) If the written request for an administrative hearing as provided in subsection (a)(1) or (d), an informal conference as provided in subsection (a)(2), or both, is not submitted within 30 calendar days from service of the citation, the cited person is deemed to have waived his or her right to an administrative hearing or an informal conference.

Note: Authority cited: Sections 125.9, 148, and 5630, Business and Professions Code.
Reference: Sections 125.9, and 148, and 149, Business and Professions Code.