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ENGINEER—MINIMUM EVIDENCE NECESSARY FOR REGISTRATION AS PROFESSIONAL ENGINEER—SECTION 1083-13, SUBSECTION 1, PARAGRAPH a, G.C., AMENDED SENATE BILL 329, 98 G. A.—APPLICANT MUST GRADUATE FROM COLLEGE OR UNIVERSITY WHICH OFFERS SAME CREDITS OFFERED AT COLLEGE OR UNIVERSITY APPROVED BY NORTH CENTRAL ASSOCIATION OF COLLEGES AND UNIVERSITIES—PROVISO, COLLEGE OR UNIVERSITY APPROVED BY STATE BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND SURVEYORS.

SYLLABUS:

In order to satisfy the minimum evidence necessary for registration as a professional engineer as contained in Section 1083-13, sub-section (1), paragraph a., General Code (Amended Senate Bill No. 329, 98th General Assembly) it is necessary for an applicant to graduate from a college or university which offers the same credits offered at a college or university approved by the North Central association of colleges and universities; provided that such college or university is approved by the State Board of Registration for Professional Engineers and Surveyors.

Columbus, Ohio, June 23, 1950

State Registration Board for Professional Engineers and Surveyors
Columbus, Ohio

Gentlemen:

Your request for my opinion is as follows:

“The 1949 session of the General Assembly enacted certain amendments to the Professional Engineers and Surveyors Registration Law.

One of these amendments deals with the subjects of "an approved course in engineering" and "a recognized school or college of engineering." These terms apply in connection with an applicant's qualifications for examination and registration.

Prior to 1949, Section 1083-13, G. C. read in part, as follows:

'Sec. 1083-13. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, or surveyor, respectively, to wit:

(1) As a professional engineer:

(a) Graduation from an approved course in engineering of four years or more in a school or college approved by the board as of satisfactory standing; and a specific record—etc.'

"In the applicable amendment enacted in 1949, this section was revised to read as follows:

'Sec. 1083-13. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for registration as a professional engineer, or surveyor, respectively, to wit:

(1) As a professional engineer:

(a) Graduation from an approved course in engineering of four years or more in a recognized school or college of engineering; and a specific record—etc.'

The following paragraph was added to Section 1083-13 in the enacted amendment:

'For the purposes of this act "an approved course in engineering" shall be one the credits for which are offered by a college or university approved by the North Central association of colleges and universities at full value and a "recognized school or college of engineering" shall mean any college or university offering an approved course in engineering.'

The board interprets this amendment to not only define an approved course in engineering but also to transfer from the board to the North Central association of colleges and universities the function of deciding whether a particular institution is a recognized or approved school or college of engineering.

The board seeks your advice due to the fact that two Ohio colleges, not heretofore approved by the board, have recently sought approval of their engineering courses. Procedure is

complicated by the information which has come to the board, to the effect that the North Central association of colleges and universities does not accredit professional colleges, such as medical, law and engineering schools.

It may aid your understanding of the situation to explain that the amendment as submitted to the Legislature by its sponsors, did not name the North Central association of colleges and universities as the accrediting agency. After the bill had passed the Senate in its original form, it came to a vote in the House during the closing hours of the session. On the floor of the House an amendment to the bill was proposed which named the North Central association as the accrediting agency. The amendment carried, the House passed the bill as amended, the Senate concurred and the Legislature adjourned without opportunity for further conference.

Your opinion is respectfully requested concerning the following:

(1) Under the existing law does the board have any duty or legal authority to determine whether an institution is or is not an approved school or college of engineering?

(2) If it should be your opinion that the board has been separated from its previous responsibility to determine whether a school does offer an approved course in engineering and, if the North Central association of colleges and universities does not function in this particular capacity, do you have any suggestion as to procedure other than a revision of the law?"

In order to answer your first question it will be necessary to determine the proper construction of the portion of Section 1083-13, General Code, quoted in your letter. From the terms used in said section, there are two possible constructions, viz. (1) that in order to satisfy the minimum evidence necessary for registration as a professional engineer as contained in Section 1083-13, sub-paragraph (1) paragraph a., General Code (Am. S. B. No. 329, 98th General Assembly) it is necessary that an applicant be a graduate of a college or university approved by the North Central association of colleges and universities, and that he shall have taken a course in engineering; (2) That in order to satisfy the minimum requirement necessary for registration as a professional engineer, as contained in Section 1083-13, sub-paragraph (1) paragraph a., General Code (Am. S. B. No. 329, 98th General Assembly) it is necessary that an applicant be a graduate of a college or university that offers the same credits offered in a college or university approved by the North Central

association of colleges and universities and, as it necessarily follows, approved by your board.

Assuming, for the moment, that the correct construction is number (1) above, it may readily be seen that only an applicant who had attended a college or university approved by the North Central association would be eligible for registration. This result would follow despite the fact that the applicant had attended a first-class school or a professional college. In a particular situation this might easily amount to discrimination between both applicants and schools. Thus, an applicant receiving the same amount of education from an instructor of the same calibre and pursuing the same course of study at a competent college or university which had not been approved by the association would be discriminated against in favor of an applicant who had attended an approved college or university. Similarly, a professional college specializing in engineering would be discriminated against in favor of an approved college or university, in spite of the fact that the professional school devoted its entire time and output to engineering study.

Further, if construction number (1) were adopted, it might amount to a delegation of power by the legislative branch of the government to an association and would fail for the reason that no proper standards have been set up.

In my opinion, the legislature did not intend such result, but rather intended to leave to the board the determination of who is eligible for registration and to provide the board with a standard or guide by which to operate i. e. by setting up as a guide the approved courses of study of the North Central association of colleges and universities.

It is further my opinion that since the prime object in the construction of administrative statutes is to ascertain the intent of the legislature, an unreasonable or absurd intent cannot be attributed to a legislative enactment, and by construing the entire statute together and by giving effect to every part, it would seem that the more reasonable construction is that set forth in number (2) above. See 42 Am. Jur. Public Administrative Law, Section 11, page 300.

An examination of the entire statute relative to the State Board of Engineers and Surveyors (Sections 1083-1 to 1083-24, inclusive, General Code) will reveal that the legislature intended the board to have some amount of discretion in determining who may be considered eligible to

register and practice under the statute. Thus, in Section 1083-3, General Code, the board's duty is to administer the provisions of this act. Section 1083-8, General Code, requires that the board adopt rules and regulations "for the holding of examinations * * * and for governing all other matters requisite to the exercise of its powers, the performance of its duties * * *." Section 1083-13, General Code, requires applicants to submit evidence satisfactory to the board, and the entire section relates to evidence that is to be placed before the board before it may act. Section 1083-15, General Code, vests in the board the responsibility of holding and making up examinations. There are numerous other instances where the board is given discretion, and the above are enumerated for the purpose of showing what must have been the legislative intent.

In view of the above, it is my opinion that the Legislature in amending Section 1083-13, General Code, meant that in order to satisfy the minimum evidence necessary for registration as a professional engineer as contained in Section 1083-13, subsection (1) paragraph a., General Code, Am. S. B. No. 329, 98th General Assembly, it is necessary that an applicant be a graduate of a college or university which offers the same credits as are offered at a college or university approved by the North Central association of colleges and universities, provided that such college or university is approved by the State Board of Registration for Professional Engineers and Surveyors.

In view of this opinion, it is not necessary to answer your second question.

Respectfully,

HERBERT S. DUFFY,
Attorney General.