

## Section 202. Board Composition.

### Landscape Architect Board Option

- A. The Board ~~shall~~ will consist of ~~[(Number)]~~ members, at least ~~[(Number)]~~ of whom ~~shall will~~ be a public representative(s) of the public, and the remainder of whom ~~shall will~~ be Licensees qualified under, who possess the qualifications specified in Section 203 of this Act. ~~It is the intent of t~~The legislature intends, through the Board member composition, ~~of the members of this Board~~ to provide ensure the necessary expertise to efficiently and effectively regulate the profession, using professionals ~~who are~~ presumed to act on behalf of the public and ~~are also bound by~~ applicable ~~laws related to~~ ethics and public ~~service~~ laws.

### Composite Board Option

- B. The Board ~~shall~~ will consist of ~~[(Number)]~~ members appointed pursuant to under Section 204 ~~to be and~~ comprised of the following:
- (i) Two (2) Public Members as defined by this act.
  - (ii) Two (2) Landscape Architects as defined in Section 203.
  - (iii) Two (2) ~~[(Profession)]~~ as defined in...~~{citation to relevant practice act referencing resident, licensed in good standing, other licenses in good standing, licensed for a specified period of time}~~.
  - (iv) Two (2) ~~[(Profession)]~~ as defined in...~~{citation to relevant practice act referencing resident, licensed in good standing, other licenses in good standing, licensed for a specified period of time}~~.
  - (v) Two (2) ~~[(Profession)]~~ as defined in...~~{citation to relevant practice act referencing resident, licensed in good standing, other licenses in good standing, licensed for a specified period of time}~~.
  - (vi) Two (2) ~~[(Profession)]~~ as defined in...~~{citation to relevant practice act referencing resident, licensed in good standing, other licenses in good standing, licensed for a specified period of time}~~.
  - (vii) [Intended to include two (2) members from each of the number of professions under the Board's jurisdiction of the Board.]
- C. In addition to the qualifications specified above, each Board member shall ~~at all times~~ during the appointed period comply with Section 203-(b), (c), (d), and (e).
- D. ~~It is the intent of t~~The legislature intends, through the Board member composition, ~~of the members of this Board~~ to provide ensure the necessary expertise to efficiently and effectively regulate the profession using professionals who are presumed to

#### Section 202

With respect to states' rights and the differing regulatory structures that currently exist, CLARB has elected to provide two (2) ~~different~~ models of board structure in this Model Act Law. ~~Readers are advised that the~~The language included in this version of the Model Act Law language better

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~~and that language throughout in various parts of the Model Law the Act may will need to be modified if another a different board structure is contemplated used.~~

~~The remaining portions of the Model Act do not include the multiple scopes and licensure eligibility criteria factors. This section also provides language related to a composite board structure whereby multiple design related members make up and regulate multiple professions.~~

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~~various represented design related profession(s), and public members.~~

**Section 202(aA)** identifies a stand-alone board option and ~~contemplates with~~ landscape architects and public members involved in ~~the~~ regulation of the profession.

**Section 202(bB)** identifies a composite board option and ~~contemplates includes~~ equal representation and regulation of as many the design professions as deemed appropriate regulated by the board. ~~In addition to representation of the various professions, Public members are also included on the composite board. public representation is also contemplated.~~

~~The remaining portions of the Model Act do not include the multiple scopes and licensure eligibility criteria factors.~~

~~The composite board model contemplates regulation of related design professions on a composite board may including, but not limited to, architects, engineers, landscape architects, land surveyors, geologists, and/or interior designers.~~

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act on behalf of the public and are also bound by applicable ~~laws~~ related to ethics and public service laws.

### Section 203. Qualifications for Board Membership.

- A. Each Landscape Architect Board member ~~of the Board shall must~~ at all times as during their Board tenure ~~a Board member~~:
- i) Be a resident of ~~(State)~~[State] for ~~not less than~~at least one (1) year~~;~~
  - ii) Be a Licensee in Good Standing~~;~~
  - iii) Maintain in Good Standing any other professional license issued by a licensing authority in this or any other jurisdiction~~;~~ and \_\_\_\_\_
  - iv) ~~Has~~ve been licensed as a Landscape Architect for at least three (3) years.
- B. Each Public Member of the Board ~~shall must~~ be a resident of ~~(State)~~[State] and who has attained twenty-one ~~(at least 21)~~ years of age.
- C. Each Board member ~~of the Board~~ shall ~~at all times~~ always maintain eligibility to serve on the Board by avoiding relationships that ~~may would~~ interfere with the Board's public-protection mission ~~of public protection~~. Board members shall be especially cognizant of ~~issues of conflict of~~ interest issues including, for example ~~but not limited to~~, participation in ~~(State)~~[State] or national professional associations, ~~or both~~.
- D. ~~Each~~ Board members ~~of the Board shall are barred from not being~~ an officer of or holding ing any leadership position in a State or national professional association for during the term of such the Board member's appointed term ~~ment to the Board~~. For ~~the~~ purposes of this Section 203, a leadership position is defined as serving as a voting member of the governing board.
- E. Each Board member ~~of the Board~~ shall annually attest to having completed ing coursework or training of a duration and covering content approved by ~~the Board through~~ policy. ~~Such~~ coursework or training ~~shall must~~ address relevant regulatory issues such as the Board's role ~~of the Board~~, Board members' ~~the roles of the Board member~~, conflicts s of interest, administrative procedures, enforcement, and immunity.

### Section 204. Board Member Appointment and Oversight by Governor.

#### Section 203

~~As has been emphasized,~~  
Expertise of board members is essential to ~~the effectiveness~~ and ~~efficiencies~~ efficient of the board decision-making ~~capabilities~~.

This section identifies ~~the~~ eligibility criteria to serve on the board ~~to~~ achieve diverse and knowledgeable board members.

~~As a reminder, however,~~ A all board members serve the public interests when undertaking and acting within the scope of ~~the~~ board duties and responsibilities.

#### Section 204

~~This section clarifies and enhances the notion that~~ Government oversight is intended in the regulatory structure. ~~Legislative enactment creating and delegating authority, Governor appointment, and removal authority assists in providing~~ necessary governmental oversight.

In accordance with the principle of separation of powers and to provide for sufficient oversight by the respective branches of government, the Governor shall appoint ~~the~~ members of the Board in accordance with ~~the provisions of~~ Article II of this Act and the ~~(State)~~[State] constitution. -In addition, the Governor ~~shall have~~has the authority to remove Board members ~~of the Board~~ with or without cause.

### Section 205. Terms.

- A. Except as provided in subsection ~~(b)~~B of this Section 205, Board members ~~of the Board shall be~~are appointed for a term of four (4) years, ~~except that Board members of the Board who are~~ appointed to fill vacancies that occur ~~prior to the~~before expiration of a former member's full term shall serve the remaining portion of ~~such that~~ unexpired term.
- B. ~~The Board-member~~ terms ~~of the members of the Board shall~~must be staggered so that ~~the terms of~~ no more than [(Number/Percentage)] member ~~terms shall~~ expire in any year. Each member shall serve until a qualified successor is appointed, unless such member resigns or cannot serve ~~because he or she is removed by reason of such member's removal from membership on~~ the Board in accordance with Article II Section 207 ~~of Article II~~ of this Act.
- C. Board members ~~are eligible to~~can serve for up to three (3) consecutive full terms. ~~The e~~Completing ~~ion of~~ the remaining ~~der~~ portion of an unexpired term ~~shall is~~ not ~~constitute~~ a "full term" for purposes of this Section 205.

### Section 206. Board Member Vacancies.

- A. Any vacancy ~~that occurs in~~ Board ~~the~~ membership ~~of the Board~~ for any reason, including expiration of term, removal, resignation, death, disability, or disqualification, ~~shall~~must be filled by the Governor or appointing authority as prescribed in Article II Section 204 ~~of Article II~~ of this Act as soon as practicable.
- B. If a vacancy is not filled within six (6) months, ~~then~~ the Board may appoint an individual qualified under Section 203 to temporarily fill the vacancy until ~~such time as~~ the Governor ~~(or appointing authority)~~ approves the temporary Board member or appoints a new member.

### Section 207. Removal of Board Member.

~~A~~ ~~The Board may remove a Board~~ member ~~of the Board may be removed by the Board~~ upon an affirmative vote of a three quarters (¾) ~~majority~~ of

#### Section 205

*This section identifies a four ~~(4)~~-year term of appointment and that service is limited to three ~~(3)~~ consecutive full terms. CLARB understands and appreciates the institutional knowledge and continuity of volunteers and attempts to balance longevity with the need for an infusion of new representation.*

#### Section 206

*This section addresses the process by which a vacancy is filled by Governor appointment. CLARB identified and understands the value of a fully constituted board, ~~and but~~ recognizes that vacancies may exist for months and years. -As a means of providing an incentive for the appointing authority to fill vacancies and keep boards fully populated, this section authorizes the board to fill a ~~vacaney~~ position that remains vacant for ~~in excess of~~over six (6) months.*

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#### Section 207

*This section authorizes the board to remove board members under specified conditions ~~and~~ following identified procedures.*

members otherwise eligible to vote ~~and based upon~~ one or more of the following grounds:

- A. ~~The Board member's~~ refusal or inability for any reason ~~of a member of the Board~~ to perform ~~the required~~ duties ~~required of a Board member~~ in an efficient, responsible, and professional manner.;
- B. ~~The m~~Misuse of a Board ~~member~~ position to obtain, or attempt to obtain, any financial or material gain, or any advantage personally or for another, through ~~such the~~ office.;
- C. A final adjudication ~~(by a court or other body with jurisdiction)~~ ~~by a recognized body, including the courts,~~ that the ~~board member~~ ~~re~~ ~~has been a~~ violation of the laws governing the practice of Landscape Architecture ~~by a Board member; or,~~
- D. Conviction of a crime other than a minor traffic offense.

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#### Section 208. Organization of the Board.

- A. The Board shall elect from its members a Chairperson, Vice-Chairperson, and such other officers as it deems appropriate and necessary to ~~the~~ conduct of its business. ~~The~~ Chairperson shall preside at all Board meetings ~~of the Board~~ and ~~shall perform those~~ duties customarily associated with the position and ~~such~~ other duties assigned ~~from time to time~~ by the Board.

The Chairperson may establish Board committees as appropriate and necessary to ~~the furtherance of~~ Board business, and may designate Board members as committee members.

- B. Officers elected by the Board ~~shall~~ serve terms of one (1) year ~~commencing with~~ starting the day of their election and ending upon election of their successors. Officers ~~shall~~ may serve no more than ~~[(Number)]~~ consecutive one-year terms in each elected office ~~to which they are elected~~.

#### Section 209. Executive Director and Employees of Board.

- A. The Board shall employ an Executive Director who ~~shall be~~ is responsible for ~~the performing~~ ance of the administrative functions and such other duties as the Board may direct under the Board's oversight ~~of the Board and such other duties as the Board may direct~~.
- B. The Board may, in its discretion, employ persons ~~(in addition to the Executive Director)~~ in such ~~other~~ positions or capacities as it

deems necessary to ~~the properly~~ conducting of Board business and fulfilling ~~ment of~~ the Board's responsibilities as defined under this Act.

## Section 210. Compensation of Board Members.

Each Board member ~~of the Board shall~~ receives as compensation a *per diem* amount for each day ~~on which~~ the Board member is engaged in performing ~~ance of the~~ official Board duties ~~of the Board~~, and ~~shall be~~ is reimbursed for all reasonable and necessary expenses incurred in connection with ~~the discharging of~~ such official duties.

## Section 211. Meetings of Board.

- A. Frequency. The Board shall meet at least once every three months to transact its business, ~~and. The Board shall meet~~ at such additional times as ~~may be called by the Board's Chairperson~~ or two-thirds (2/3) of the Board's voting members of the Board ~~may determine~~ or by two-thirds (2/3) vote of the members of the Board.
- B. Location. The Board shall determine the location and format for each meeting ~~shall be determined by the Board~~ and provide noticed to the public as required by [citation to open meetings laws].
- C. Remote Participation. The Board, consistent with ~~(State)~~ [State] law and ~~any~~ regulations promulgated thereunder, may provide for ~~the~~ remote participation in ~~a~~ Board meetings ~~of by~~ Board members not present at the meeting location.
- D. Notice. Notice of all Board meetings ~~of the Board shall~~ will be given in the manner ~~and pursuant to all requirements~~ prescribed by [State]'s ~~the~~ applicable open ~~meetings laws~~ ~~in (State)~~.
- E. Quorum. A majority of ~~the Board~~ members ~~of the Board~~ as constituted by statute ~~shall~~ constitutes a quorum for ~~the~~ convening and conducting of a Board meeting and, except when ~~re~~ a greater number is required under this Act or by ~~any Board~~ regulation ~~of the Board~~, all actions of the Board ~~shall will~~ be by a majority of a quorum.
- F. Access by Public. All Board meetings ~~shall must~~ be conducted in accordance with ~~the (State)~~ [State]'s open ~~meeting~~ law.
- G. Record of Meetings of the Board. A record of all Board meetings ~~of the Board shall~~ must be maintained in accordance with ~~the (State)~~ [State]'s open ~~records~~ law.

## Section 212. Regulations Governing Licensure and Practice.

### Section 211

*This section specifies that the board shall meet a minimum number of times annually. -CLARB recognizes that boards must meet often enough to ~~not only~~ transact business on a regular basis, ~~but and~~ to ensure that applicants' and respondents' ~~have~~ issues*

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~~Further, the advent of~~ technology provides a means for boards to meet regularly, ~~in spite of a lack of physical presence if it is difficult for a board to meet face-to-face on a frequent basis.~~

### Section 212

*One of the most important authorities delegated from*

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*is rulemaking in the form of regulations. Statutes are intended to be general in nature while regulations add specifics.*

~~to skeletal nature of the statutes. Using its expertise and public representation perspectives, boards promulgate rules create regulations that add specificity to the practice act statute. Statutes are intended to be general in nature while regulations add specifics to skeletal nature of the statutes. Expertise is needed to provide the practice-specific details to the regulations.~~

~~Further~~ *In addition, ~~a~~ As practice evolves, amending regulations are more flexible and easier to amend than may provide more flexibility than are statutory statutes. enactments.*

The Board shall make, adopt, amend, and repeal such regulations as ~~it may be deemed~~ necessary ~~by the Board from time to time~~ for the proper administration and enforcement of this Act. Such regulations ~~shall~~ must be promulgated in accordance with the requirements of ~~the~~ (State)[State]'s Administrative Procedures Act.

**Section 213. Powers and Duties Delegated to Board.**

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A. Under active State oversight and supervision, the Board shall regulate the practice of, landscape architecture in ~~(State)[State]~~ and ~~shall be~~ is responsible for ~~the conducting of~~ all of its activities in connection therewith. ~~The powers and duties set forth in this Section 213 shall be~~ are in addition to any other powers and duties delegated to the Board under ~~the provisions of~~ this Act. ~~It is the intent of this Section 213 that o~~ Once licensed by the Board, Licensees cannot divest the Board of jurisdiction by changing their licensure status or relinquishing licensure. ~~It is also the intent of this Section 213 that p~~ Moreover, persons never licensed by the Board who ~~have engaged~~ in the unlawful practice of Landscape Architecture in ~~(State)[State]~~ are subject to the Board's jurisdiction ~~of the Board.~~

B. Licensure. The Board is authorized to issue licenses to, and renew licenses for:

- (i) ~~p~~ Persons ~~who are~~ qualified to engage in the practice of Landscape Architecture under the provisions of this Act ~~and to renew such licenses;~~
- (ii) ~~b~~ Businesses ~~that are~~ qualified to engage in the practice of Landscape Architecture under the provisions of this Act ~~and to renew such licenses; and~~

C. Standards. The Board is authorized to establish and enforce:

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- (i) ~~m~~ Minimum standards of practice and ~~standards of~~ conduct for Landscape Architects;
- (ii) ~~s~~ Standards for ~~the recognizing~~ tion and ~~approval of~~ programs for ~~the Landscape Architect~~ education and training ~~of Landscape Architects;~~
- (iii) ~~s~~ Standards, educational program criteria, or other mechanisms to ensure the continuing Competence of Landscape Architects.

D. Enforcement. The Board is authorized to enforce all of the provisions of this Act and any regulations duly promulgated hereunder it relating to:

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**Section 213**

*This section is the heart of the authority ~~legislatively~~ delegated ~~from by~~ the legislature to the board. CLARB determined that this section must be robust and specify the breadth of the authority of the board to engage in all ~~aspects~~ actions necessary to effectively and efficiently regulate the profession in the interest of public protection.*

*Additional commentary is provided throughout this section to highlight some of the important authority delegated to the board.*

- (i) ~~¶~~The conduct or Competence of licensed Landscape Architects practicing in ~~(State)~~[State], and the suspension, revocation, other restriction of, or action against, any license issued by the Board.;
- (ii) ~~¶~~The assessment and collection of fines, costs, and attorneys' fees:
  - a. ~~a~~Against ~~all~~ persons licensed by the Board, irrespective of their licensure status, whether active, inactive, expired, lapsed, surrendered or disciplined, relative to acts, omissions, complaints, and investigations that occurred during the licensure period.;
  - b. ~~a~~Against ~~all~~ persons who ~~have engaged~~ in the unlawful practice of Landscape Architecture as ~~such practice is~~ defined under this Act.
- (iii) With probable cause that an Applicant or Licensee has engaged in conduct prohibited under this Act or by any regulation duly promulgated ~~here~~under ~~the Act~~, the Board may issue an order directing such Applicant or Licensee to submit to a mental or physical examination or chemical dependency evaluation. ~~For the purposes~~ of this Section 213, every Applicant or Licensee is ~~considered deemed~~ to ~~have~~ consented to undergo ~~a mental, or physical, or chemical-~~ ~~dependency~~ examinations ~~or chemical dependency~~ ~~evaluation, or any combination thereof~~, when ordered by the Board to do so in writing, and to ~~have waived~~ all objections to the admissibility of the examiner's or evaluator's testimony or reports on the grounds that such testimony or reports constitute a privileged or confidential ~~communication~~.
- (iv) The Board may investigate ~~or and~~ inspect, ~~or both~~, any Licensee, whether ~~such~~ Licensee is a person or a Business Entity, at all reasonable hours ~~for the purpose of to~~ determining a violation of ~~any provision of~~ the laws or regulations, ~~or both~~, governing the practice of Landscape Architecture.
 

The Board, its officers, investigators, inspectors, and representatives shall cooperate with all agencies charged with ~~the~~ enforcement of ~~the~~ laws of the United States, ~~of~~ ~~(State)~~[State], and ~~of~~ all other States relating to the practice of Landscape Architecture.
- (v) The Board ~~shall have~~ ~~has~~ the power to subpoena persons and documents in connection with its complaint investigations ~~prior~~ ~~to before~~ commencing, ~~and during~~, any formal Adjudicatory Proceeding ~~and in the course of such Proceeding~~ for purposes of depositions and testimony, ~~or both~~, in the same manner ~~as~~ prescribed in civil cases in ~~the courts of (State)~~[State] courts.

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Any ~~Board~~ member ~~of the Board~~, Hearing officer, or administrative law judge ~~shall have~~ has power to administer oaths to witnesses at any Hearing ~~that~~ the Board is authorized to conduct, and any other oath the Board is authorized by law to administer.

- (vi) The Board may ~~hold or undertake~~ conduct any investigation, inquiry, or Hearing that ~~the Board~~ it is empowered to ~~hold or undertake~~ conduct in accordance with applicable law ~~by or~~ before any member or members of the Board ~~and~~ the findings ~~or and~~ orders ~~, or both,~~ of such member or members ~~shall be~~ are deemed to be the findings ~~and~~ or orders ~~, or both,~~ of ~~said the~~ Board when approved and confirmed as set forth in Section 211(e) of Article II of this Act.
- (vii) The Board may report any violation of this Act (~~or any~~ regulation duly promulgated ~~hereunder~~ the Act) that also implicates ~~the~~ application of criminal law to the Attorney General or State's Attorney, or both as appropriate, who shall without delay ~~institute~~ cause appropriate proceedings ~~and~~ investigations to be instituted in the proper court for prosecution ~~in the manner as~~ required by law.- Nothing in this Section 213 ~~shall will~~ be construed to require the Board to report to the Attorney General or State's Attorney any violation of this Act that implicates the potential application of criminal law ~~if where~~ the Board reasonably believes ~~that~~ the public interest ~~is~~ shall be adequately served in the circumstances by a suitable written notice or warning.- Any decision by the Board to issue a written notice or warning ~~shall~~ must be made in Consultation with the legal counsel, the State's Attorney or other appropriate law enforcement entity.
- (viii) The Board may seek declaratory, injunctive, and other ~~relevant~~ appropriate remedies from a court of competent jurisdiction.



E. Recovery of Costs and Assessment of Fines.

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(i) The Board, in its discretion, may assess against a respondent any ~~part or all of the~~ reasonable costs, (including attorneys' fees and the costs of investigation and prosecution), ~~in connection with~~ of any Adjudicatory Proceeding ~~at the conclusion of~~ through which ~~the~~ respondent is found to have violated any law or regulation governing the practice of Landscape Architecture. ~~The assessment of reasonable costs shall must be contained formalized in a Board an order directing payment of such costs to the Board, and of the Board, issued together with the Board's final decision, directing payment to the Board of such costs.~~

This authorization to assess costs ~~shall exists~~ so long as the Board operates in good faith and ~~is succeeds~~ successful on any portion of the administrative prosecution, and ~~despite the fact that even if~~ some counts are not substantiated.

(ii) In the case of a Person or Business Entity, the Board may issue an order for recovery of reasonable costs authorized under this Section 213 to the corporate owner, if any, and to any Licensee, officer, owner, or partner of the practice or Business Entity:

- a. found to have ~~had~~ knowledge of; or
- b. who should have reasonably known of; or ~~have~~
- c. who knowingly participated in,

(ii) a violation of any provision of this Act or any regulation duly promulgated hereunder.

(iii) When ~~re~~ the Board ~~has issues~~ an order for ~~the~~ payment of costs, and timely payment of such costs is not made to the Board as directed in its final decision and order, the Board may enforce such order in the ~~(State)~~[State] Courts in the county where the Adjudicatory Proceeding ~~was held~~ occurred. The Board's right of enforcement ~~shall be~~ is in addition to any other rights the Board ~~may have~~ has as to ~~concerning~~ any person directed to pay costs, including denial of licensure.

(iv) In any action for recovery of costs, the Board's final decision and order ~~of the Board shall be~~ is conclusive proof of the validity of the order and terms of payment ~~and the terms for such payment.~~

(v) The Board, in its discretion, may assess administrative fines against a respondent not ~~to exceed~~ing \$([dollars Number]) for each count substantiated in ~~connection with~~ any Adjudicatory Proceeding ~~at the conclusion of~~ in which ~~the~~ respondent is found to have violated any law or regulation governing the

**Section 213(eE)**

*This section authorizes the board to assess fines and costs as ~~part of the~~ administrative sanctions of disciplined respondents. Differentiating between costs (reimbursement of out-of-pocket expenses related to ~~the~~ administrative prosecution of ~~the~~ respondents) and fines (monetary assessments intended to deter future conduct) are important distinctions. ~~Both cost assessments and fines are important~~ authorities tools to use when negotiating ~~informal~~ resolution of complaints.*

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practice of Landscape Architecture. -The assessment of fines shall ~~must~~ be ~~contain~~ formalized in an Board order ~~of the Board directing payment of such fines to the Board, and~~ issued together with the Board's final decision; ~~directing payment of such fines.~~ -The Board shall ~~be~~ is authorized to assess additional fines for ~~the~~ continued violation(s) of any Board order.