

July 25, 2024



OECP INSTRUCTION 2013.12C

From: Operating Engineers Certification Program Board of Directors

Subj: Certificant Disciplinary Policies & Procedures

Ref: (a) OECPINST2013.1, Mission, Functions, & Structure
(b) OECPINST2013.4, Crane Operator Candidate Manual

1. Purpose. To define the certificant disciplinary policies and procedures for the Operating Engineers Certification Program (OECP).
2. Cancellation. Upon being superseded.
3. Background. To establish policies and procedures regarding candidates for certification who are subject to disciplinary action for violation of any of the examination requirements as listed in the Examination Site Security Section of the OECP Crane Operator Candidate Manual (Ref: (b)), or if there is clear, undisputed, and documented proof that the candidate intentionally attempted to undermine the program's operations, written instructions, policies, and procedures. The disciplinary action that may be taken includes, but is not limited to, being barred from further participation in the OECP certification process for 30 days or longer.
 - a. Certificants: Certificants are subject to disciplinary action for violations of any of the following rules:
 - i) Certification expiration date exceeded without recertification.
 - ii) Expiration of a medical certificate during the certification period.
 - iii) Withdrawal, suspension, revocation, or expiration of IUOE membership.
 - iv) Falsifying information on any document submitted to the OECP.
 - v) Falsifying a certification card or document.
 - vi) Evidence of a violation of the OECP Substance Abuse Policy.
 - vii) Clear, undisputed, and documented proof of performance demonstrating a critical lack of knowledge, skills, safe operation, and/or abilities necessary to justify continued certification.

OECPINST2013.12B



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The disciplinary action that may be taken includes, but is not limited to, the suspension or revocation of certification and/or being barred from future participation in the certification or recertification process for 30 days or longer.

4. Procedures for Various Disciplinary Actions.

- a. **Disciplinary Review Committee:** By a majority vote, the Board of Directors of the OECP will appoint a Disciplinary Review Committee (DRC) to consider allegations of violations of OECP's Disciplinary Policy or any other OECP standard, policy or procedure. The DRC shall be composed of at least two (2) knowledgeable individuals who are familiar with the policies and procedures of the OECP, one from labor, and one from management. A committee member's term of office on the committee shall run for three years and may be renewed. A committee member may not serve on any matter in which his or her impartiality might reasonably be questioned, or which presents an actual or apparent conflict of interest. DRC actions shall be determined by a majority vote. When a committee member is unavailable to serve due to resignation, disqualification or other circumstance, the President of the OECP shall designate another individual to serve as an interim member.
- b. **Procedure for Disciplinary Action Taken Due to the Normal Expiration of Certification(s) and/or the Expiration of other Required Document(s).**
 - i) The Executive Director has the authority to bar a candidate from participation in the certification process and to revoke a certificant's certification due to the normal expiration of the certification(s) and/or the expiration of other required document(s). If the Executive Director determines that such action is warranted, he or she will notify the candidate that he or she is barred from participation in the certification process or notify the certificant that his or her certification is suspended or revoked by sending the candidate or certificant a letter by certified mail, return receipt requested ("Notification Letter").
 - ii) Within 30 days after the postmark on the Notification Letter, the candidate or certificant ("Responding Party") can request that the DRC reconsider the matter by submitting a signed letter, mailed to the Executive Director of the OECP. In the letter, the Responding Party should set forth all facts supporting his or her contention that he or she should not be barred from the certification process or that his or her certification should not be suspended or revoked. Any and all supporting documentation and evidence must be attached to the letter.



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- iii) The Executive Director will forward the Responding Party’s letter and supporting documents to the DRC, along with whatever evidence the Executive Director contends supports the action referenced in the Notification Letter. Before doing so, the Executive Director will redact private information from the documents such as the Responding Party’s address, date of birth, social security number, and any private health information (unless relevant). No information concerning the written or practical examination scores, test materials, answers, results of substance abuse testing, information contained on the medical evaluation form and/or any other private information will be released unless relevant. Copies of these documents will be sent by certified mail, return receipt requested, to the Responding Party.
 - iv) The DRC will review the materials submitted and will either affirm, modify or rescind the decision of the Executive Director. In considering evidence submitted, no formal rules of evidence shall apply. The DRC will make a fair and impartial decision based on the facts and evidence presented.
 - v) Absent unusual circumstances, the DRC will issue a written decision (“Decision”) affirming, modifying or rescinding the Executive Director’s action within 90 days of the date of the Notification Letter. The Decision shall contain factual findings and, if a disciplinary violation(s) is found, the specific type of disciplinary action imposed shall be set forth in the Decision. The Executive Director will notify the Responding Party of the Decision within 14 days thereafter by sending a cover letter with a copy of the Decision to the Responding Party by certified mail, return receipt requested. The cover letter will also set forth information concerning appeal rights and procedures.
 - vi) The Responding Party may present an appeal (“Appeal”) to the full Board of Directors regarding any Decision by the DRC that he or she contends is unfair or unreasonable. The procedure for such Appeals is set forth in section ‘d’ below. If no Appeal is filed in a timely manner according to section ‘d’ below, the Decision becomes final 36 days after it is mailed to the Responding Party.
- c. Procedure for Disciplinary Action, Disciplinary Action Taken For Reasons Other than the Normal Expiration of Certification(s) and/or the Expiration of other Required Document(s).
- i) The “Charging Party” refers to a person alleging a violation of OECP’s disciplinary policy or other OECP standard, policy or procedure.



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- ii) This includes, but not limited to, seeking to have a candidate barred from further participation in the certification process, or seeking to have a certificant's certification revoked *for reasons other than the normal expiration of certification(s) and/or the expiration of other required document(s) (which is addressed in section b above)*. The Charging Party shall first write a letter (the "Charge") which shall be mailed to the Executive Director of the OECP. The Charge shall be signed by the Charging Party and shall set forth the specific facts in as much detail as possible concerning his/her contentions concerning the candidate or certificant at issue (the "Responding Party") including, but not limited to, details concerning any alleged violations of the rules or any other facts warranting certification revocation or barring from the certification process. Any and all supporting documentation and evidence must be attached to the Charge.
- iii) Within 14 days after receipt of the Charge, the Executive Director of the OECP will send a letter to the Responding Party, notifying him/her of the Charge as well as the disciplinary action that has been requested (i.e. certification revocation, barring from certification process, etc.). The Executive Director will attach a copy of the Charge and all documentation submitted along with the Charge. This Notification Letter will be mailed certified, return receipt requested to the Responding Party. The Notification Letter will advise the Responding Party that he/she may respond to the Charge in writing ("Response"), and that Response must be mailed to the Executive Director of the OECP, postmarked no later than 30 days from the date of the Notification Letter. In the Response, the Responding Party should set forth all facts supporting his or her contention that the Charge is without merit. Any and all supporting documentation and evidence must be attached to the Response.
- iv) The Executive Director of the OECP will forward the Charge, the Response, and all supporting documentation to the DRC. Before doing so, the Executive Director will redact private information from the documents as set forth in Section 'b, (iii)' above. The Executive Director will send a copy of the documents he/she forwarded to the DRC simultaneously to the Charging Party and Responding Party by certified mail, return receipt requested.
- v) The DRC will evaluate and decide all issues related to the Charge including, but not limited to, whether additional information or documentation is needed before a decision is made, whether the Charge has merit, whether any disciplinary action is warranted, and if so, what disciplinary action will be imposed. The DRC will do so after reviewing the Charge and the Response, and all relevant documentation.



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- vi) If the DRC determines that additional information or documentation is needed from the Charging Party or Responding Party before a decision is made, the Executive Director will send the appropriate letters to the Charging Party and the Responding Party by certified mail, return receipt requested, seeking the submission of that information within 14 days. If the requested information or documentation is not timely received from the Charging Party or Responding Party by the Executive Director, a decision on the Charge will be made by the DRC without the requested documentation or information. All such supplemental documentation shall be forwarded by the Executive Director by certified mail, return receipt requested, and the DRC upon receipt by the Executive Director.
- vii) If the DRC determines that information or documentation is needed from the Executive Director, the Executive Director will redact private information from any documents provided as set forth in Section ‘b, (iii)’ above. All such supplemental documentation shall be forwarded by the Executive Director simultaneously to the Charging Party and Responding Party by certified mail, return receipt requested, and the DRC upon receipt by the Executive Director.
- viii) If the DRC determines that a telephonic hearing is necessary prior to making a determination so that both the Charging Party and the Responding Party can testify over the telephone, the Executive Director will make arrangements for such a telephonic hearing, including giving both the Charging Party and the Responding Party at least 30 days’ notice of the date, time and call-in information for the hearing in a written document called “Notice of Telephonic Hearing” which shall be mailed certified, return receipt requested to the Charging Party and the Responding Party. The Charging Party and the Responding Party may each make one request for a modification of the date of the telephonic hearing. Such requests shall be granted by the DRC if good cause exists to do so. Telephonic hearings are set at the sole discretion of the DRC. There is no requirement that the DRC agree to any request for a telephonic hearing. There shall be no in-person hearings. If either the Charging Party or the Responding Party fails to attend the telephonic hearing, despite being given proper notice of it, the Charge will be decided without their telephonic input. No transcripts or recordings shall be made of any such telephonic hearings.
- ix) In considering evidence submitted regarding the Charge, Response and all related documentation and evidence, no formal rules of evidence shall apply. The DRC has the discretion to consider a Response, documentation or evidence provided in an untimely manner.



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- x) If the Responding Party fails to submit a Response, the DRC will make a decision based on the other evidence presented. The DRC will make a fair and impartial decision based on the facts and evidence presented. Any party (Charging Party, Responding Party and/or OECP) may be represented by counsel during the disciplinary proceedings concerning the Charge. The DRC shall determine all matters relating to the disciplinary proceedings regarding the Charge (other than those involving Appeals, as discussed below).
- xi) Absent unusual circumstances, the DRC will issue a written decision (“Decision”) concerning the Charge within 90 days of the date the initial Charge is mailed to the OECP. The Decision shall contain factual findings, and if a disciplinary violation(s) is found, the specific type of disciplinary action imposed shall be set forth in the Decision. The Executive Director will notify the parties of the Decision within 14 days thereafter by sending a cover letter with a copy of the Decision to the Responding Party and the Charging Party by certified mail, return receipt requested. The cover letter will also set forth information concerning appeal rights and procedures.
- xii) If no Appeal is timely filed according to Section D below, the Decision becomes final 36 days after it is mailed to the Charging Party and the Responding Party.

d. Procedure for Disciplinary Action Appeals.

- i) The Charging Party or Responding Party dissatisfied with the Decision of the DRC (the “Appellant”) may present an Appeal to the full Board of Directors regarding any Decision by the DRC that he or she contends is unfair or unreasonable. All Appeals must be presented by a signed letter (“Appeal Letter”) mailed by the Appellant to the Board of Directors of the OECP, postmarked no later than 35 days from the postmark of the letter notifying the Appellant of the Decision of the DRC. The Appeal Letter must set forth all facts supporting his or her contention that the DRC’s Decision should be modified or rescinded. Any and all supporting documentation and evidence must be attached to the Appeal Letter.
- ii) Within 14 days of receipt of the Appeal Letter, the Executive Director of the OECP will send a letter to the Respondent (either the original Charging Party or the Responding Party), notifying him/her of the Appeal, and will attach a copy of the Appeal Letter and all documentation submitted along with the Appeal Letter. This letter will be mailed by certified mail, return receipt requested, and will advise the Respondent that he/she has 30 days to respond to the Appeal Letter in writing (“Appeal Response”).



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In the Appeal Response, the Respondent should set forth all facts supporting his or her contention that the Appeal should be denied. Any and all supporting documentation and evidence must be attached to the signed Appeal Response. The Appeal Response should be mailed to the Board of Directors of the OECP.

- iii) The Executive Director of the OECP will forward the Appeal Letter, the Appeal Response and all supporting documentation to the full Board of Directors of the OECP. Before doing so, the Executive Director will redact private information as set forth in Section 'b, (iii)' above. The Executive Director will send a copy of the documents he/she forwarded to the Board of Directors simultaneously to the Appellant and Respondent by certified mail, return receipt requested.
- iv) The full Board of Directors will evaluate and decide all issues related to the Appeal including, but not limited to, whether to affirm, modify or rescind any Decision by the DRC. The Board of Directors will do so after reviewing the Appeal Letter, Appeal Response, and all relevant documentation.
- v) If the Board of Directors determines that additional information or documentation is needed from the Appellant or Respondent before a decision on the Appeal is made, the Executive Director will send the appropriate letters to the Appellant or Respondent seeking the submission of that information within 14 days. If the requested information or documentation is not timely received from the Appellant or Respondent by the Executive Director, a decision on the Appeal will be made by the Board of Directors without the requested documentation or information. All such supplemental documentation shall be forwarded by the Executive Director simultaneously to the Charging Party and Responding Party by certified mail, return receipt requested, and the Board of Directors upon receipt by the Executive Director.
- vi) If the Board of Directors determines that information or documentation is needed from the Executive Director, the Executive Director will redact private information from any documents provided as set forth in Section 'b, (iii)' above. All such supplemental documentation shall be forwarded by the Executive Director simultaneously to the Appellant and Respondent by certified mail, return receipt requested, and the Board of Directors upon receipt by the Executive Director.
- vii) If the Board of Directors determines that a telephonic hearing is necessary prior to making a determination on the Appeal so that both the Appellant and the Respondent can testify over the telephone, the Executive Director will make arrangements for such a telephonic hearing, including giving both the Appellant and Respondent at least 30 days' notice of the date, time and call-in for the Appeal hearing in a written document called "Notice of Telephonic



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Appeal Hearing” which shall be mailed certified, return receipt requested, to the Appellant and Respondent.

- viii) The Appellant and Respondent may each make one request for a modification of the date of the telephonic hearing. Such requests shall be granted by the Board of Directors if good cause exists to do so. Telephonic hearings are set at the sole discretion of the Board of Directors. There is no requirement that the Board of Directors agree to any request for a telephonic Appeal hearing. There shall be no in-person Appeal hearings. If either the Appellant or Respondent fails to attend the telephonic Appeal hearing, despite being given proper notice of it, the Appeal will be decided by the Board of Directors without their telephonic input. No transcripts or recordings shall be made of any such telephonic Appeal hearings.
- ix) The Board of Directors may affirm, modify or rescind any decision by the DRC. In considering evidence submitted regarding the Appeal, no formal rules of evidence shall apply. The Board of Directors will make a fair and impartial decision based on the facts and evidence presented. If the Respondent fails to timely submit an Appeal Response, the Board of Directors will make a decision based on the other evidence presented. The Board of Directors has the discretion to consider an Appeal Response, documentation or evidence provided in an untimely manner. Any party (Appellant, Respondent and/or OECP) may be represented by counsel during the Appeal proceedings.
- x) Absent unusual circumstances, the Board of Directors will make a decision concerning the Appeal (“Appeal Decision”) within 90 days of the date the Appeal Letter is mailed to the OECP. The Executive Director will notify the Appellant and Respondent of the Appeal Decision on the Appeal within 14 days thereafter by sending a letter to the Appellant and Respondent by certified mail, return receipt requested. The Board of Directors’ Appeal Decision is final and binding on the Appellant, Respondent, and the OECP.

A handwritten signature in black ink, appearing to read "David Sikorski", is written over a light blue horizontal line.

David SIKORSKI
President
OECP Board of Directors

A handwritten signature in black ink, appearing to read "Thomas A. Tatangelo", is written over a light blue horizontal line.

THOMAS TATANGELO
Treasurer
OECP Board of Directors