

GOT
ETHICS?

NJSPE

Professional Ethics Refresher

by

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Deep Thoughts



Engineering is a regulated profession

- ▣ - If anyone could do it, you wouldn't need a license.
- ▣ - It's a regulated profession because the practice of your profession affects the **public health, safety and welfare.**
[Enabling Act]
- ▣ - You can't ever forget that. Ever.

You must follow a Code of Ethics

- ▣ - No matter what state you practice in, that state has a code of ethics which governs your ethical conduct.
- ▣ - As a member of the National Society of Professional Engineers, there is another code of ethics which governs your ethical conduct.
- ▣ - Plaintiff's lawyers know this and will use it against you if you don't follow that code.

What you don't know can hurt you

- ▣ - As a professional license holder, or someone who works for a professional license holder, you are required to know the constraints imposed upon your conduct by those codes of ethics. If you violate the provisions of those codes of ethics, you or the person that you work for can be fined or lose their license to practice as a professional engineer.

People with bad ethics get fired or lose their licenses to practice.



I've been fired.
Now what?



I've been fired.
So what?

You already know this material, you
just need to remember it!



Examples of two types of regulations governing ethical conduct

- ▣ The NSPE Code of Ethics
- ▣ The administrative code of your jurisdiction.

13:40-3.5 Enumeration of prohibited acts:
(a) Misconduct in the practice of professional engineering or land surveying shall include, without limitation:



The NSPE Code of Ethics is the basis for most administrative code ethics provisions

- ▣ - While you should familiarize yourself with the ethics regulations governing the practice of professional engineering in your jurisdiction, you will always be on the right track, ethics wise, if you follow the NSPE Code of Ethics.
- ▣ - Like the teachings of the Bible, Torah and Koran, **ethics concepts are universal and almost all relate to your fiduciary duty**



Definition of Fiduciary Duty

Fiduciary Duty:

A fiduciary duty is a legal duty to act solely in another party's interests. Parties owing this duty are called fiduciaries. The individuals to whom they owe a duty are called principals. Fiduciaries may not profit from their relationship with their principals unless they have the principals' express informed consent. They also have a duty to avoid any conflicts of interest between themselves and their principals or between their principals and the fiduciaries' other clients. A fiduciary duty is the strictest duty of care recognized by the US legal system.

Fiduciary Duty

- ▣ I. Acting for his or her client or employer in professional matters otherwise than as a faithful agent or trustee; accepting any remuneration other than his or her stated recompense for services rendered.

Extended Fiduciary Duty

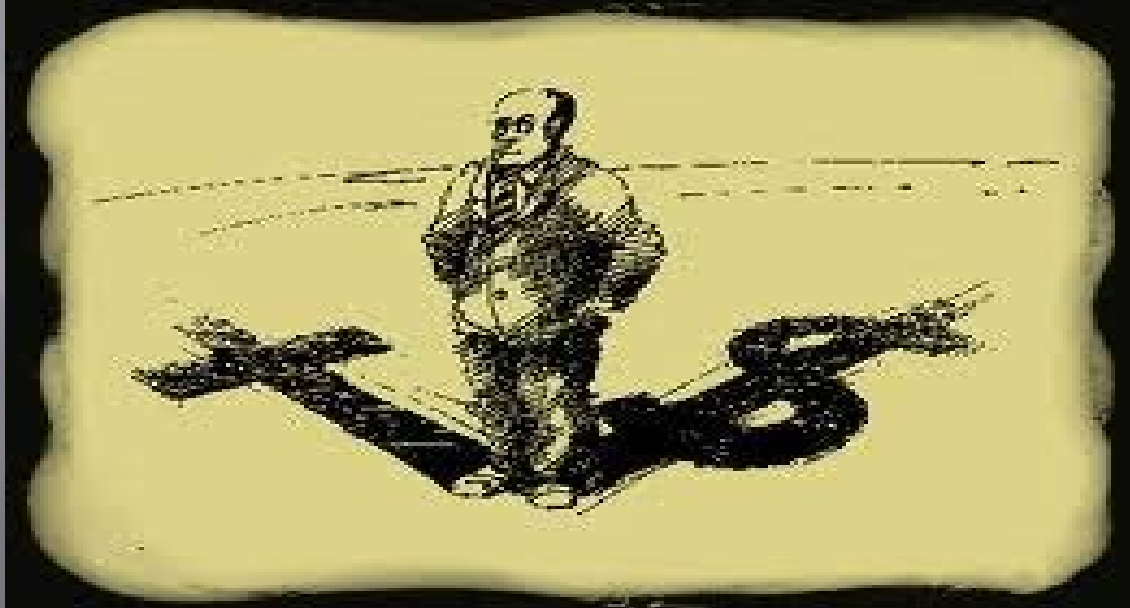
- ▣ 2. Disregarding the safety, health and welfare of the public in the performance of his or her professional duties: preparing or signing and sealing plans, surveys or specifications which are not of a safe design and/or not in conformity with accepted standards. If the client or employer insists on such conduct, the licensee shall notify the proper authorities and withdraw from further service on the project.

3. Advertising in violation of N.J.A.C. 13:40-3.3.

- ▣ Any professional engineer, land surveyor or professional business entity that *uses an advertisement containing false or misleading information, including **claims of superiority that cannot be substantiated***, or that fails to meet the requirements set forth in this subsection shall be deemed to be engaged in professional misconduct.

Conflict of Interest

- ▣ 4. Engaging in any activity which involves him in a conflict of interest, including without limitation:



Serving two masters

- ▣ i. A licensee shall inform his client or employer of any business connection, interest or circumstance **which might be deemed as influencing his judgment** or the quality of his services to the client or employer.
- ▣ **It's what your client might think!**

Favoritism and Nepotism

- ▣ ii. When in public service as a member, advisor or employee of a governmental agency, a licensee shall not participate in the deliberations or actions of such agency with respect to services rendered or to be rendered by the licensee or any firm or organization with which he is associated in private practice.

Serving Yourself

- ▣ iii. A licensee shall not solicit or accept a professional contract from a governmental agency upon which a principal, officer or employee of his firm or organization serves as a member, advisor or employee.

Double Dipping

- ▣ iv. A licensee shall not accept compensation or remuneration, financial or otherwise, from more than one interested party for the same service or for services pertaining to the same work, unless there has been full disclosure to and consent by all interested parties.

Kickbacks

- ▣ v. A licensee shall not accept compensation or remuneration, financial or otherwise, from material or equipment suppliers for specifying their product.

Graft and Corruption

- ▣ vi. A licensee shall not accept commissions or allowances, directly or indirectly, from contractors or other persons dealing with his client or employer in connection with work for which he is responsible to the client or employer.

Plan Stamping / Regular and Effective Supervision

- ▣ 5. Affixing his or her signature and seal to any plans, specifications, plats or reports or surveys which were not prepared by him or her or under his or her supervision by his or her employees or subordinates.
- ▣ **Discuss CADD, Internet and Responsible Charge**

Taxes, Registration and CE

- ▣ 6. Failure to comply with Federal, state or local laws, rules or regulations relating to the practice of the profession.

Unqualified “Pinch Hitters”

- ▣ 7. Permitting or allowing any person not appropriately licensed pursuant to N.J.S.A. 45:8-27 et seq. or this chapter to act for or on behalf of the licensee as his representative, surrogate or agent while appearing before any public or private body for the purpose of rendering professional engineering or land surveyor services.

The Most Common Violation

- ▣ 8. Failure to determine and document the identity of the client prior to commencing any work. All correspondence, contracts, bills shall be addressed to that client, unless expressly directed otherwise, in writing, by the client.

The Second Most Common Violation

- ▣ 9. Failure to keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

Most Often Heard in a Court of Law

- ▣ 10. Failure to explain a matter to the extent reasonably necessary to permit the client to make informed decisions.

Time to call your attorney



The One Where You Should Call Your Attorney First

- ▣ II. Failure of a licensee to respond in writing within 30 days to a written communication from the State Board of Professional Engineers and Land Surveyors with respect to any investigative inquiry relating to the possible violation of any statute or regulation administered by the Board, and to make available any relevant records with respect to such an inquiry.

The Professional Competency Provision

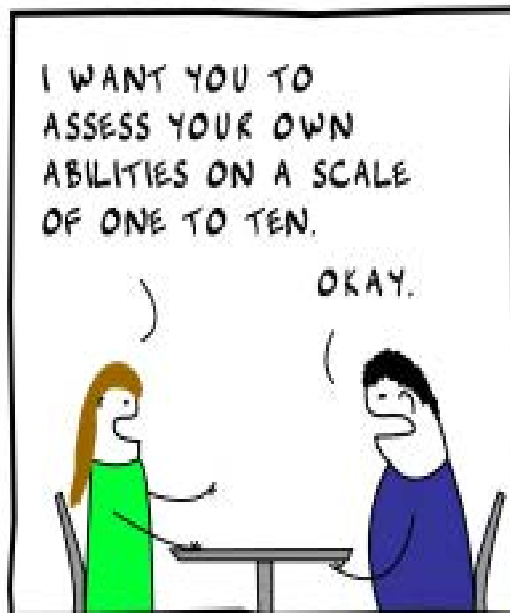
- ▣ 12. Rendering engineering or land surveying services and/or professional opinions when not qualified by training, education, and experience in the specific discipline of professional engineering and/or land surveying that is involved.

Standard of Care

- ▣ An engineer represents that he/she has and will use the degree of knowledge, skill, judgment and taste ordinarily possessed and used by the average engineer in the profession. Further, the engineer's conduct must be measured by the standard engineering practice, in the same or similar communities, at the time the engineer was performing his/her services. Thus **an engineer has the duty to have and to use that degree of judgment, knowledge, skill and taste which engineers of ordinary ability possess and exercise, in the same or similar communities, at the time the engineer is rendering his/her services.**

Just Average

LIFE COACH



The Comity Provision

- ▣ 13. Engaging in any activity which results in suspension, revocation or surrender of a professional license or certification in another jurisdiction.

Corner Markers

- ▣ 14. Failure to comply with the requirements set forth in N.J.A.C. 13:40-5.1 (d) and 5.2 concerning the waiver of the setting of corner markers.

My least favorite provision



The “Rat Clause”

- ▣ **13:40-3.6 - Reporting incidents of professional misconduct**
- ▣ If a licensee has knowledge or reason to believe that another person or firm may be in violation of or has violated any of the statutes or rules administered by the State Board of Professional Engineers and Land Surveyors, he or she shall present such information to the Board in writing and shall cooperate with the Board in furnishing such information or assistance as may be required by the Board.

Grounds for suspension and loss of licensure



The NSPE Code of Ethics

Fundamental Canons:

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

Hold paramount the safety, health, and welfare of the public.

Perform services only in areas of their competence.

Issue public statements only in an objective and truthful manner.

Act for each employer or client as faithful agents or trustees.

Avoid deceptive acts.

Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

The Engineer's Creed

Engineers' Creed

As a Professional Engineer, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare.

I pledge:

To give the utmost of performance;

To participate in none but honest enterprise;

To live and work according to the laws of man and the highest standards of professional conduct;

To place service before profit, the honor and standing of the profession before personal advantage, and the public welfare above all other considerations.

In humility and with need for Divine Guidance, I make this pledge.

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

- If an 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.
- Engineers shall approve only those engineering documents that are in conformity with applicable standards.
- 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.
- 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.
- Engineers shall not aid or abet the unlawful practice of engineering by a person or firm.
- 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.

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

- ❑ Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
- ❑ 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.
- ❑ 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.

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

- ❑ 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.
- ❑ Engineers may express publicly technical opinions that are founded upon knowledge of the facts and competence in the subject matter.
- ❑ 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.

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

- 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.
- 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.
- 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.
- 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.
- 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.

Engineers shall avoid deceptive acts.

- 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.
- 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.

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

- ❑ Engineers shall acknowledge their errors and shall not distort or alter the facts.
- ❑ Engineers shall advise their clients or employers when they believe a project will not be successful.
- ❑ 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.
- ❑ Engineers shall not attempt to attract an engineer from another employer by false or misleading pretenses.
- ❑ Engineers shall not promote their own interest at the expense of the dignity and integrity of the profession.

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

- 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.
- 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.
- Engineers are encouraged to extend public knowledge and appreciation of engineering and its achievements.
- Engineers are encouraged to adhere to the principles of sustainable development in order to protect the environment for future generations.

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

- ▣ Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.
- ▣ Consistent with the foregoing, engineers may advertise for recruitment of personnel.
- ▣ 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.

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.

- ▣ 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.
- ▣ 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.

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

- ▣ Engineers shall not accept financial or other considerations, including free engineering designs, from material or equipment suppliers for specifying their product.
- ▣ 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.

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

- ▣ Engineers shall not request, propose, or accept a commission on a contingent basis under circumstances in which their judgment may be compromised.
- ▣ 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.
- ▣ Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

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. 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.
- ▣ 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.
- ▣ Engineers in sales or industrial employ are entitled to make engineering comparisons of represented products with products of other suppliers.

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.

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

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

- ▣ Engineers shall, whenever possible, name the person or persons who may be individually responsible for designs, inventions, writings, or other accomplishments.
- ▣ 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.
- ▣ 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.

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

- ▣ 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.
- ▣ 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.

Ethical Behavior Benefits Everyone

Unethical behavior can result in:

- Loss of business
- Loss of licensure
- Monetary fines
- Loss of Reputation, and

UNEMPLOYMENT



Ethical Behavior Benefits Everyone

Ethical behavior results in:

- Increased business
- Enhanced professional reputation
- Extended employment

A scenic landscape featuring a dirt road that winds through rolling green hills. The sky is filled with dramatic, layered clouds, with a warm, golden light breaking through near the horizon, suggesting a sunset or sunrise. The overall mood is peaceful and contemplative.

**A HAPPY
RETIREMENT**