

# 1 RCNY §104-01

## CHAPTER 100

### Subchapter D Licensing and Registration of Businesses, Trades and Occupations Engaged in Building Work

#### §104-01 License Qualifications.

- (a) **Applicability.** This subchapter shall apply to all licenses issued by the Department, except where otherwise specified.
- (b) **Definitions.**
- (1) For purposes of this subchapter, the terms “City,” “Commissioner” and “Department” shall have the same meanings as set forth in §28-101.5 of the Administrative Code.
  - (2) For purposes of this subchapter, the term "license" shall include any license as defined in §28-401.3 of the Administrative Code, except that the term shall include "certificate of competence" whenever such a certificate is required by Chapter 4 of title 28 of the Administrative Code, and any Master Electrician’s License and Special Electrician’s License as defined in §27-3004 of the Administrative Code.
- (c) **Examinations**
- (1) Applicability. This subdivision shall apply to Department-sponsored examinations administered for the following licenses:
    - (i) Electrician (Master/Special)
    - (ii) High Pressure Boiler Operating Engineer
    - (iii) Master Fire Suppression Piping Contractor (Classes A, B and C)
    - (iv) Master Plumber
    - (v) Oil Burning Equipment Installer (Classes A and B)
    - (vi) Portable High Pressure Boiler Operating Engineer
    - (vii) Private Elevator Inspection Agency Director
    - (viii) Private Elevator Inspection Agency Inspector
    - (ix) Rigger (Master/Special/Climber or Tower Crane)
    - (x) Sign Hanger (Master/Special)
    - (xi) Site Safety Manager
  - (2) Examination procedures.
    - (i) The examination shall consist of a written test, practical test, or a combination of such tests. The practical test may include oral, reading, and/or practical components. Admission to a test does not imply that the applicant possesses the minimum qualifications required. License applicants may not release or otherwise make public the questions and answers for such tests.
    - (ii) Applicants must apply for any test by submitting an application on a form prescribed by the Department to the Department's Licensing & Exams Unit or its designee. The application must be accompanied by the examination fee and any other required documents as set forth in the Department's rules. Applicants reapplying to take any test, including after a failure, must do so in accordance with the requirements in this paragraph.
    - (iii) Where either a written or practical test, but not both, is required, applicants have six (6) months from submission of the application to take the test.
    - (iv) Where both written and practical tests are required, applicants have six (6) months from submission of the application to take the written test, two (2) months from notification of passing the written test to submit an application for the practical test, and six (6) months from submission of that application to take the practical test.

- (v) If an applicant fails the practical test, the applicant has up to twenty-four (24) months from the date of notification of passing the written test to pass the practical test.
  - (vi) Failed written test.
    - (A) Applicants who fail the written test must wait at least fourteen (14) days before reapplying to take the test.
    - (B) Each time an applicant wishes to take the written test, including after a failure, the applicant must reapply to the Department and pay the required fee as set forth in the Department's rules.
    - (C) Applicants may take the written test no more than three (3) times within a six (6) month period.
    - (D) Applicants who fail the written test three (3) times within six (6) months must wait six (6) months from the date of the third failed written test before reapplying to take the written test.
  - (vii) Failed practical test.
    - (A) Applicants who fail the practical test must wait at least ninety (90) days before reapplying to take the test.
    - (B) Each time an applicant wishes to take the practical test, including after a failure, the applicant must reapply to the Department and pay the required fee as set forth in the Department's rules.
    - (C) Applicants may take the practical test no more than two (2) times within a twelve (12) month period.
    - (D) Applicants who fail the practical test two (2) times within twelve (12) months must wait six (6) months from the date of the second failed practical test before reapplying to take the practical test.
  - (viii) An applicant who has been notified of failure to pass the written or practical test may appeal such failure only if the applicant has failed by not more than five (5) points. Such appeal must be in writing with an original signature and addressed as the Commissioner may require. The appeal must state the title of the license examination, the applicant's name, return address and social security number, the date of the test and a detailed statement of the grounds for appeal. The appeal must be received not later than thirty (30) days from the date of notification of failure to pass the test.
  - (ix) Impersonating and cheating.
    - (A) A person who impersonates another person, allows himself or herself to be impersonated, or otherwise cheats in a license examination shall be disqualified from receiving a license issued by the Department .
    - (B) A person disqualified for impersonating or otherwise cheating may submit a written request to the Commissioner to appeal the disqualification. The written request must be set forth reasons to substantiate the request and must be received not later than thirty (30) days from the date of notification of disqualification.
- (3) License examinations administered by other agencies. License examinations administered by other agencies for licenses regulated by the Department shall continue to be subject to such other agency's rules and regulations regarding examinations and investigations until the responsibility for administering particular licensing examinations is transferred to the Department, at which point the provisions of this rule shall apply.
- (d) **Education, training and experience.** An applicant must possess the minimum education, training and/or experience required by the Administrative Code at the time of filing the application. For purposes of this subdivision , the term "experience" refers to that experience gained in the relevant trade as the result of full-time compensated employment, unless otherwise determined by the Commissioner.
  - (e) **Documentation of education, training and experience submitted with the application.** For the purposes of qualification for licensure, "application" refers to the documents submitted to start the background investigation. An applicant must verify the claimed experience by submitting documentation with the application, unless the applicant is required to pass an examination in which case the documentation must be submitted upon passage of such examination. Such documentation must include but not be limited to:

(1) Notarized affidavits or a notarized form prescribed by the Department from all past or current employers under whom experience is claimed. Affidavits or forms from New York City licensees shall be sealed where applicable. Affidavits or forms must include the following information:

- (i) Applicant's job title (helper, journeyman, etc.);
- (ii) A detailed description of applicant's duties;
- (iii) When applicant worked with the licensee (employment dates shall be in mm/dd/yyyy format);
- (iv) Whether employment was on a full or part-time basis, detailing the average weekly hours; and
- (v) Where license supervision is required, a statement by the licensee that he or she directly supervised applicant's work.

(2) Social Security History of Earnings for the years applicant is claiming as experience reflecting wages appropriate for the trade.

(3) Where the code requires supervision in the design and installation of plumbing or fire suppression systems, evidence that the supervising licensees performed such work as demonstrated by permits, completed contracts or such other documentation as the Department may require.

(4) Where the applicant is self-employed, the applicant shall verify that he or she performed qualifying work by submitting documentation, including but not limited to personal and business tax returns, route sheets or work logs from the supervising licensee, contracts with customers, and statements from customers detailing the work the applicant performed and when that work was performed.

(5) Where the applicant did not receive monetary compensation from his or her employer as evidenced by payroll records, such as social security payments, income tax withholding or the disbursement of other funds as required by law for the benefit of such employee, the Department may consider such experience if the applicant can provide evidence of an employer-employee relationship. The applicant must provide a detailed explanation of the nature of the employer-employee relationship, which may include, but is not limited to, written agreements between the applicant and the employer, the employer's workers compensation records, time-keeping records, work logs, or other contemporaneous documentation as the Department may require.

(f)

**Fitness.**

(1) An applicant for a license issued by the Department, other than a Master, Special, Climber or Tower Crane Rigger or Hoisting Machine Operator, must provide evidence of fitness to perform the work authorized by the license.

(2) An applicant for license renewal or reinstatement, other than a license for Master, Special, Climber or Tower crane rigger or Hoisting Machine Operator, must provide evidence of fitness to perform the work authorized to be performed by a holder of the license held or once held by the applicant. A renewal applicant must satisfy these requirements at every subsequent renewal.

(3) Such evidence of fitness must be on a form prescribed by the Commissioner and must establish that the applicant has passed a physical examination.

(4) The Department may also require that an applicant take a substance abuse test and provide evidence of a negative result for such test. Such evidence must include the name, address and telephone number of the laboratory that performed the test and consent to the release by such laboratory of the test results to the Department upon request of the Department.

(5) Hoisting Machine Operators and Riggers must comply with the fitness provisions of sections 104-09 and 104-10 of this subchapter, respectively.

(g)

**Investigation of applicant.**

(1) The Department or its designee shall conduct an investigation of each applicant to determine the applicant's fitness and qualification for the license. The burden of proving that an applicant meets the required qualifications is on the applicant. An applicant's failure to meet the requirements

specified by the Administrative Code or by the Department's rules, and/or an applicant's refusal to cooperate with an investigation, will result in denial of the license or certificate of competence.

- (2) Applicants who refuse to provide all requested documents within six (6) months of the date of request shall be denied a license or certificate of competence.

**(h) Issuance of license after approval.**

- (1) An applicant who passes an examination required pursuant to this rule, is found to have met the qualifications of §28-401.6 of the Administrative Code, and has been investigated by the Department or its designee, shall receive a notice of approval from the Department.
- (2) The applicant must furnish to the Department all requested forms, documents, and fees within one (1) year of the date of the Department's notice of approval. Failure to do so within the time specified will result in the denial of license issuance and will require a re-examination and reapplication.
- (3) Upon issuance of a license, all applicants must provide proof in a form prescribed by the Department, that the business the applicant affixes to such license, is authorized to operate in the state of New York by the New York State Department of State.

- (i) Reconsideration.** An applicant who has been notified of failure to meet the fitness and qualification requirements and who has additional relevant information or documentation for the Department's review may request reconsideration. Such request for reconsideration must be in writing with a signature and addressed as the Commissioner may require. The request for reconsideration must state the title of the license, the applicant's name and return address, the date of the Department's denial and a detailed statement of the grounds for reconsideration with any supporting documentation. The Department must receive the request for reconsideration not later than sixty (60) days from the date of notification of the denial of the license.

- (j) Denial of issuance.** Failure to pay any outstanding fines, penalties or fees related to the individual's professional dealings with the City, within a specified time period, may result in the denial of the issuance of any license or registration.

**(k) Change of address.**

- (1) Applicants must promptly notify the Department in writing of any address change that occurs after filing the license application.
- (2) Failure to furnish such notification may result in denial of the license and the loss of the opportunity to complete subsequent portions of the license examination, including any tests or investigation.
- (3) All applicants must have an agent for the acceptance of service of process or maintain a New York City address. A Post Office Box is not acceptable for such purposes. The name and address of the agent and any changes to such name or address must be filed with the Department. Failure to do so constitutes a waiver of challenge to service of process.

**(l) Place of business.**

- (1) All the limitations and restrictions for the use of "Contractor's Establishment" as required by the Zoning Resolution apply to the "place of business" of a licensee's establishment where the office portion and the shop portion are at the same location.
- (2) All the limitations and restrictions for the use of "Office" as required by the Zoning Resolution apply to the office portion of a licensee's establishment where its location is different than the

shop location. The shop location must comply with the limitation and restrictions for the use of “Contractor’s Establishment” as required by the Zoning Resolution.

- (3) All the limitations and restrictions for the use of “Office” as required by the Zoning Resolution apply to the office of a business where no shop exists.