

# Ethics & Professional Conduct for Engineers

12 noon — February 20, 2023



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# Outline (1)

- **Complying with rules of ethics and professional conduct**
- Promoting health, safety and welfare of the public
- Preventing conflicts of interest
- Protecting the environment
- Other ethics and professional conduct case studies





Architecture



Architecture

Engineering



Design  
Professionals as a  
Public Official

Architecture

Engineering





Licensing Code  
of Conduct

Professional  
Associations'  
Code of Ethics

# Rules that occur in both codes

- **OAC**

The engineer or surveyor shall:

(A) Protect the safety, health and welfare of the public in the performance of professional duties. Should the case arise where the engineer or surveyor faces a situation where the safety, health and welfare of the public is not protected, the engineer or surveyor shall:

- **NSPE**

## I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts.
6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

# Rules that occur in 1 code & not in another

- **OAC**

(C) The engineer or surveyor shall decline to sign and/or seal any form of certification, warranty, or guaranty that

(1) Relates to matters beyond his or her technical competence,

(2) Involves matters which are beyond the scope of services for which he or she was retained, or

(3) Relates to engineering or surveying work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility.

"Certification" shall mean a statement signed and/or sealed by an engineer or surveyor representing that the engineering or surveying services addressed therein have been performed, according to the engineer or surveyor's knowledge, information and belief, in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.

- **NSPE**

Silent on certifications

**The environment but not the OAC**



Licensing Code  
of Conduct  
OH Admin. Code

Professional  
Associations'  
Code of Ethics



engineers

Prof  
& Profe  
January 20, 2

# Universal Rule of Ethics



# Universal Rule of Ethics



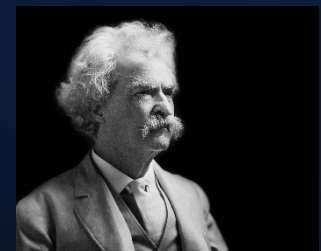
# Universal Rule of Ethics

**Avoid even appearance the  
impropriety.**



Do the right thing.  
It will gratify some  
people and  
astonish the rest.

Mark Twain



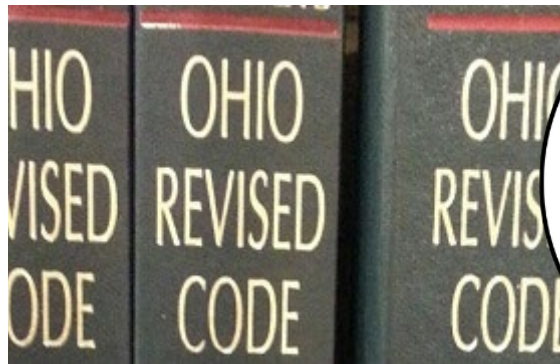


# Where do we get our laws?

- US Constitution
- State Constitutions
- Legislative Acts
- Administrative Agencies (3 branches of government under one roof): Legislature Branch makes laws; Judicial Branch interprets the laws; Executive Branch enforces the laws
- Court decisions from the appellate cases
- Contracts

# Ohio Laws & Administrative Rules

- Ohio law consists of the **Ohio Constitution**, the Ohio **Revised Code** and the **Ohio Administrative Code**.
- The Constitution is the state's highest law superseding all others.
- The **Revised Code** is the codified law of the state.
- **The Administrative Code is a compilation of administrative rules adopted by state agencies.**
- The two codes work in tandem to provide the 3 functions of government that create laws (legislative duties), interpret the laws (judicial duties) and enforce the laws (executive duties).





## Chapter 4733-35 | Code of Ethics for Engineers and Surveyors

Ohio Administrative Code / 4733

[Expand All](#)

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### Rule

[Rule 4733-35-01](#) | Preamble.

[Rule 4733-35-02](#) | Integrity.

[Rule 4733-35-03](#) | Responsibility to the public.

[Rule 4733-35-04](#) | Public statements and certifications.

[Rule 4733-35-05](#) | Conflict of interest.

[Rule 4733-35-06](#) | Solicitation of employment.

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## Rule 4733-35-01 | Preamble.

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*Effective: November 24, 2008*   *Promulgated Under: 119.03*   *PDF: Download Authenticated PDF*

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In order to safeguard the life, health, property and welfare of the public and the state of Ohio, to maintain integrity and high standards of skills and practice in the professions of engineering and surveying, the following rules of professional conduct, promulgated in accordance with Chapter 4733. of the Revised Code, shall be binding upon every person holding a certificate of registration as a professional engineer or as a professional surveyor.

The engineer or surveyor, who holds a certificate of registration from the Ohio state board of registration for professional engineers and surveyors, is charged with having knowledge of the existence of the reasonable rules and regulations hereinafter provided for his or her professional conduct as an engineer or surveyor, and also shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering, or of surveying, is a privilege, as opposed to a right, and the registrant shall be forthright and candid in statements or written responses to the board or its representatives on matters pertaining to professional conduct.

*Last updated April 25, 2022 at 3:29 PM*

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## Rule 4733-35-02 | Integrity.

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The engineer or surveyor is obligated to act with complete integrity in professional matters for each client or employer as a faithful agent; shall be honest and impartial, and shall serve the public, client and employer with devotion.

*Last updated April 25, 2022 at 3:29 PM*

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## Rule 4733-35-03 | Responsibility to the public.

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The engineer or surveyor shall:

(A) Protect the safety, health and welfare of the public in the performance of professional duties. Should the case arise where the engineer or surveyor faces a situation where the safety, health and welfare of the public is not protected, the engineer or surveyor shall:

- (1) Sever the relationship with the employer or client;
- (2) Refuse to accept responsibility for the design, report or statement involved;
- (3) Notify the proper authority if, in his or her opinion, the situation is sufficiently important.

(B) Undertake to perform assignments only when the registrant's consulting support are qualified by training and experience in the specific technical fields involved. In the event a question arises as to the competence of an engineer or surveyor to perform an engineering or surveying assignment in a specific technical field of engineering or surveying which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the engineer or surveyor or by its own volition, may require the engineer or surveyor to submit to an appropriate inquiry by or on behalf of the board;

(C) Be completely objective in any professional report, statement or testimony and shall include all relevant and pertinent information in the report, statement or testimony when the result of omission would, or reasonably could, lead to a fallacious conclusion;

(D) Express an opinion as a technical or expert witness before any court, commission or other tribunal, only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his or her testimony.

*Last updated April 25, 2022 at 3:29 PM*

## Rule 4733-35-04 | Public statements and certifications.

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(A) The engineer or surveyor will issue no statements, criticisms or arguments on engineering or surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the engineer or surveyor has prefaced his or her remarks by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf the engineer or surveyor is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matters.

(B) The engineer or surveyor will publicly express no opinion on an engineering or surveying subject unless it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his or her testimony.

(C) The engineer or surveyor shall decline to sign and/or seal any form of certification, warranty, or guaranty that

(1) Relates to matters beyond his or her technical competence,

(2) Involves matters which are beyond the scope of services for which he or she was retained, or

(3) Relates to engineering or surveying work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility.

"Certification" shall mean a statement signed and/or sealed by an engineer or surveyor representing that the engineering or surveying services addressed therein have been performed, according to the engineer or surveyor's knowledge, information and belief, in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.

*Last updated April 25, 2022 at 3:29 PM*

## Rule 4733-35-05 | Conflict of interest.

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(A) The engineer or surveyor shall conscientiously avoid conflict of interest with the employer or client, but, when unavoidable, the engineer or surveyor shall forthwith disclose the circumstances to the employer or client.

(B) The engineer or surveyor shall promptly inform the client or employer of any business association, interests, or circumstances which could influence his or her judgment or the quality of services to the client or employer.

(C) The engineer or surveyor shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties or their duly authorized agents.

(D) The engineer or surveyor shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.

(E) The engineer or surveyor shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents or other parties dealing with his client or employer in connection with work for which he or she is responsible.

(F) As an elected, retained or employed public official, an engineer or a surveyor (in the capacity as a public official) shall not review or approve work that was performed by himself, or under his direction, on behalf of another employer or client.



## Rule 4733-35-06 | Solicitation of employment.

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*Effective: November 24, 2008 Promulgated Under: 119.03 PDF: Download Authenticated PDF*

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(A) The engineer or surveyor shall not pay, solicit nor offer, directly or indirectly, any bribe or commission for professional employment with the exception of payment of the usual commission for securing salaried positions through licensed employment agencies.

(B) The engineer or surveyor shall seek professional employment on the basis of qualifications and competence for proper accomplishment of the work.

(C) The engineer or surveyor shall not falsify or permit misrepresentation of academic or professional qualifications and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments.

(D) Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint-ventures, or past accomplishments with the intent and purpose of enhancing qualifications and work.

*Last updated April 25, 2022 at 3:29 PM*

# Rule 4733-35-06 | Solicitation of employment.

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(A) The engineer or surveyor shall not pay, solicit nor offer, directly or indirectly, any bribe or commission for professional employment with the exception of payment of the usual commission for securing salaried positions through licensed employment agencies.

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(C) The engineer or surveyor shall not falsify or permit misrepresentation of academic or professional qualifications and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments.

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Annual John Lennon Tribute  
January 27 at 11:34 AM

## Rule 4733-35-07 | Improper conduct.

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(A) The engineer or surveyor shall not sign and/or seal professional work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility. This is interpreted by the board to mean that an engineer or surveyor shall not sign and/or seal professional work unless that work was prepared under his/her supervision and direction. The engineer or surveyor shall be involved in the project and must be closely involved in the preparation of the work product.

(B) The engineer or surveyor shall not knowingly associate with, or permit the use of his or her name or firm name in, a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

(C) If the engineer or surveyor has knowledge or reason to believe that another person or firm is guilty of violating any of the provisions of Chapter 4733. of the Revised Code, or any of these rules of professional conduct, he or she shall present this information to the board in writing.

(D) If a professional engineer or professional surveyor is found guilty of a felony or had his or her registration revoked or suspended by another jurisdiction, the professional engineer or professional surveyor shall notify the board in writing within sixty days.

*Last updated April 25, 2022 at 3:29 PM*

# If You are Accused of Plan Stamping

- **Assemble all documents** showing that you were in responsible control, such as:
- **Internal drafts of documents** that have your “finger prints” on them
- **Redlines, notes, etc. on documents** that you were personally involved in
- **Internal emails, meeting minutes, etc.** between yourself and others working underneath you that show your personal involvement
- You **actually prepared portions of the documents** that you were in responsible control of
- Even if you are not accused, **develop a system in the event this does not happen to you**

## Rule 4733-35-08 | Other jurisdiction.

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Conviction of a felony without restoration of civil rights, or the revocation, voluntary surrender, or suspension of a professional engineer's or surveyor's license by another jurisdiction, if for a cause which in the state of Ohio would constitute a violation of Ohio Revised Code Chapter 4733. or of these rules, shall be grounds for a charge of violation of these rules.

*Last updated April 25, 2022 at 3:29 PM*

## Rule 4733-35-09 | Records.

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Each registrant or certificate of authorization holder shall keep a true and correct record in the English language of all of the business transactions in the registrant's or holder's office relevant to enforcement of Chapter 4733. of the Revised Code. Such records shall be available at all reasonable hours for inspection and copying by the Ohio state board of registration for professional engineers and surveyors.

Each registrant or licensee shall cooperate with the board in its investigation of complaints or possible violations of Chapter 4733. of the Revised Code. This cooperation shall include responding timely to written communications from the board, providing information or documents requested within thirty days of the date on which the communication was mailed, and appearing before the board or its designee upon request.

*Last updated April 25, 2022 at 3:29 PM*

# Incidental Practice

- Sections 4703.01 to 4703.19 of the Revised Code do not exclude a registered professional engineer from **architectural practice that may be incident to the practice of engineering** or exclude a registered architect from engineering practice that may be incident to the practice of architecture.
- OAC 4703-1-01 (B) "Practice of Architecture" - providing that the practice of architecture shall not include the practice of engineering as defined in Chapter 4733. of the Revised Code, **but a registered architect may perform such engineering work as is incidental to the practice of architecture.**

## Preamble

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

## I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts.
6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

## II. Rules of Practice

### 1. Engineers shall hold paramount the safety, health, and welfare of the public.

- a. If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
- b. Engineers shall approve only those engineering documents that are in conformity with applicable standards.
- c. Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
- d. Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
- e. Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
- f. Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

### 2. Engineers shall perform services only in the areas of their competence.

- a. Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
- b. Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which

they lack competence, nor to any plan or document not prepared under their direction and control.

- c. Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

### 3. Engineers shall issue public statements only in an objective and truthful manner.

- a. Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
- b. Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
- c. Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

### 4. Engineers shall act for each employer or client as faithful agents or trustees.

- a. Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
- b. Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
- c. Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
- d. Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
- e. Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

### 5. Engineers shall avoid deceptive acts.

- a. Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident

to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.

- b. Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

## III. Professional Obligations

### 1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

- a. Engineers shall acknowledge their errors and shall not distort or alter the facts.
- b. Engineers shall advise their clients or employers when they believe a project will not be successful.
- c. Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
- d. Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
- e. Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.
- f. Engineers shall treat all persons with dignity, respect, fairness, and without discrimination.

### 2. Engineers shall at all times strive to serve the public interest.

- a. Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
- b. Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
- c. Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
- d. Engineers are encouraged to adhere to the principles of sustainable development<sup>2</sup> in order to protect the environment for future generations.
- e. Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminar.



**3. Engineers shall avoid all conduct or practice that deceives the public.**

- a. Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
- b. Consistent with the foregoing, engineers may advertise for recruitment of personnel.
- c. Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

**4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.**

- a. Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
- b. Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.

**5. Engineers shall not be influenced in their professional duties by conflicting interests.**

- a. Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
- b. Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.

**6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.**

- a. Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
- b. Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.
- c. Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

**7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.**

- a. Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.
- b. Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.
- c. Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

**8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.**

- a. Engineers shall conform with state registration laws in the practice of engineering.
- b. Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.

**9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.**

- a. Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
- b. Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
- c. Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
- d. Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.

Footnote 1 "Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.

"By order of the United States District Court for the District of Columbia, former Section 11(c) of the NSPE Code of Ethics prohibiting competitive bidding, and all policy statements, opinions, rulings or other guidelines interpreting its scope, have been rescinded as unlawfully interfering with the legal right of engineers, protected under the antitrust laws, to provide price information to prospective clients; accordingly, nothing contained in the NSPE Code of Ethics, policy statements, opinions, rulings or other guidelines prohibits the submission of price quotations or competitive bids for engineering services at any time or in any amount."

**Statement by NSPE Executive Committee**

In order to correct misunderstandings which have been indicated in some instances since the issuance of the Supreme Court decision and the entry of the Final Judgment, it is noted that in its decision of April 25, 1978, the Supreme Court of the United States declared: "The Sherman Act does not require competitive bidding."

It is further noted that as made clear in the Supreme Court decision:

1. Engineers and firms may individually refuse to bid for engineering services.
2. Clients are not required to seek bids for engineering services.
3. Federal, state, and local laws governing procedures to procure engineering services are not affected, and remain in full force and effect.
4. State societies and local chapters are free to actively and aggressively seek legislation for professional selection and negotiation procedures by public agencies.
5. State registration board rules of professional conduct, including rules prohibiting competitive bidding for engineering services, are not affected and remain in full force and effect. State registration boards with authority to adopt rules of professional conduct may adopt rules governing procedures to obtain engineering services.
6. As noted by the Supreme Court, "nothing in the judgment prevents NSPE and its members from attempting to influence governmental action . . ."

Note: In regard to the question of application of the Code to corporations vis-a-vis real persons, business form or type should not negate nor influence conformance of individuals to the Code. The Code deals with professional services, which services must be performed by real persons. Real persons in turn establish and implement policies within business structures. The Code is clearly written to apply to the Engineer, and it is incumbent on members of NSPE to endeavor to live up to its provisions. This applies to all pertinent sections of the Code.

**Preamble**

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare. Engineers must perform under a standard of professional behavior that requires adherence to the highest principles of ethical conduct.

**I. Fundamental Canons**

Engineers, in the fulfillment of their professional duties, shall:

1. Hold paramount the safety, health, and welfare of the public.
2. Perform services only in areas of their competence.
3. Issue public statements only in an objective and truthful manner.
4. Act for each employer or client as faithful agents or trustees.
5. Avoid deceptive acts.
6. Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

**II. Rules of Practice****1. Engineers shall hold paramount the safety, health, and welfare of the public.**

- a. If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.
- b. Engineers shall approve only those engineering documents that are in conformity with applicable standards.
- c. Engineers shall not reveal facts, data, or information without the prior consent of the client or employer except as authorized or required by law or this Code.
- d. Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
- e. Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
- f. Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

**2. Engineers shall perform services only in the areas of their competence.**

- a. Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
- b. Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which

they lack competence, nor to any plan or document not prepared under their direction and control.

- c. Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

**3. Engineers shall issue public statements only in an objective and truthful manner.**

- a. Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
- b. Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
- c. Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

**4. Engineers shall act for each employer or client as faithful agents or trustees.**

- a. Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
- b. Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
- c. Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
- d. Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
- e. Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

**5. Engineers shall avoid deceptive acts.**

- a. Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident

to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.

- b. Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

**III. Professional Obligations****1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.**

- a. Engineers shall acknowledge their errors and shall not distort or alter the facts.
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**2. Engineers shall at all times strive to serve the public interest.**

- a. Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
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- c. Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
- d. Engineers are encouraged to adhere to the principles of sustainable development<sup>1</sup> in order to protect the environment for future generations.
- e. Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.



NATIONAL SOCIETY OF  
PROFESSIONAL ENGINEERS

## Preamble

**Engineering is an important and learned profession.** As members of this profession, engineers are expected to exhibit the **highest standards of honesty and integrity.**

Engineering has a **direct and vital impact on the quality of life** for all people.

Accordingly, the services provided by engineers require honesty, impartiality, fairness, and equity, and **must be dedicated to the protection of the public health, safety, and welfare.**

Engineers must perform under a standard of professional behavior that requires adherence to the **highest principles of ethical conduct.**

# Outline (2)

- Complying with rules of ethics and professional conduct
- **Promoting health, safety and welfare of the public**
- Preventing conflicts of interest
- Protecting the environment
- Other ethics and professional conduct case studies



NATIONAL SOCIETY OF  
PROFESSIONAL ENGINEERS

## I. Fundamental Canons

Engineers, in the fulfillment of their professional duties, shall:

- 1. Hold paramount the safety, health, and welfare of the public.**
2. Perform services only in areas of their competence.
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## II. Rules of Practice

- 1. Engineers shall hold paramount the safety, health, and welfare of the public.**

**If engineers' judgment is overruled under circumstances that endanger life or property, they shall notify their employer or client and such other authority as may be appropriate.**

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## Board of Ethical Review

- The Board of Ethical Review is **a panel of engineering ethics experts that has served as the profession's guide through ethical dilemmas.**
- The board consists of seven licensed members who are appointed by the NSPE president.
- The purpose of the BER is to render impartial opinions pertaining to the interpretation of the [NSPE Code of Ethics](#), develop materials, and conduct studies relating to ethics of the engineering profession.
- In 1946, NSPE released its Canons of Ethics for Engineers and Rules of Professional Conduct, which evolved to the current Code of Ethics, adopted in 1964.
- While these statements of general principles served as a guide, many engineers requested interpretations of how the Canons and Rules would apply to specific circumstances.
- These requests ultimately led to the creation of the BER in 1954. Ethics cases rarely have easy answers, but the BER's nearly [650 advisory opinions](#) have helped bring clarity to the ethical issues engineers face daily.

# BER Case Number: Case 18-5

Year: 2018; **Public HSW**, Facts:

**Engineer A**, a professional engineer, worked for many years as a quality control engineer for Boilco, a boiler manufacturer.

In recent years, Boilco began using a more economical international supplier of boiler valves and electric switches to reduce costs, **but Engineer A's product testing demonstrated that the new boiler valves and electric switches were inferior and could be unsafe.**

**Engineer A rejected the first shipment**, but Engineer A's supervisor, also a professional engineer, overruled Engineer A. When Engineer A brought his product concerns to senior management, Engineer A's supervisor abruptly fired Engineer A for insubordination.

After termination, **Engineer A contacted a federal agency**, detailing the **threat to public safety** posed by Engineer A's former employer.

## Questions:

- 1.) **Were Engineer A's actions** in contacting the federal agency ethical under the facts and circumstances?
- 2.) **Was it ethical for Engineer A's supervisor to fire Engineer A** for insubordination?



**Consistent with the NSPE Code of Ethics**, in their professional relations, engineers have an obligation to act with judgment and discretion, as well as with a sense of fairness and balance, in recognition of the complex issues involved in engineering practice and the business and technical issues faced by employers or clients.

The **NSPE Board of Ethical Review** has on several occasions examined cases relating to the obligations of engineers **to report** activities that endanger the **public health and safety**.

**Engineer A's** action in first alerting his immediate supervisor and then contacting higher management when his immediate supervisor was not responsive demonstrates that he made a **good faith effort to exhaust** internal mechanisms within the company in order to address what he reasonably viewed as a serious public safety concern.

The decision to terminate **Engineer A**, a long-tenured quality control engineer, immediately after he reported concerns about meeting safety standards first to an immediate supervisor and then to higher management indicates that **Engineer A's actions in contacting the federal agency and detailing the threat to public safety posed by his former employer were justified**

### Conclusion:

- 1.) **Engineer A's** actions in contacting the federal agency and detailing the threat to **public safety** posed by his former employer were justified and were consistent with the **NSPE Code of Ethics**.
- 2.) It was unethical for **Engineer A's supervisor** to fire **Engineer A** for insubordination.

# Outline (3)

- Complying with rules of ethics and professional conduct
- Promoting health, safety and welfare of the public
- **Preventing conflicts of interest**
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- Other ethics and professional conduct case studies

## Preamble

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- d. Engineers are encouraged to adhere to the principles of sustainable development<sup>1</sup> in order to protect the environment for future generations.
- e. Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.

**3. Engineers shall avoid all conduct or practice that deceives the public.**

- a. Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
- b. Consistent with the foregoing, engineers may advertise for recruitment of personnel.
- c. Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.

**4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.**

- a. Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
- b. Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.

**5. Engineers shall not be influenced in their professional duties by conflicting interests.**

- a. Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
- b. Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.

**6. Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.**

- a. Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
- b. Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.
- c. Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

**7. Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.**

- a. Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.
- b. Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.
- c. Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

**8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.**

- a. Engineers shall conform with state registration laws in the practice of engineering.
- b. Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.

**9. Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.**

- a. Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
- b. Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
- c. Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
- d. Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.

Footnote 1 "Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.

"By order of the United States District Court for the District of Columbia, former Section 11(c) of the NSPE Code of Ethics prohibiting competitive bidding, and all policy statements, opinions, rulings or other guidelines interpreting its scope, have been rescinded as unlawfully interfering with the legal right of engineers, protected under the antitrust laws, to provide price information to prospective clients; accordingly, nothing contained in the NSPE Code of Ethics, policy statements, opinions, rulings or other guidelines prohibits the submission of price quotations or competitive bids for engineering services at any time or in any amount."

**Statement by NSPE Executive Committee**

In order to correct misunderstandings which have been indicated in some instances since the issuance of the Supreme Court decision and the entry of the Final Judgment, it is noted that in its decision of April 25, 1978, the Supreme Court of the United States declared: "The Sherman Act does not require competitive bidding."

It is further noted that as made clear in the Supreme Court decision:

1. Engineers and firms may individually refuse to bid for engineering services.
2. Clients are not required to seek bids for engineering services.
3. Federal, state, and local laws governing procedures to procure engineering services are not affected, and remain in full force and effect.
4. State societies and local chapters are free to actively and aggressively seek legislation for professional selection and negotiation procedures by public agencies.
5. State registration board rules of professional conduct, including rules prohibiting competitive bidding for engineering services, are not affected and remain in full force and effect. State registration boards with authority to adopt rules of professional conduct may adopt rules governing procedures to obtain engineering services.
6. As noted by the Supreme Court, "nothing in the judgment prevents NSPE and its members from attempting to influence governmental action . . ."

Note: in regard to the question of application of the Code to corporations vis-a-vis real persons, business form or type should not negate nor influence conformance of individuals to the Code. The Code deals with professional services, which services must be performed by real persons. Real persons in turn establish and implement policies within business structures. The Code is clearly written to apply to the Engineer, and it is incumbent on members of NSPE to endeavor to live up to its provisions. This applies to all pertinent sections of the Code.

# BER Case Number: Case 20-3

## Year: 2020; **Conflict of Interest**, Facts:

The Board of Licensure for Professional Engineers (“the PE Board”) in State X consists of **six professional engineers and a public member**. The governor of State X has recently appointed two new board members, Engineer A and Engineer B, to fill two expiring terms.

**Engineer A** otherwise is a member of the board of directors of a membership engineering organization in that state. **Engineer B** serves as a committee chair of a national engineering organization.

At the first meeting of the newly constituted PE Board, the public member asks **whether these outside professional activities constitute a conflict of interest** with respect to PE Board service.

**Engineer A responded** that:

- (1) although her state organization has been advocating for the improvement of the state’s continuing professional development requirements to the PE Board and the legislature,
- (2) she has not been making those presentations, but
- (3) that the advocacy has been discussed at meetings of the state organization’s board of directors.

**Engineer B responded** that he is the chair of an engineering education committee of the national engineering organization, with a role, in part, to recommend changes to his engineering discipline’s engineering education accreditation criteria, for subsequent review and approval by ABET. The PE Board begins to discuss these professional involvements.

**Question(s):** Does **Engineer A** have a conflict of interest with respect to PE Board service? And does **Engineer B** have a conflict of interest with respect to PE Board service?

Professional engineers **often find themselves involved with and representing multiple organizational interests in their professional activities**, and this can give rise to organizational conflicts of interest. Conflicts of interest are among the most prevalent ethical concerns facing engineering practitioners.

Over the years, the **Board of Ethical Review** has considered numerous cases involving engineers who have interests in conflict with the interests of clients, employees, or other engineers.

At one time, the NSPE Code of Ethics **specifically prohibited engineers from becoming involved in cases or situations in which a conflict of interest** was present.

This was based on the view that professional engineers **must at all times be above reproach and avoid any situation that could be perceived as compromising** their professional judgment and integrity as independent professionals.

## Conclusion:

- 1.) **Engineer A has a conflict of interest.** While public service does not preclude Engineer A from being a member of the state engineering organization, the BER recommends that Engineer A should resign her position as a member of the board of directors of her engineering organization if she desires to serve on her state PE board.
- 2.) **Engineer B does not have a conflict of interest** according to the NSPE Code of Ethics.

# Outline (4)

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- d. Engineers shall not permit the use of their name or associate in business ventures with any person or firm that they believe is engaged in fraudulent or dishonest enterprise.
- e. Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
- f. Engineers having knowledge of any alleged violation of this Code shall report thereon to appropriate professional bodies and, when relevant, also to public authorities, and cooperate with the proper authorities in furnishing such information or assistance as may be required.

### 2. Engineers shall perform services only in the areas of their competence.

- a. Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
- b. Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which

they lack competence, nor to any plan or document not prepared under their direction and control.

- c. Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

### 3. Engineers shall issue public statements only in an objective and truthful manner.

- a. Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony, which should bear the date indicating when it was current.
- b. Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
- c. Engineers shall issue no statements, criticisms, or arguments on technical matters that are inspired or paid for by interested parties, unless they have prefaced their comments by explicitly identifying the interested parties on whose behalf they are speaking, and by revealing the existence of any interest the engineers may have in the matters.

### 4. Engineers shall act for each employer or client as faithful agents or trustees.

- a. Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
- b. Engineers shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.
- c. Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
- d. Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
- e. Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

### 5. Engineers shall avoid deceptive acts.

- a. Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident

to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint venturers, or past accomplishments.

- b. Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.

## III. Professional Obligations

### 1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

- a. Engineers shall acknowledge their errors and shall not distort or alter the facts.
- b. Engineers shall advise their clients or employers when they believe a project will not be successful.
- c. Engineers shall not accept outside employment to the detriment of their regular work or interest. Before accepting any outside engineering employment, they will notify their employers.
- d. Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
- e. Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.
- f. Engineers shall treat all persons with dignity, respect, fairness, and without discrimination.

### 2. Engineers shall at all times strive to serve the public interest.

- a. Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
- b. Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.
- c. Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
- d. Engineers are encouraged to adhere to the principles of sustainable development<sup>1</sup> in order to protect the environment for future generations.
- e. Engineers shall continue their professional development throughout their careers and should keep current in their specialty fields by engaging in professional practice, participating in continuing education courses, reading in the technical literature, and attending professional meetings and seminars.



3. **Engineers shall avoid all conduct or practice that deceives the public.**
  - a. Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
  - b. Consistent with the foregoing, engineers may advertise for recruitment of personnel.
  - c. Consistent with the foregoing, engineers may prepare articles for the lay or technical press, but such articles shall not imply credit to the author for work performed by others.
4. **Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.**
  - a. Engineers shall not, without the consent of all interested parties, promote or arrange for new employment or practice in connection with a specific project for which the engineer has gained particular and specialized knowledge.
  - b. Engineers shall not, without the consent of all interested parties, participate in or represent an adversary interest in connection with a specific project or proceeding in which the engineer has gained particular specialized knowledge on behalf of a former client or employer.
5. **Engineers shall not be influenced in their professional duties by conflicting interests.**
  - a. Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
  - b. Engineers shall not accept commissions or allowances, directly or indirectly, from contractors or other parties dealing with clients or employers of the engineer in connection with work for which the engineer is responsible.
6. **Engineers shall not attempt to obtain employment or advancement or professional engagements by untruthfully criticizing other engineers, or by other improper or questionable methods.**
  - a. Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
  - b. Engineers in salaried positions shall accept part-time engineering work only to the extent consistent with policies of the employer and in accordance with ethical considerations.
  - c. Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

7. **Engineers shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice, or employment of other engineers. Engineers who believe others are guilty of unethical or illegal practice shall present such information to the proper authority for action.**
  - a. Engineers in private practice shall not review the work of another engineer for the same client, except with the knowledge of such engineer, or unless the connection of such engineer with the work has been terminated.
  - b. Engineers in governmental, industrial, or educational employ are entitled to review and evaluate the work of other engineers when so required by their employment duties.
  - c. Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.
8. **Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer's interests cannot otherwise be protected.**
  - a. Engineers shall conform with state registration laws in the practice of engineering.
  - b. Engineers shall not use association with a nonengineer, a corporation, or partnership as a "cloak" for unethical acts.
9. **Engineers shall give credit for engineering work to those to whom credit is due, and will recognize the proprietary interests of others.**
  - a. Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
  - b. Engineers using designs supplied by a client recognize that the designs remain the property of the client and may not be duplicated by the engineer for others without express permission.
  - c. Engineers, before undertaking work for others in connection with which the engineer may make improvements, plans, designs, inventions, or other records that may justify copyrights or patents, should enter into a positive agreement regarding ownership.
  - d. Engineers' designs, data, records, and notes referring exclusively to an employer's work are the employer's property. The employer should indemnify the engineer for use of the information for any purpose other than the original purpose.

Footnote 1 "Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.

"By order of the United States District Court for the District of Columbia, former Section II(c) of the NSPE Code of Ethics prohibiting competitive bidding, and all policy statements, opinions, rulings or other guidelines interpreting its scope, have been rescinded as unlawfully interfering with the legal right of engineers, protected under the antitrust laws, to provide price information to prospective clients; accordingly, nothing contained in the NSPE Code of Ethics, policy statements, opinions, rulings or other guidelines prohibits the submission of price quotations or competitive bids for engineering services at any time or in any amount."

#### Statement by NSPE Executive Committee

In order to correct misunderstandings which have been indicated in some instances since the issuance of the Supreme Court decision and the entry of the Final Judgment, it is noted that in its decision of April 25, 1978, the Supreme Court of the United States declared: "The Sherman Act does not require competitive bidding."

It is further noted that as made clear in the Supreme Court decision:

1. Engineers and firms may individually refuse to bid for engineering services.
2. Clients are not required to seek bids for engineering services.
3. Federal, state, and local laws governing procedures to procure engineering services are not affected, and remain in full force and effect.
4. State societies and local chapters are free to actively and aggressively seek legislation for professional selection and negotiation procedures by public agencies.
5. State registration board rules of professional conduct, including rules prohibiting competitive bidding for engineering services, are not affected and remain in full force and effect. State registration boards with authority to adopt rules of professional conduct may adopt rules governing procedures to obtain engineering services.
6. As noted by the Supreme Court, "nothing in the judgment prevents NSPE and its members from attempting to influence governmental action . . ."

Note: In regard to the question of application of the Code to corporations vis-a-vis real persons, business form or type should not negate nor influence conformance of individuals to the Code. The Code deals with professional services, which services must be performed by real persons. Real persons in turn establish and implement policies within business structures. The Code is clearly written to apply to the Engineer, and it is incumbent on members of NSPE to endeavor to live up to its provisions. This applies to all pertinent sections of the Code.

# Protecting the environment: meeting or exceeding legal requirements

- ~~and appreciation of engineering and its achievements.~~
- d. Engineers are encouraged to adhere to the principles of sustainable development<sup>1</sup> in order to protect the environment for future generations.
  - e. Engineers shall continue their professional development.

~~engineer programs.~~

Footnote 1 "Sustainable development" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.

# Allied Profession

## ASLA Code of Professional Ethics



The policies established by the Board of Trustees relative to environmental stewardship, quality of life, and professional affairs are summarized in the ASLA Code of Environmental Ethics.

**Members should make every effort to enhance, respect, and restore the life-sustaining integrity of the landscape and seek environmentally positive, financially sound, and sustainable solutions to land use, development, and management opportunities.**



### ASLA Code of Environmental Ethics

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#### Preamble

Members of the American Society of Landscape Architects should make every effort within our sphere of influence to enhance, respect, and restore the life-sustaining integrity of the landscape for all living things.

Members should work with clients, review and approval agencies, and local, regional, national, and global governing authorities to educate about, encourage, and seek approval of environmentally positive, financially sound, and sustainable solutions to land-use, development, and management opportunities.

The following tenets are the basis of the ASLA Code of Environmental Ethics:

# Case Number: Case 18-9

## Year: 2018; **The Environment**, Facts:

- **Engineer A** is an engineer in private practice. **Engineer A** is retained by **Client A**, a developer, to perform hydrodynamic modeling and coastal risk assessment in connection with **potential climate change** and sea level rise for a residential development project near a coastal area.
- The geographic area in which **Client A** is planning to build the project currently has no building code in place.
- Based on newly released information as well as a recently developed algorithm that includes newly identified historic weather data,
- **Engineer A** believes the residential development project should be built to a 100-year projected storm surge elevation, due to **public safety risks** even at lower projections of future surge level rise.
- Because of the increased cost, **Client A** refuses to agree that the residential development project be built to a 100-year projection storm surge elevation.
- **Question:** What are **Engineer A's** obligations under the circumstances?

- As the BER has noted on several occasions, engineers play an essential role in society by taking steps and actions to ensure that products, systems, facilities, structures, and the land surrounding them are **reasonably safe**.
- Sometimes engineers are placed in situations in which they must balance their obligations to their employer or client with their obligations to protect the **public health and safety**.
- NSPE Code Section III.2.d. places some additional responsibilities on engineers for the protection of the environment.
- **III.2.d.** Engineers are encouraged to adhere to the principles of **sustainable development** in order to protect the environment for future generations. "**Sustainable development**" is the challenge of meeting human needs for natural resources, industrial products, energy, food, transportation, shelter, and effective waste management while conserving and protecting environmental quality and the natural resource base essential for future development.
- **Conclusion:** **Engineer A** should continue to pursue discussions with **Client A** to convince **Client A** of the danger in which future residents, as well as **the general public**, could be placed, and the potential for significant property and **environmental damage**.
- If **Client A** refuses to agree with **Engineer A's** design standard, **Engineer A** should withdraw from the project.

# Outline (5)

- Complying with rules of ethics and professional conduct
- Promoting health, safety and welfare of the public
- Preventing conflicts of interest
- Protecting the environment
- **Other ethics and professional conduct case studies**

# Project Manager In-House Engineer A & Her Firm B

- **Firm B** assigned a project with extremely tight project, that had a certain amount of architectural details, to **Engineer A**.
- In order to economize on time, to avoid utilizing an in-house architect, **Engineer A** attempted to prepare the architectural details for the project.
- **Engineer A's** approach was to send the engineering and architectural details to the **building department**.
- **Engineer A** assumed that the **city building plan examiner** would correct any architectural details, and send back to **Engineer A**.
- **Engineer A** attempted to correct the architectural details, and sent the project documents for a second **city plan examiner review**.
- The **plans examiner** was unsatisfied **Engineer A's** revisions, made more corrections, and sent the documents back to **Engineer A**.

- After the unsuccessful third round of reviews, corrections and transmitting the project documents back and forth,
- the **plans examiner** notified the state Board of Architects for **Engineer A's** and **Firm B's** incompetent practice of architecture.
- **Engineer A** and **Firm B** were served with a notice of a hearing from the **State Attorney General**.
- After the hearing, **Engineer A** and **Firm B** were sanctioned for by the state **Board of Architects** incompetent practice of architecture.
- The **State Attorney General** relied, in part, upon a provision in the state Architecture Code of Conduct that engineers may practice architecture so long as it is incidental to engineering.
- Evidence presented in the hearing it was determined that **Engineer A's** actions exceed the incidental threshold, and was incompetent.



# Case Study - Steel Fabrication

## Company B & its In-House Engineer A

**Company B** secured a commission to design, manufacture and install long-span trusses for a large facility, on a very strict schedule.

**Company B** is facing **bankruptcy**, but the commission would keep the debtors away, and be able to meet payroll.

**Engineer A's** innovated design of the trusses would increase **Company B's** profit.

Unfortunately, **Engineer A** discovered the trusses were **fabricated incorrectly**, but fortunately before they were shipped to the site.

**Engineer A** approaches **Company B's president** to inform him that the trusses had to go back into the fabrication shop, with a delay of several days.

**Company B's president** informs **Engineer A** that the delay would cause **Company B** to breach the strict schedule, and lose the commission.

**Company B's president pressured Engineer A** to ignore the fabrication error, so that **Company B** could meet payroll, and stave-off **bankruptcy**.

**Company B's president** stated if there is problem down the road, that is why **Company B** has insurance.

**Engineer A sought the advice from a fellow Engineer C, who stated that he has to report this matter to building code officials.**

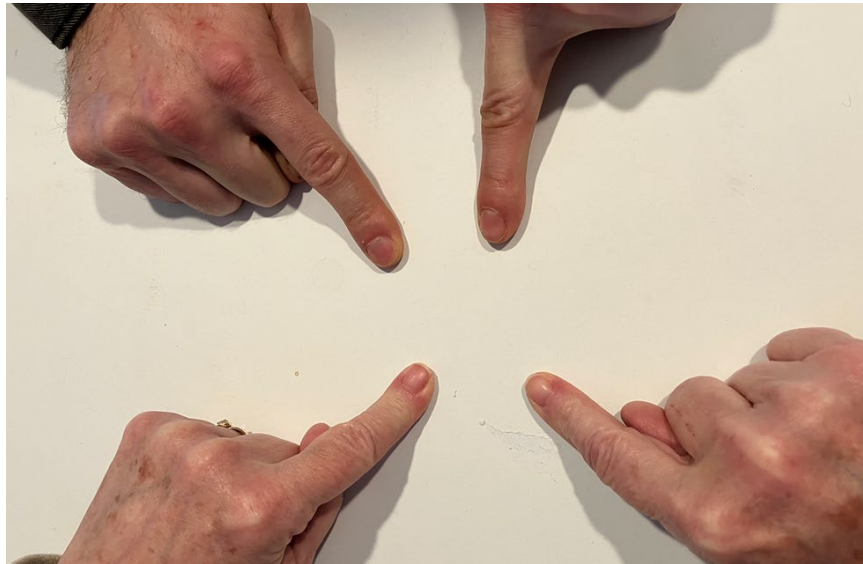
Nonetheless, **Engineer A** reluctantly complied with **Company B's president's** demand, and the trusses were shipped to the site.

The trusses were installed, and the facility was completed.

After a few months later, after a snow storm, **the roof collapsed.**



After a **tremendous of finger-pointing, litigation** ensued.



During the discovery stage of the litigation, **Engineer A's** actions came to light to the state Engineer Licensing Board.

**Engineer A** was forced to retain legal counsel, to defend himself in a disciplinary hearing and litigation.

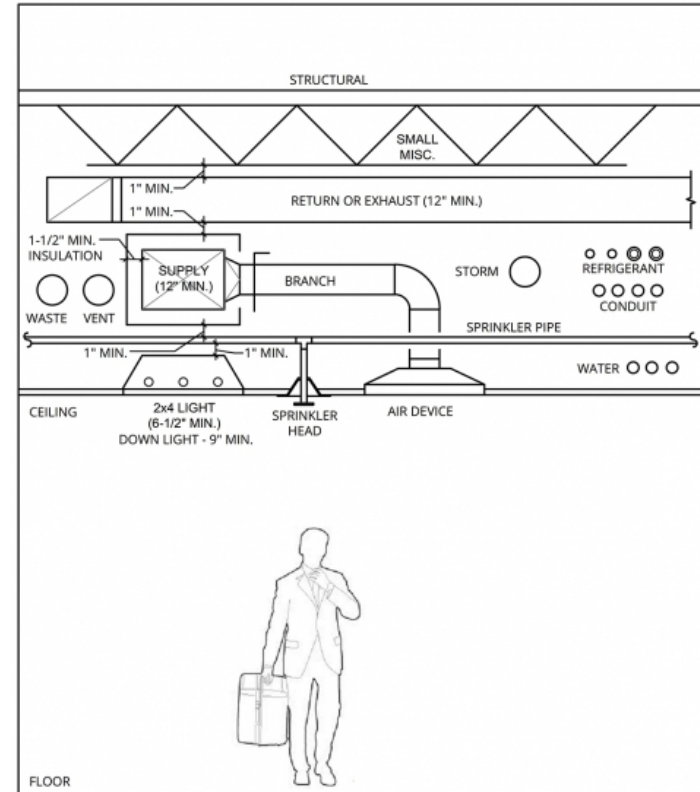
**Engineer A's** engineering **license was revoked**.

**Company B's president** reorganize after bankruptcy and started a new company with his brother-law.



# 1st Reported Lawsuit Involving BIM

- Lack of **communication and poor project management** was to blame.
- The failure to properly use building information modelling on the construction of a life sciences building in the US has **led to what is believed to be the first ever legal case caused by the technology.**
- Problems occurred when the **M&E engineer failed to tell the contractor that the building's M&E systems needed to be very tightly installed into the ceiling plenum.** This failure meant the contractor **ran out of space 70% of the way through assembly.**
- “The MEP systems were modelled [using BIM] **however 2D documents were produced for construction**, a practice that is typical for firms or teams new to BIM,” he explained.
- **Poor project management and a lack of meeting documentation** were also to blame.
- The parties involved wished to stay **anonymous** and **settled out of court** for “millions of dollars”, split between the firms.



**ENR**  
Engineering News-Record

# RFI's | Comments | Questions

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