

# ETHICS PANEL

## Panelists:

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## Moderator:

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# The Code is the Law

# Code of Ethics for Engineers

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.

# 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 and 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.

# The Road to Ethics



# Question 1

The local utility authority has asked your firm to prepare an application to FEMA for reimbursement from the recent disastrous weather event. The utility Authority representative instructs the engineering firm to “pad the reimbursement estimate because:

- “Everyone does it”
- “FEMA always cuts back on the amount approved, so this way the Authority can count on everything being paid”
- “If we don’t get our share, it will only go to someone else”
- As the engineer preparing the application, what do you do?
- As an American citizen, is the Authority representative’s request acceptable?

# Question 2

An engineer performs an evaluation of a structural failure in connection with litigation, and is subject to a confidentiality agreement. Litigation settles, engineer's confidentiality agreement prohibits disclosure of her findings, but her findings indicate a significant public health and safety issue.

- What are the Engineer's obligations?

# Question 2 – What the Board Concluded

The Engineer should:

- Explain her ethical obligations for public safety & welfare
- Explore an alternative path to identify the issue (paper or article without identifiable facts that would compromise the settlement agreement)

However, if Client refuses and Engineer believes the matter rises to an imminent or urgent threat, she should notify appropriate authorities.

# Question 3

An engineer routinely provides remediation services for Company A. This engineer also has considerable experience in Superfund PRP group allocation, and is awarded an allocation assignment. Part way through the allocation process, the engineer learns that one of the PRPs is a subsidiary of Company A.

- Is this a perceived or real conflict of interest?
- What should the engineer do?

# Question 4

Engineer A worked for a U.S. Government defense agency. Upon retirement, Engineer A accepts an executive position with SuperCom, a company producing electronic equipment for the military. After joining SuperCom, Engineer A is informed by a manager in another SuperCom division that, under an existing contract with the Department of Defense, a key test on an important product was not being performed in the manner specified. According to the employee, this practice had been going on for several years and the subordinate felt very uncomfortable about it. Engineer A, who had expertise with the testing involved, looked into the matter. Engineer A found that, the shorter and less costly test had been substituted by the company for specified test.

# Question 4 (cont)

But, after review and study, Engineer A concludes that SuperCom's test was actually as effective as the specified test. Nevertheless, Engineer A takes his findings to SuperCom's upper executive management team and recommends that the company apply to the contracting agency for a contract change authorizing the simpler test. Following a meeting, SuperCom executives decide to continue with its current course of action. Since there were no safety or quality issues involved, and wanting to start out on the right foot with SuperCom, Engineer A decided not to pursue the matter further.

- Was it ethical for Engineer A to not pursue the matter further?

# Question 5

You have been assigned to evaluate submissions from several companies for “recycling” commodities from your resource recovery facility. Company “X” blows away the competition with pricing, but is shipping the material overseas where the processing, though legal at that destination, would be frowned upon in the United States.

- Do you recommend award to Company “X”?
- What is the basis for your decision?

# Question 6

An engineer reviews a contractor's change order for work already completed. Engineer determines that change order is a result of faulty workmanship and denies payment. Contractor contacts Engineer's supervisor (not a PE) and supervisor directs Engineer to approve change order.

- Would it be ethical for Engineer to approve the change order?

BD

# Question 6 – What the Board Concluded

It would not be ethical for the Engineer to sign off on the change order.

If pressured to sign, the Engineer would have an obligation to bring the matter to the appropriate authorities.

# Question 7

An engineer from a State regulatory agency has a good working relationship with an industrial firm that falls under their regulation and at which they have personally performed compliance inspections. The industrial firm learns that this Regulator has early retirement plans and offers them a post-State retirement job as their Environmental Compliance and Regulatory Manager, at a very lucrative salary.

- Can this engineer ethically accept the position after they retire?

# Question 8

Engineering Firm ABC offers continuing education for staff. As a service to the engineering profession, ABC also offers ethics courses to engineers who are not employees. The course is open to any engineer. Many attendees are clients of the Firm, but most are not. While the purpose of the course is not business development, it could result in a business contact potentially leading to future work. No follow-up is made by ABC, except that a certificate is issued at the end of the course. A fee of \$25 is charged to cover lunch and administrative support. It is not intended for ABC to make a profit from the course.

- Is it ethical for ABC to offer the ethics course?
- Is it ethical for ABC to offer the course without charging the \$25 fee?

# Question 9

As a public entity, you are severely hampered with bidding regulations that force you to award to the lowest bidder. This often results in having to award to companies with inferior products. Your entity therefore routinely writes a very tight bid specification so that inferior products or equipment can be rejected.

- What are the legal aspects of this practice?
- What are the ethical considerations?

# Question 10

Engineer A works for a large company, is the only PE, and supervises a number of unlicensed engineers.

Unlicensed Engineer B has a history of poor performance, including safety issues, which has not been resolved through improvement plans. Engineer A contacts HR and recommends termination. HR decides against.

- What are Engineer A's ethical obligations?

BD

# Question 10 – What the Board Concluded

Because safety issues are involved, Engineer A has an ethical obligation to make his professional opinion and recommendation known to higher management.

While Engineer B is still employed, Engineer A should do everything in his power to eliminate the safety issues.

# Question 11

An engineer is retained by a client to perform design services. During the performance of these services, the state board of professional engineers contacts the engineer regarding an ethics complaint filed against the engineer by a former client for which the engineer provided the same services. The engineer does not believe that it is necessary to notify their current client of the pending complaint. Through another party, the current client learns of the complaint and is upset that they were not notified directly by the engineer.

- Is it unethical not to notify the current client of the former client's ethics complaint?

BD

# Question 11 – What the Board Concluded

No engineer should be compelled to disclose potentially damaging allegations about his professional practice — allegations that could be false, baseless, and motivated by some malicious intent. Instead, the engineer should weigh all factors and, depending upon the nature and seriousness of the charges, take prudent action, which might include providing the client with appropriate background information.

# Question 12

Working together on a daily basis, you are the closest person to your supervisor. As your supervisor is aging, there is some evidence of the onset of Alzheimer's disease and a few obvious mistakes have been made. As your supervisor's right hand person, you feel loyalty to your supervisor and fix the mistakes before anyone else sees them, and without your supervisor's knowledge.

- What is your ethical responsibility to your employer?
- What is your ethical responsibility to your supervisor?

# Question 13

An attorney requests that Engineer potentially assist with a litigation. No details or strategy discussed at this stage. Engineer sends resume and fee schedule, and requests sign off on fee schedule and a retainer. Does not hear from Attorney. In the interim another attorney contacts Engineer about expert witness services on the same case. Not having heard from the first attorney, Engineer accepts the assignment. Afterwards, the first attorney contacts Engineer and says she is ready to proceed, and after finding out the circumstances threatens to disqualify the engineer from providing services.

- Was it unethical for Engineer to accept the assignment from the second attorney?

BD

# Question 13 – What the Board Concluded

It was not unethical for the Engineer to accept the assignment from the second attorney.

The Board did note that it would have been courteous for the Engineer to contact the first attorney before accepting the assignment. However, the Board was not prepared to say that the Engineer had any obligation ethical or otherwise to do so.

# Question 14

Engineer Bob was retained by a public agency to develop technical guidelines for an incinerator facility. After guideline completion the agency decides to proceed with design and construction by a turnkey, design-build method. The agency asks Bob to participate as the designer in a joint venture with a construction company, as a subcontractor to the construction contractor, or if he preferred as the prime contractor with the construction contractor as a subcontractor.

- Is it ethical for Bob to participate in this procurement through any of the design-build approaches listed?

# Question 15

Bob accepts a new position with a state environmental protection agency. One of his primary responsibilities is the permitting of waterfront development projects. An application is submitted for the replacement of a bulkhead and dock at a marina. It is apparent to Bob that the application has been prepared by his former employer, Shore Engineers. Bob did not work in the office where the application was prepared and the application was prepared by a project manager that Bob only met in passing.

What are the ethical considerations associated with Bob's review of this application?

# Question 16

A government agency/public authority is involved in litigation regarding environmental issues that have wide-ranging political ramifications. Politically, the entity's board is comprised of members that fall on both sides of the dispute – *e.g.*, the opposing party in the litigation (and/or entities associated with that party) has supported and contributed significantly to some of the board members' political campaigns over the years.

- What ethical and legal considerations arise for the attorney when discussing the status and strategy of the litigation with the board?

# Question 17

An engineering consulting firm has been hired to design a large waste and recyclables sorting and transfer facility. Previously, while working for another engineering consulting firm, the design engineer prepared a design for a similar facility.

- Is it ethical for the design engineer to copy this earlier design?

# Question 18

A forensic engineer is asked to be a technical expert in a litigation in order to review and comment on settlement documents prepared by the opposition. The engineer receives the documents electronically and notices (though no one else has), that the documents contain embedded comments that are detrimental to the interests of the opposing party.

- What is the engineer's ethical obligation regarding this information?

BD

# Question 18 – What the Board Concluded

The Engineer had an ethical duty to immediately advise his client and attorney of the fact that the Defense Attorney's comments had been revealed to Engineer. In addition, Engineer may be required to suspend further action in this matter pending the court's resolution of the issue.

# The End