Conflicts of Interest, Licensure, Confidentiality, and Public Criticism April 15, 2020

Arthur E. Schwartz, CAE Deputy Chief Executive Officer & General Counsel National Society of Professional Engineers Alexandria, Virginia aschwartz@nspe.org

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NATIONAL SOCIETY OF PROFESSIONAL ENGINEER

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Conflicts of Interest, Licensure, Confidentiality, and Public Criticism

has been approved for continuing education credit by New York State. Participants requiring documentation for New York will receive direction to the online quiz that is required following this session.



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- Black and White Areas Easy
 - Right vs. Wrong

Gray Areas – Tougher

- Right vs. Right
- Lesser of the Evils/Dilemma

Other Factors

- Time/Money
- Family
- Career
- Reputation





Why Study Engineering Ethics?

• To Understand the Standards Governing What is Acceptable Behavior in the Practice of Engineering

Why Practice Engineering Ethically?

- Personal Injury/Property Damage
- Disciplinary Action
- Impact on Reputation, Employer, Clients, Profession
- Possible Loss of Job, Business, etc.



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Three Basic Ethical Obligations:

(1) Public(2) Employer/Client(3) Other Professionals

- Never Mutually Exclusive Reciprocal
- Not A "Zero Sum Game"
- All Need To Be Considered At All Times
- Should Be Complementary to Integrated With One Another to the Fullest Extent Possible
- Ethical Integration = Professional Integrity





Seven Principles Impacting Each Obligation

- 1. Protecting the Public Health, Safety and Welfare
- 2. Demonstrating Professional Competence
- 3. Maintaining Objectivity/Truthfulness
- 4. Addressing Conflict of Interest
- 5. <u>Preserving Confidentiality</u>
- 6. Receiving and Providing Valuable Consideration
- 7. Emerging Areas/Emerging Challenges





Conflicts of Interest

- Not all conflicts are conflicts of interest
- What is a conflict of interest?
- Financial/Organizational
- Why is a conflict of interest a problem?
 - Reliance on professional judgment
 - Public health, safety, welfare
 - Competence
 - Bias
 - Deception
 - Trust





How to address a conflict of interest

- Disclosure
- Manage
- Recusal
- Resignation

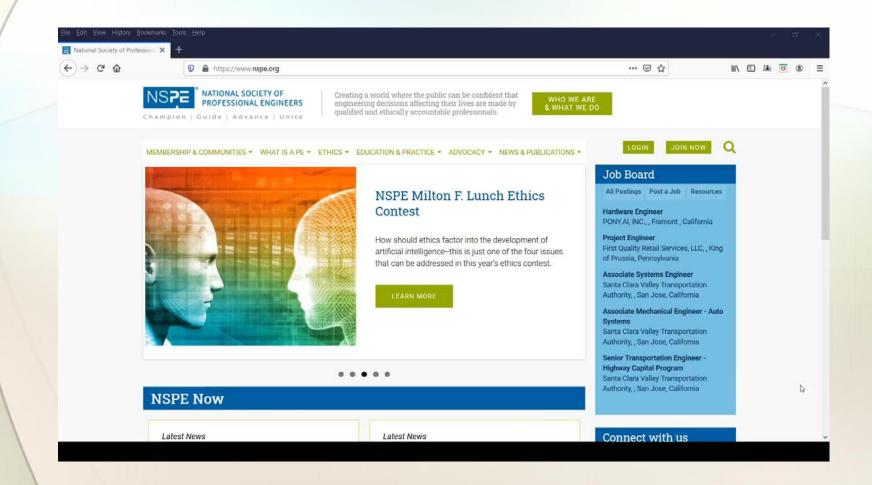




NSPE's Deputy Chief Executive Officer and General Counsel Arthur Schwartz, CAE will review engineering ethics principles and discuss business and professional ethics issues involving conflicts of interest, licensure, confidentiality, and public criticism. Polling questions and opportunity for Q&A will allow opportunities for audience interaction.



Navigating New BER Case Search Engine







CONFLICT OF INTEREST—

SERVING ON A PUBLIC UTILITY BOARD SELECTION COMMITTEE





Conflict of Interest— Serving on a Public Utility Board Selection Committee

Facts:

Engineer A, a professional engineer in private practice, is appointed to a public utility board selection committee for the purpose of hiring an engineer for a sewer project. Engineer B, a professional engineer in private practice, subsequently submits a statement of qualifications for the sewer project. Engineers A and B have their own engineering firms and compete in the same geographic area where the sewer project is being proposed.





Conflict of Interest— Serving on a Public Utility Board Selection Committee

Facts (continued):

Engineer A is not competing for this project. During the utility board selection process, Engineer A evaluates and assigns Engineer B a low score. Engineer B was not selected for the sewer project. Instead, Engineer C, the engineer with the highest-ranked score, is retained by the public utility to perform the engineering services.



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Conflict of Interest— Serving on a Public Utility Board Selection Committee

Question:

What are Engineer A's ethical obligations under the circumstances?





Conflict of Interest— Serving on a Public Utility Board Selection Committee

Section II.4.a. – NSPE Code of Ethics

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.

Code of Ethics for Engineers

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Conflict of Interest— Serving on a Public Utility Board Selection Committee

Section II.4.d. – NSPE Code of Ethics

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.

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Conflict of Interest— Serving on a Public Utility Board Selection Committee

Section III.5. – NSPE Code of Ethics

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

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Code of Ethics for Engineers

Conflict of Interest— Serving on a Public Utility Board Selection Committee

Section III.6. – NSPE Code of Ethics

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

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Conflict of Interest— Serving on a Public Utility Board Selection Committee

Conclusion:

Engineer A had an obligation to fulfill all required conflict-of-interest disclosure requirements that might apply under the applicable public utility laws and regulations. At that point, it would be up to the public utility selection board to determine whether Engineer A would be required to be recused from the selection.





Conflict of Interest— Serving on a Public Utility Board Selection Committee

Polling Question #1

If Engineer A had awarded a high score to Engineer A, Engineer A would not have been required to disclose any potential conflict of interest Engineer A's firm may have had in connection with the procurement of Engineer B's firm's services.

- Agree
- Disagree
- Not Sure

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LICENSURE—OUT OF STATE SERVICES





Facts:

Engineer A is licensed in the state and is retained by an attorney in State A to evaluate a large piece of capital equipment that failed in an industrial plant located there. There is a pending legal action before the state courts.

Following the equipment failure, the owner moved the equipment to its warehouse in State B. Engineer A is not licensed in State B.





Question:

Would it be ethical for Engineer A, who is not licensed in State B, to inspect the equipment in State B?





Section III.8.a - NSPE Code of Ethics

Engineers shall conform with state registration laws in the practice of engineering.

Code of Ethics for Engineers

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Conclusion:

Engineer A has an ethical obligation to review the definition of the practice of engineering in State B or become licensed in State B if the activities Engineer A will be performing require a license.





Polling Question #2

State engineering licensure comity laws are relatively easy to adhere to.

- Yes
- No
- Not Sure







CONFIDENTIALITY—FIRE INVESTIGATION





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Facts:

Engineer A is retained by Attorney X, representing Client Y, a plaintiff in a lawsuit against the owner of a building and several building material manufacturers, to conduct a forensic engineering investigation in connection with a building fire that resulted in the death and injury of several individuals.





Facts (continued):

Following the completion of Engineer A's investigation and report, Attorney X and Client Y enter into a private settlement with the building owner and the building material manufacturers. Under the terms of the settlement, which is approved by the court, Engineer A is ordered not to reveal the contents of her forensic engineering investigation report.





Facts (continued):

Engineer A is concerned that her finding would undermine her obligation to the public, because she believes the forensic engineering report contains important findings relating to the use of manufactured building materials.



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Question:

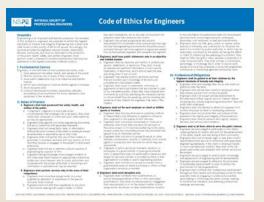
What are Engineer A's obligations under the circumstances??





Section II.1. - NSPE Code of Ethics

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

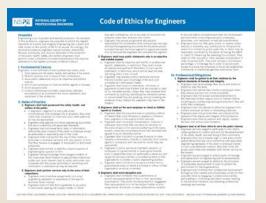


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Section II.1.a. - NSPE Code of Ethics

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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Section III.2.a. - NSPE Code of Ethics

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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Section III.4. - NSPE Code of Ethics

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.





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Case: Confidentiality—Fire Investigation

Conclusion:

Engineer A has an ethical obligation to maintain the confidentiality of the forensic engineering report. Engineer A may also explore an alternative path to identify the technical issues involved, such as further research that explains her technical concerns without revealing specific and identifiable facts and circumstances that would compromise the settlement agreement involving Client Y.





Case: Confidentiality—Fire Investigation

Polling Question #3

Confidentiality provisions in agreements between professional engineers and their clients interfere with the ethical obligation of a professional engineer to report activities that could endanger the public health, safety and welfare.

- Agree
- Disagree
- Not Sure

Image: Second
× /





PUBLIC CRITICISM—PARODY





Facts:

Engineer A is an engineering student within an engineering program at a major university. In an online student blog not directly associated with the university, Engineer A parodied one of his engineering professors, Engineer B.

The parodied characterization could be viewed by some as humorous and not malicious. It could also be viewed by others as disparaging. The blog was viewed by many engineering students at the university as well as by engineering faculty.





Question:

Was it ethical for Engineer A to satirize one of his engineering professors, Engineer B?





Section III.7. - NSPE Code of Ethics

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.

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Conclusion:

Engineer A's actions were inconsistent with the NSPE Code of Ethics. Engineer A should issue an apology to Engineer B in Engineer A's blog and personally.





Polling Question #4

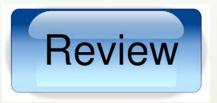
The use of social media has generally improved communications and transparency within the engineering profession.

- Agree
- Disagree
- Not sure

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Review of Key Points





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- Black and white ethical situations are among the easiest ethical situations to resolve.
- A conflict between the public health and safety and the duty of confidentiality is an example of a gray area ethical situation.
- In the hierarchy of ethical obligations, protection of public health and safety is paramount.





- While it is important to understand the various individual provisions of the Code of Ethics, reading the Code in its entirety is critical to understanding an engineer's ethical obligations.
- Engineers practicing internationally should be mindful of their obligations to continue to adhere to US laws and regulations.
- Giving due credit to and recognizing the contributions of professional colleagues is a critical part of being an ethical professional engineer.





- Conforming to the requirements of state engineering licensure laws and regulations often involves proactive measures on the part of a professional engineer in relation to the public, employers/clients and professional colleagues.
- Sustainable design and development principles should incorporated in all professional engineer's services.





Engineering Ethics Discussion Questions Answers



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Facebook: http://bit.ly/19Rfak





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Thank You!



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