

DRAFT

**Minutes of the Meeting of the Board of  
Licensure for Professional Engineers and  
Surveyors held July 22, 2003 in Santa Fe, NM.**

**Members Present :**

Severiano Sisneros, PE, Chair  
Rola Idriss, PE, Vice Chair (by teleconference)  
Fred Sanchez, PS, Secretary  
Gilbert Chavez, PS (by teleconference)  
Charles Atwell, Public Member  
Patricio Guerrerortiz, PE  
David Marble, PE/PS (Retired)  
Stevan Schoen, Public Member

**Members Absent :**

Subhas Shah, PE

**Others Present :**

Elena Garcia, Executive Director  
Amanda Quintana, Manager  
Mary Smith, Assistant District Attorney, Legal Counsel to  
the Board  
Salvador I. Vigil, PS, NMPS  
Jeremy Seibert, FE Candidate  
Greg Geisler, Legislative Finance Committee Analyst  
Theresa Montoya, FE Candidate  
Charlene Sanchez  
Danielle Sanchez, FE Candidate

1. **CONVENE/ROLL CALL/INTRODUCTION OF GUESTS**

Chairman Sisneros convened the meeting at 9:10 a.m. A roll call was taken. It was noted that Mr. Shah was not able to attend this meeting. Dr. Idriss and Mr. Chavez participated by teleconference. Mr. Schoen was on his way.

2. **APPROVAL OF THE AGENDA**

It was moved by Mr. Guerrerortiz, seconded by Mr. Atwell and unanimously,  
**VOTED:** To approve the agenda as presented.

3. **LOSS OF SOME OF THE APRIL 2003 FE ANSWER SHEETS**

**3.1 Report from Director** – Mrs. Garcia expressed her deep regrets and apologies to both the exam candidates and the board members. She proceeded to describe the process of administering examinations. The FE examinations are proctored at three different test sites: Albuquerque, Socorro, and Las Cruces. After an exam session, proctors pack the exam booklets, answer sheets and FE reference handbooks into boxes, complete packing slips provided by the Board

office, and ship back to the Board via an overnight traceable courier. The head proctor at the Socorro exam site shipped approximately three (3) boxes back to the Board office. Two staff employees at the Board office are responsible for processing the licensing applications and examinations, the clerk specialist and the licensing manager (supervisor of the clerk specialist). The clerk specialist is responsible for ensuring that all material is received from each exam site and responsible for ensuring that all examination material and documentation is mailed to ACT and NCEES for grading in the postage-paid, self-addressed boxes NCEES provides. Once the boxes were received the clerk specialist went through each box and emptied the boxes onto the small conference table. There are specific instructions from NCEES that are in handling examination material to ensure that exams do not get compromised in any way. The clerk specialist is supposed to make sure that everything on each packing slip received from the three exam sites are in fact in each box. The packing slip from the head proctor indicated that there were twenty-nine (29) AM and (29) PM answer sheets enclosed. The clerk specialist does not remember if she looked in each box and checked the contents against the packing slip. She then consolidated all the FE answer sheets from all three sites in alphabetical order.

The head proctor indicated he may have placed two brown envelopes, one containing the AM answer sheets, and the other containing the PM answer sheets properly marked in the bigger boxes which usually contain the FE Reference Handbooks. The chain of custody is apparent since the signed packing slip from the proctor states that he packed the appropriate FE answer sheets in the boxes. It is not known if the answer sheets were ever pulled out of the box or not at the Board office, the clerk specialist does not remember. Once the answer sheets were placed in alphabetical order and separated in stacks of 100, they were mailed to ACT (contractor to NCEES for the FE exam) and NCEES within the required five (5) working days to ensure that they are graded in a timely manner and to make sure they do not remain too long in the Board's custody. As she was processing all these material, Mrs. Garcia indicated she reminded the clerk specialist several times to be sure and make copies of all of the completed answer sheets for the files before mailing. The clerk specialist assured her that she did. From the packing slip, 151 exam sheets were sent to ACT to be scored, when she should have sent 180 exams. This number was not reconciled to the number of people who signed the sign-in sheets. This is when the missing sheets should have been detected. The clerk specialist then proceeded to get all exam booklets in numeric order for shipping back to NCEES and ACT. The FE Reference Handbooks are not sent back to ACT. They are usually retained, and any clean Handbooks are mailed to candidates as advanced copies for the next FE exam session as study material. When the clerk specialist was cleaning out the conference room, she decided to go ahead and discard the copies of the Handbook since they were obsolete and NCEES would be administering the exam beginning with the October 2003 session.

When the exam score roster was received in early June, staff made it a priority to get the scores out to the exam candidates as soon as possible. This tragedy was discovered when the clerk specialist received a call from Jeremy Siebert the afternoon of June 19, 2003. Mr. Siebert was inquiring about his FE exam score. When our clerk specialist realized that his name was not on the score roster she researched it further by calling ACT to see if by chance his score had been forwarded to a different state on their score roster. ACT explained that they never received an exam answer sheet for grading for Mr. Siebert. At that point the clerk specialist began going through all the files of people who sat for the FE exam and realized that twenty-nine candidates' scores were not reported on the score roster. With further investigation it was determined that the twenty-nine candidates all sat for the exam in Socorro. Mrs. Garcia indicated she immediately called the Chairman of the Board, and contacted other members of the Board. Mrs. Garcia stated she made it her priority to contact the twenty-nine (29) examinees as soon as possible to let them know what had happened and to try to get as much feedback from them for a possible resolution. A certified letter was mailed to all candidates, and she also tried to contact each one by phone. Some of the candidates thought her intention of including a W-9 form in her letter was to just refund their money and make it an easy solution for this office. This was not the intent of the letter. She also did not want to imply that a special exam session would be the only solution discussed at this meeting.

Mr. Sanchez wanted to make it clear that Mr. Schoen had joined the meeting.

Mr. Schoen asked Mrs. Garcia if this was the first time that anything like this has ever happened in New Mexico. Mrs. Garcia responded that it was the first time since she has been with the Board, about 19 years. Mr. Marble states that one thing that isn't clear to him is how the exams were handled at the proctor site. Mrs. Garcia stated that she has no reason to think that the answer sheets were not in the boxes. When she called Socorro's head proctor to see how he packed the answer sheets, he indicated that he put them in two manila envelopes marked "AM answer sheets, Socorro" and "PM answer sheets, Socorro". He also indicated that he placed the manila envelopes in the biggest of the three boxes, which would contain the FE Reference Handbooks which were discarded. When questioned, the clerk specialist indicated the copies of the answer sheets were kept until she received the originals back from ACT. At that time, she also discarded the copies without verifying sheet by sheet that each original was received. Dr. Idriss stated that it seems like the two manila envelopes were either never received or stayed in the box and thrown away. Mr. Chavez stated that the bottom line is that we obviously don't have the exams, and we need to move on and find a resolution to the problem. We have already established the fact that the answer sheets have been lost. Mr. Guerrerortiz commented that it is time to act and resolve the consequences of this incident and perhaps under a separate meeting establish what needs to be done with the personnel issues. For now it is important that we discuss what the resolution will be for this distasteful incident, particularly for the candidates. It is important that candidates know that we are

going to take the steps that are fair and reasonable, and more importantly within the boundaries of the law. Mr. Sanchez stated that his original thought in finding a solution was for the Board to consider a way to give candidates an option of receiving a minimum passing score from the Board or letting them re-take the examination. Mr. Schoen commented that when we have a mistake like this, we need to figure out what is equitable and fair for the candidates. They are the ones that have been hurt by this mistake. Mr. Marble noticed in reading letters from the candidates that the one prevalent solution from them was to pass all 29 candidates. However, it is his understanding from the Attorney General's office that giving a passing score is not an option and candidates need to know that. Mr. Marble asked Ms. Smith what the Board's options may be at this time. Ms. Smith stated that although the easiest resolution would be to pass all the candidates, the statute and rules that govern the Board both state that the examinee must pass the exam, according to NMSA 61-23-14 C. Because that is what the legislature has set forth as a minimum requirement for examinees, this Board has no authority to usurp the power of the legislature and say otherwise. Ms. Smith stated that the Board's options are what the candidates suggested when Mrs. Garcia contacted them by telephone, essentially: (1) give them the option of taking the exam again to achieve a minimum passing score, this could happen by the candidates sitting at the October examination or scheduling a special examination, (2) refund their examination fees and let them decide what to do with their exam fees. Ms. Smith also stated that the most efficient resolution would be to take the October exam or take a specially scheduled exam. Mr. Atwell reiterated that essentially the Board can offer one of two choices, either refund their money or offer them the option of taking a new exam. Mr. Marble asked if it was possible to pay for candidates' travel to the exam site. Ms. Garcia indicated that at least four of the examinees are out of state. She believes it may be possible; however she will need to consult with LFC and DFA to make sure. Dr. Idriss states that there are certain situations where the Board has waived the FE for various reasons. She believes that this is a good circumstance and that the Board should be able to waive it. Dr. Idriss stated that if the Board asks candidates to re-take the exam, it is essentially saying that they actually did not pass, and this is not a fair assumption. It is a hardship to candidates since they may have spent hundreds of hours studying as well as spending eight hours taking the exam. Mrs. Garcia responded to Dr. Idriss statement indicating that since these FE candidates are working toward an initial license, the law does require the FE. The Board in the past may have not required the FE for a specific applicant if that applicant was already licensed in another state and was applying by endorsement/comity. If an applicant by endorsement did not take the FE for his/her home state, and if New Mexico's law at the time of the granting of the initial license by another state also did not require the FE, the Board would have accepted that individual's credentials without the FE. Mr. Guerrerortiz stated that the key words in the statute are "successfully completed the exam." One interpretation that may be feasible is that these twenty-nine candidates "successfully completed the exam" meaning they sat for the entire exam, however there is no score for them. The other interpretation is that the Board will not know if candidates successfully completed the exam until grades

are revealed. Mrs. Garcia advised that the Board has adopted the NCEES-recommended cut-off score for the national examinations, a passing status without meeting the cut-off score would not be accepted in other states. Mr. Sisneros stated that if the Board was to apply a passing status, it would be placing these candidates at a disadvantage by not explaining to them that if they wished to get licensed in another state they would have to have a passing score on the FE exam which we cannot give them due to this circumstance. Mr. Sanchez concurs that it would be equitable to give them the option of either passing them for New Mexico or giving them the option as to whether they wish to take the exam and assure licensure in other states. Mr. Sanchez stated that he believes the Board should make a decision which may not be what the attorney's decision may be. Ms. Smith stated that essentially there is no answer sheet to prove a passing or failing grade. There is no perfect solution to this; all she can do is try to keep the board focused on the statutes and rules. She stated that she will not dictate what the Board should do; it is a Board's decision. Mr. Schoen stated the Board does not want to disobey the law nor compound the problem for these candidates. We have the authority to administer the exam, which includes the Board paying for them to take a special exam as well as assist them for their travel to the exam site, but we need for our records to show and certify that these candidates did in fact pass the exam. Mr. Guerrerortiz stated that the Board's decision must fall within the boundaries of the law, and if the candidates don't have a grade, it will come back to them in the future and jeopardize their careers. Mrs. Garcia explained that in scheduling a special examination session, the location of the exam is up to the Board, however, it has to be on one day and at the same time. She explained that NCEES will not approve the exam to be given at different times for security reasons. Mr. Atwell stated that after listening to all of this debate, it is clear that there are only two options for these candidates. Now, the Board needs to deal with only these two options. He does not see it any other way. He agrees that he wants to be fair, but within the boundaries of the law, there are only two options and both include the candidates having to re-exam.

**3.2 Feedback from Candidates** – Jeremy Siebert was called by Chair Sisneros to give his opinion. Mr. Siebert stated that after surviving the rigorous curriculum at New Mexico Tech he assures the Board that he passed the exam, as well as anyone else from New Mexico Tech that put any effort into passing the exam. Mr. Siebert pointed out that in the paragraph above NMSA 61-23-14 C (discussed earlier), which is NMSA 61-23-14 B which states “...*the applicant shall be allowed to take the appropriate examination for certification as an engineer intern...*” he points out that taking the examination appropriately entails getting the examination graded appropriately and getting a score back appropriately. This section of the statute has already been broken. Mr. Siebert directed the Board to NMSA 61-23-10 B which states “*The Board shall have the power to adopt and amend all bylaws and rules of procedure...that may be reasonable for the proper performance of its duties and the regulation of its procedures, meeting records, examinations and conduct thereof...*” Mr. Siebert feels that he has been cheated out of a huge portion of his career, the FE in his view is merely a stepping stone

to his PE. The FE in no way shows that he has the knowledge of a PE. He does not see why a passing grade without prejudice should not be given to the twenty-nine Socorro FE candidates. He does not feel that taking the test again will remedy this problem, and no one has mentioned the time that it takes to study for the examination. He states that he will begin graduate school at the University of Texas at Austin, and he is sure that his time will be limited. To study for an eight-hour examination is just not feasible. He thanked the Board for holding this special meeting.

Chair Sisneros called Theresa Montoya to give her opinion. Ms. Montoya thanked Mrs. Garcia for being so upfront with the candidates and in such a timely manner. Ms. Montoya stated that as an engineer, people set certain milestones in their career one being the FE exam. Numerous hours are spent studying for this exam. She had rearranged her schedule to guarantee study time for the FE, and knows she passed the exam. There is proof that she sat for the exam on the sign-in sheets. To have students travel so far to come back to take an exam that they have already sat for is a lot to ask. One option that the Board has not considered if it will require everyone to re-take the exam is to hold study sessions for the candidates to bring them up to date quickly. The candidates have done their job by studying for hours and hours on end; and it will be very difficult right now to study for another exam session. Ms. Montoya also stated that as engineers everyone looks up to the Board to do what is right, so she urges the Board to please keep the candidates in mind when making the crucial decision. Chair Sisneros asked Ms. Montoya what her plans were after graduation in December. She replied that she has applied for graduate school at Columbia University, and they have asked her on the application if she has taken the FE exam. Since she did not know exactly what the outcome of this situation would be, she just left it blank. This is a perfect example of how this has affected candidates. Ms. Montoya suggested that another meeting be held to let the other candidates express their thoughts and comments. Mr. Marble asked Ms. Montoya how much time she thinks she would like or need to spend in a tutorial class. She stated that she had studied for four weeks everyday--working a lot of problems. She thought maybe a weekend course, two weeks before the examination would be very helpful to bring the examinees up to speed. She also wanted to point out that if they do have to take the exam again, she requests that it be proctored in the most convenient location possible.

Chair Sisneros asked Danielle Sanchez if she would like to speak. Ms. Sanchez stated that she is a graduate with a Chemical Engineering degree from New Mexico Tech. She stated that the candidates have already met all the requirements to sit for the FE exam. It is already an inconvenience to have to possibly sit for another exam that most of the candidates may have already passed, and to ask for transcripts is very inconvenient. If there is another exam, it needs to be very soon. Ms. Sanchez also explained that she has applied for jobs and they have asked if she has taken the FE exam. All she can say is yes she has taken it but there are no results, and she has to explain what has happened. She

stated that she appreciates how quickly Elena has relayed the information to the candidates, but that it is obvious that the scores were missing from the beginning. The candidates should have been informed much sooner and not when all the scores were received for New Mexico. There were a lot of steps that should have been taken to avoid this situation. She reiterated that getting transcripts from the university is difficult and she would appreciate it if the Board would request the transcripts directly from New Mexico Tech. She said that all the programs at New Mexico Tech more than cover everything that is on the FE exam.

Chair Sisneros thanked the candidates for their input and stated that he encourages everyone to continue with licensure, it is a very important role. Although this is an unfortunate situation, it is important in an engineer's career and maybe some good can come out of this somehow.

**3.3 Discussion on Board Options and Board Action -** Chair Sisneros stated that he agrees that a test needs to be taken, because in the future he sees some liability coming up. **MOTION:** Mr. Guerrerortiz moved to allow the twenty-nine (29) candidates to re-take the exam at a regularly scheduled exam session, waiving the fee, and making the accommodations so that there is as little inconvenience to the candidates as possible or allow them to take the test within thirty miles of where they reside, seconded by Mr. Marble.

**DISCUSSION:** Mr. Marble stated that we do not know if this would be acceptable to NCEES. Mrs. Garcia stated that if the exam was administered on the regularly scheduled exam date, she would probably be able to work with NCEES regarding the appropriate proctoring site. It was noted that it was almost impossible to get 29 people to agree to one exam date and one site for a special exam. Mr. Sanchez stated that he cannot support the motion because it is too broad. The two candidates that may now live in Kuwait would have to go to the American Embassy to take the exam. Greg Geisler, in order to facilitate the motion, asked Mrs. Garcia if the exam in October is the same as the exam in April. Mrs. Garcia stated that sometimes the same questions are used, however they try not to give the identical exam. Mr. Geisler said that if the April exam is obsolete, what would be the problem with these candidates re-taking the April exam at a time and place of their convenience, that exam would not be offered in October so their should not be a compromise in any way. Dr. Idriss stated that you can not give candidates the same exam twice because that would be treating these examinees differently than everyone else.

**AMENDMENT TO MOTION BY Mr. Schoen:** Add a grant to interested candidates for a tutorial for the exam, seconded by Mr. Marble.

**DISCUSSION:** Ms. Sanchez explained that while she was at New Mexico Tech she had all the study material she needed to study for the exam available to her through the university, and now she doesn't have anything to even begin studying for a new examination--maybe consider a grant for other study material other than a tutorial for those candidates who already have a job and don't have

time to make it to a tutorial session. Mr. Siebert stated that he doubts that he would ever have to take anything as serious as the FE exam again, and that this is a lot more serious than just losing some homework or a quiz, this is a step in his career. Mr. Sisneros stated that the candidates in Kuwait may not need to take the FE, as it is not necessary in other countries.

**Roll Call Vote :** Rola Idriss, PE, Vice Chair - NO; Fred Sanchez, PS, Secretary – NO; Gilbert Chavez, PS - NO; Charles Atwell, Public Member – NO; Stevan Schoen, Public Member – YES; Patricio-Guerrerortiz – Yes; David Marble - Yes.

Chair Sisneros said the vote was four NO, three YES, Motion Dies.

**MOTION:** It was moved by Mr. Atwell, seconded by Mr. Guerrerortiz that the Board direct the Director to notify the students that they have the option of taking the examination in October or April at the Board’s expense at the most suitable location where the test is offered.

**DISCUSSION:** Mr. Sanchez stated that he could not support this motion because it does not include any option of requesting tutorials, or study material for the candidates.

**FRIENDLY AMENDMENT MADE BY Mr. Guerrerortiz and accepted:** To offer the students a grant for tutorials or necessary study material, and a grant for any travel the student must do to get to an exam location.

**Roll Call Vote:** Rola Idriss, PE, Vice Chair - YES; Fred Sanchez, PS, Secretary – NO; Gilbert Chavez, PS - YES; David Marble, PEPS (Ret) – YES; Stevan Schoen, Public Member – YES; Mr. Guerrerortiz, PE – YES; Mr. Atwell, Public Member – YES; **MOTION GRANTED:** Six voted yes, one voted no.

The Board thanked all present for attending.

4. **ADJOURNMENT** – It was moved by Mr. Atwell, seconded by Mr. Guerrerortiz and unanimously,

**VOTED:** To adjourn the meeting.

Submitted,

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Elena Garcia, Executive Director

\_\_\_\_\_  
Date Approved

\_\_\_\_\_  
Severiano Sisneros, III, PE  
Board Chair