

Professional Conduct and Ethics for Texas Engineers

Course Description

This course is designed to fulfill one hour of continuing education for professional engineers in Texas. This course will cover the code of ethics and standards of professional conduct for Texas engineers.

Learning Objectives

- Comprehend the standards of conduct
- Identify the code of ethics
- Understand the Texas Engineering Practice Act
- Define The Texas Board of Professional Engineers and the authority

Overview

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- Engineer Standards of Compliance with Professional Services Procurement Act
- Engineers Shall
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- Guideline for Professional Engineers
 - » Responding to Enforcement Request for Proof of Competence
 - » Engineers' Actions Shall be Competent
 - » Issuance of License
- Texas Engineering Professional Conduct and Ethics Examination

Learning Objectives

- Comprehend the standards of conduct
- Identify the code of ethics
- Understand the Texas Engineering Practice Act
- Define The Texas Board of Professional Engineers and the authority
- Summarize the general practices of Professional Engineers and their duties to the public, their clients, and their profession
- Understand the objectives of the Texas Engineering Professional Conduct and Ethics Examination
- Define The Texas Board of Professional Engineers and the authority

Professional Conduct And Ethics For Texas Professional Engineers

Authority and Scope

In June 2003, The Texas Engineering Practice Act (Act) was re-codified into the Occupations Code and can now be found under Title 6, Chapter 1001. The Act & board rules govern the practice of engineering in Texas and, among other things, make it a professional and ethical requirement for engineers to practice "... in conformance with standards, laws, codes, and rules and regulations applicable to engineering." The Texas Board of Professional Engineers (hereafter, "the Board") consists of six licensed engineers and three public members appointed by the governor. This Board administers the Texas Engineering Practice Act & board rules on behalf of the citizens of Texas.

General Practice

In order to safeguard, life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the rules relating to professional conduct in this title shall be binding on every person holding a license and on all firms authorized to offer or perform engineering services in Texas.

License holders having knowledge of any alleged violation of the Act and/or Board rules shall cooperate with the Board in furnishing such information or assistance as may be required.

A license holder shall promptly answer all inquiries concerning matters under the jurisdiction of the Board, and shall fully comply with final decisions and orders of the Board. Failure to comply with these matters will constitute a separate offense of misconduct subject to any of the penalties provided under the Act.

Any license holder who directly or indirectly enters into any contract, arrangement, plan, or scheme with any person, firm, partnership, association, or corporation or other business entity which in any manner results in a violation of this title (relating to Firm Registration Compliance) shall be subject to legal and disciplinary actions available to the Board. Professional engineers shall perform or directly supervise the engineering work of any subordinates as characterized in this title (relating to Definitions). Under no circumstances shall engineers work in a part-time arrangement with a firm not otherwise in full compliance with this title (relating to Firm Registration Compliance) in

a manner that could enable such firm to offer or perform professional engineering services.

A licensed professional engineer may offer or perform engineering services on a full or part-time basis as a firm (including a sole practitioner) or other business entity if registered pursuant to the requirements of this title (Relating to Firm Registration).

Engineer Standards of Compliance with Professional Services Procurement Act

A licensed engineer shall not submit or request, orally or in writing, a competitive bid to perform professional engineering services for a governmental entity unless specifically authorized by state law and shall report to the Board any requests from governmental entities and/or their representatives that request a bid or cost and/or pricing information or any other information from which pricing or cost can be derived prior to selection based on demonstrated competence and qualifications to perform the services.

For the purposes of this section, competitive bidding to perform engineering services includes, but is not limited to, the submission of any monetary cost information in the initial step of selecting qualified engineers. Cost information or other information from which cost can be derived must not be submitted until the second step of negotiating a contract at a fair and reasonable cost.

This section does not prohibit competitive bidding in the private sector.

Engineers Shall

Protect the Public

Engineers shall be entrusted to protect the health, safety, property, and welfare of the public in the practice of their profession. The public as used in this section and other rules is defined as any individual(s), client(s), business or public entities, or any member of the general population whose normal course of life might reasonably include an interaction of any sort with the engineering work of the license holder.

Engineers shall not perform any engineering function which, when measured by generally accepted engineering standards or procedures, is reasonably likely to result in the endangerment of lives, health, safety,

property, or welfare of the public. Any act or conduct which constitutes incompetence or gross negligence, or a criminal violation of law, constitutes misconduct and shall be censurable by the Board.

Engineers shall first notify involved parties of any engineering decisions or practices that might endanger the health, safety, property or welfare of the public. When, in an engineer's judgment, any risk to the public remains unresolved, that engineer shall report any fraud, gross negligence, incompetence, misconduct, unethical or illegal conduct to the Board or to proper civil or criminal authorities.

Engineers should strive to adequately examine the environmental impact of their actions and projects, including the prudent use and conservation of resources and energy, in order to make informed recommendations and decisions.

Be Objective and Truthful

Engineers shall issue statements only in an objective and truthful manner. Engineers should strive to make affected parties aware of the engineers' professional concerns regarding particular actions or projects, and of the consequences of engineering decisions or judgments that are overruled or disregarded.

The issuance of oral or written assertions in the practice of engineering shall not be:

1. Fraudulent,
2. Deceitful, or
3. Misleading or shall not in any manner whatsoever tend to create a misleading impression.

The engineer shall disclose a possible conflict of interest to a potential or current client or employer upon discovery of the possible conflict.

A conflict of interest exists when an engineer accepts employment when a reasonable probability exists that the engineer's own financial, business, property, or personal interests may affect any professional judgment, decisions, or practices exercised on behalf of the client or employer. An engineer may accept such an employment only if all parties involved in the potential conflict of interest are fully informed in writing and the client or employer confirms the knowledge of the potential conflict in writing. An engineer in a conflict of interest employment shall maintain the interests of the client and other parties (relating to En-

gineers Shall Maintain Confidentiality of Clients) and other rules and statutes.

Actions Shall Be Competent

Engineers shall practice only in their areas of competence.

The engineer shall not perform any engineering assignment for which the engineer is not qualified by education or experience to perform adequately and competently. However, an engineer may accept an assignment which includes phases outside of the engineer's area of competence if those other phases are performed by qualified licensed professionals, consultants, associates, or employees.

The engineer shall not express an engineering opinion in deposition or before a court, administrative agency, or other public forum which is contrary to generally accepted scientific and engineering principles without fully disclosing the basis and rationale for such an opinion. Engineering opinions which are rendered as expert testimony and contain quantitative values shall be supported by adequate modeling or analysis of the phenomena described.

Maintain Confidentiality of Clients

The engineer may reveal confidences and private information only with a fully informed client's or employer's consent, or when required by law or court order; or when those confidences, if left undisclosed, would constitute a threat to the health, safety or welfare of the public.

The engineer shall not use a confidence or private information regarding a client or employer to the disadvantage of such client or employer or for the advantage of a third party.

The engineer shall exercise reasonable care to prevent unauthorized disclosure or use of private information or confidences concerning a client or employer by the engineer's employees and associates.

Responsibility to the Profession

Engineers shall engage in professional and business activities in an honest and ethical manner. Engineers should strive to promote responsibility, commitment, and ethics both in the education and practice phases of engineering. They should attempt to enhance society's awareness of engineers' responsibilities to the public and encourage the communication of these principles of ethical conduct among engineers.

The engineer shall:

1. Endeavor to meet all of the applicable professional practice requirements of federal, state and local statutes, codes, regulations, rules, ordinances or standards in the performance of engineering services;
2. Exercise reasonable care or diligence to prevent the engineer's partners, associates, and employees from engaging in conduct which, if done by the engineer, would violate any provision of the Texas Engineering Practice Act, general Board rule, or any of the professional practice requirements of federal, state and local statutes, codes, regulations, rules or ordinances in the performance of engineering services; and
3. Exercise reasonable care to prevent the association of the engineer's name, professional identification, seal, firm or business name in connection with any venture or enterprise which the engineer knows, or should have known, is engaging in trade, business or professional practices of a fraudulent, deceitful, or dishonest nature, or any action which violates any provision of the Texas Engineering Practice Act or Board rules.
4. Act as faithful agent for their employers or clients;
5. Conduct engineering and related business affairs in a manner that is respectful of the client, involved parties, and employees. Inappropriate behaviors or patterns of inappropriate behaviors may include, but are not limited to, misrepresentation in billing; unprofessional correspondence or language; sale and/or performance of unnecessary work; or conduct that harasses or intimidates another party.
6. Practice engineering in a careful and diligent manner.

The engineer shall not:

1. Aid or abet, directly or indirectly, any unlicensed person or business entity in the unlawful practice of engineering;
2. Maliciously injure or attempt to injure or damage the personal or professional reputation of another by any means. This does not preclude an engineer from giving a frank but private appraisal of engineers or other persons or firms when requested by a client or prospective employer;
3. Retaliate against a person who provides reference material for an application for a license or who in

good faith attempts to bring forward an allegation of wrongdoing;

4. Give, offer or promise to pay or deliver, directly or indirectly, any commission, gift, favor, gratuity, benefit, or reward as an inducement to secure any specific engineering work or assignment;
5. Accept compensation or benefits from more than one party for services pertaining to the same project or assignment;
6. Solicit professional employment in any false or misleading advertising.

Action in another Jurisdiction

The engineer shall not practice or offer to practice engineering in any other jurisdiction in violation of the laws regulating the practice of professional engineering in that jurisdiction. A finding by such jurisdiction of illegal practice or offer to practice is misconduct and will subject the engineer to disciplinary action in Texas.

Any disciplinary actions taken by another jurisdiction on a matter which would constitute a violation of the Texas Engineering Practice Act or Board rules shall be sufficient cause for disciplinary action by this Board. A certified copy of the Board Order or Final Action from another jurisdiction shall be sufficient evidence to take disciplinary action in this state.

Guideline For Professional Engineers

Responding to Enforcement Request for Proof of Competence

The Texas Engineering Practice Act and Rules Concerning the Practice of Engineering and Professional Engineering Licensure require that licensed professional engineers (PE) only practice engineering in their area of competence. Board records for each PE reflect an area of engineering in which an engineer has demonstrated competence.

Engineers' Actions Shall Be Competent

- a. Engineers shall practice only in their areas of competence.

In response to a complaint filed with this agency alleging that a licensed professional engineer has practiced engineering in an area different than what is documented on Board records, and/or if there are allegations of design deficiencies within their area of competence,

then the Board may request supporting information from the PE that would demonstrate competence. The Board may also use other technical experts to evaluate the competence of any engineering that might be called into question.

Issuance of License

The records of the board shall indicate a branch of engineering considered by the board or license holder to be a primary area of competency. A license holder shall indicate a branch of engineering by providing:

- a. A transcript showing a degree in the branch of engineering;
- b. A supplementary experience record documenting at least 4 years of experience in the branch of engineering and verified by at least one PE reference provider that has personal knowledge of the license holder's character, reputation, suitability for licensure, and engineering experience; or
- c. Verification of successful passage of the examination on the principles and practice of engineering in the branch of engineering.

A license holder may request that the board change the primary area of competency or indicate additional areas of competency by providing one or more of the items listed in paragraphs (1)-(3) of this subsection:

- a. A transcript showing an additional degree in the new branch other than the degree used for initial licensure;
- b. A supplementary experience record documenting at least 4 years of experience in the new branch verified by at least one PE reference provider that has personal knowledge of the license holder's character, reputation, suitability for licensure, and engineering experience; or
- c. Verification of successful passage of the examination on the principles and practice of engineering in the new branch.

If the Board's review and investigation of a complaint results in a request for proof of competence the respondent engineer's proof of competency could be demonstrated with one or more of the above described methods. Depending on complexity of the engineering task, a Supplementary Experience Record (SER) covering an appropriate number of years of experience could be required for determination of competence. Lacking one of these methods, the engineer should provide as much information, such as evidence

of education and experience in designs similar to those in question, to allow the Board to consider whether he/she is competent in that discipline. Regardless of the outcome of an investigation, the PE should not assume, for subsequent engineering services, that they are competent in that challenged discipline unless and until the engineer has taken the steps provided by (a) & (b) and have added other areas of engineering to their records.

Texas Engineering Professional Conduct And Ethics Examination

The Board requires this Professional Conduct and Ethics Examination to help ensure that applicants for an engineering license in Texas have studied their responsibilities – ethical, professional, and legal – and that applicants are aware that guidance is available on these matters.

The objectives of this examination are to:

1. Ensure that an applicant is familiar with the professional practice provisions of the Act and board rules;
2. Promote the Act and board rules as a resource when confronted with professional conduct and ethical decisions;
3. Introduce an applicant to typical ethical and professional practice issues; and
4. Raise awareness that, when necessary, the Board serves as a disciplinary body through its compliance and enforcement powers.

Summary

In this course we learned about the Professional Conduct and Ethics for Texas Professional Engineers, the Texas Engineering Act and the Texas Board of Professional Engineers. The general practices of Professional Engineers and their duties to the public, their clients, and their profession were explained. Also discussed was the issuance of a license. We were given an understanding of the rules governing engineers in another jurisdiction, and finally the objective for the Texas Engineering Professional Conduct and Ethics Examination was identified.

Now it's time for a final exam!

We hope you enjoyed this course. Thank you for choosing McKissock for your continuing education needs.

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Student Assessment

Select the best answer for each question and complete your assessment online.

Final Exam

1. **Which of the following govern the practice of engineering in Texas?**
 - a. The Texas Engineering Practice Act.
 - b. The Texas Board of Professional Engineers
 - c. Both a and b
 - d. Neither a or b
2. **The rules relating to professional conduct and ethics were established to:**
 - a. maintain a high standard of integrity and practice
 - b. safeguard life, health and property
 - c. promote the public welfare
 - d. all of the above
3. **The rules relating to professional conduct and ethics shall be binding on:**
 - a. every person holding an engineering license in Texas
 - b. all firms authorized to offer engineering services in Texas
 - c. all firms authorized to perform engineering services in Texas
 - d. all of the above
4. **A licensed professional engineer may offer or perform engineering services as a firm (including a sole practitioner) or other business entity:**
 - a. only on a full time basis
 - b. only on a part-time basis
 - c. both a and b
 - d. neither a or b
5. **When an engineer accepts employment and a reasonable probability exists that the engineer's own financial, business, property, or personal interests may affect any professional judgment, decisions, or practices, this is known as:**
 - a. misrepresentation
 - b. misconduct
 - c. fraudulent and misleading
 - d. conflict of interest
6. **An engineer may reveal confidences and private information:**
 - a. with a client's or employer's consent
 - b. when required by law or court order
 - c. when it would threaten the health, safety or welfare of the public
 - d. all of the above
7. **A licensed engineer shall not submit or request, a competitive bid to perform professional engineering services for a governmental entity unless specifically authorized by state law. This is an example of:**
 - a. Confidentiality of Clients
 - b. Responsibility to the Profession
 - c. Action in another Jurisdiction
 - d. Standards of Compliance with Professional Services Procurement Act

8. An engineer shall exercise reasonable care to prevent unauthorized disclosure or use of private information concerning a client or employer by the engineer's employees and associates. This is an example of:

- a. Responsibility to the Profession
- b. Confidentiality of Clients
- c. Protection of the Public
- d. Proof of Competency

9. If a licensed professional engineer has practiced engineering in an area different than what is documented on Board records, then the Board may request supporting information for proof of:

- a. Licensing
- b. Competency
- c. Compliance
- d. None of the above

10. SER stands for:

- a. Supplementary Engineer Report
- b. Supplementary Experience Record
- c. Service Experience Record
- d. Senior Engineer Report