

ALABAMA BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS

PROFESSIONAL CONDUCT - (CODE OF ETHICS) CHAPTER 330-X-14

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Preamble

(1) In order to meet the intent of the Code of Ala. 1975, Title 34, Chapter 11, to safeguard the life, health, property, and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the following Rules of Professional Conduct (Code of Ethics) are promulgated in accordance with Section 34-11-35, Code of Ala. 1975 and shall be binding upon (a) every person holding a license as a professional engineer or professional land surveyor, (b) every certified engineer intern and land surveyor intern and (c) holders of certificates of authorization.

(2) All persons licensed or certified under the provisions of Chapter 11, Title 34, Code of Ala. 1975 and prior Code, are charged with having knowledge of the existence of the Rules of Professional Conduct (Code of Ethics), Rules 330-X-14-.02 through 330-X-14-.07, and 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 land surveying is a privilege, as opposed to a right, and the licensee or intern shall be forthright and candid in his or her statements or written response to the Board or its representatives on matters pertaining to professional conduct.

(3) Where applicable, the singular use of the words "engineer or land surveyor" used in the five Rules of Professional Conduct (Canons) shall also include holders of certificates of authorization.

(4) Licensees, in the performance of their services for clients, employers, and customers, shall be cognizant that their first and foremost responsibility is to the public health, safety and welfare.

Effective Date: September 10, 1982. Last amendment effective: July 27, 2012.
(Auth: Section 34-11-35, Code of Ala. 1975)

Conflict of Interest (Canon I)

The engineer or land surveyor shall exercise independent judgments, decisions and practices on behalf of clients and employers as follows:

(a) The engineer or land surveyor shall attempt to avoid all conflicts of interest with his or her client or employer, but when a conflict of interest is unavoidable, the engineer or land surveyor shall immediately inform his or her employer or client of any business association, interest, or circumstances which might tend to influence the licensee's professional judgments, decisions or practices or the quality of services.

(b) The engineer or land surveyor shall not solicit or accept any gratuity, material favor or benefits of any substantial nature from any party, agent, servant or employee dealing with his or her client or

employer in connection with any project on which he or she is performing or has contracted to perform engineering or land surveying services. This solicitation or acceptance includes, but is not limited to any act, article, money or other material possessions which is of such value proportion that its acceptance creates a clandestine obligation on the part of the receiver or otherwise compromises his or her ability to exercise his or her own independent judgment.

(c) The engineer or land surveyor shall not solicit or accept, directly or indirectly, any engineering or land surveying contract, selection, or employment from a governmental body in which a principal or officer of the licensee's organization serves as a member or employee.

(d) When in public service as a member or employee of a governmental body, the engineer or land surveyor shall not participate, directly or indirectly, in considerations or actions with respect to retaining services offered or provided by the licensee, his or her associates or his or her organization to such governmental body.

Effective Date: September 10, 1982. Last amendment effective: October 28, 1998.
(Auth: Section 34-11-35, Code of Ala. 1975)

Qualified by Education and/or Experience (Canon II)

The engineer or land surveyor shall act competently and use proper care in performing engineering or land surveying services for clients or employers and shall act only in fields in which qualified by education or experience as follows:

(a) The engineer or land surveyor shall not accept any engineering or land surveying employment, or undertake any engineering or land surveying assignment, for which he or she is not qualified by education or experience to perform or to carry out adequately and competently; providing and excepting, however, that an engineer or land surveyor may accept an assignment requiring education and experience outside his or her field of competence only to the extent that personal engineering or land surveying services are restricted solely to those phases of the service or project in which he or she is qualified and competent, and that all other phases of such service or project shall be performed by qualified consultants, associates or employees.

(b) The engineer or land surveyor shall not affix his or her signature or seal to any engineering or land surveying plan or document dealing with subject matter on which he or she is not qualified by education or experience to form a dependable judgment.

(c) The engineer or land surveyor, when serving as an expert or technical witness before any court, commission or other tribunal, shall express an opinion 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.

(d) The engineer, land surveyor, engineer intern, or land surveyor intern shall not engage in any other professional matter for which a specific license is required without first being licensed in that profession.

Effective date: September 10, 1982. Last amended effective: September 9, 2015.
(Auth: Section 34-11-35, Code of Ala. 1975)

Confidences of Clients and Employers (Canon III)

The engineer or land surveyor shall safeguard and preserve the confidences and private information of clients and employers as follows:

(a) Except as permitted by Rule 330-X-14-.04(b), the engineer or land surveyor shall not knowingly:

1. Reveal a confidence or private information regarding or in the possession of the licensee's client or employer, current or former;

2. Use a confidence or private information regarding or in the possession of the client or employer, current or former, to the disadvantage of the client or employer;

3. Use a confidence or private information regarding or in the possession of the client or employer for the advantage of a third person, unless the client or employer, current or former, consents after full disclosure except (b) below.

(b) The engineer or land surveyor may reveal confidences or private information under the following circumstances:

1. When he or she has obtained the consent of the client or clients, employer or employers, current or former, affected, but only after full disclosure to them;

2. When required by law or court order;

3. When necessary to establish legal proof of his or her relationship with a client or employer, current or former, in a court action to recover salaries, fees or other compensation due him or her as a result of his or her employment or association with the client or employer, current or former;

4. When necessary to defend himself or herself or his or her employees or associates in a legal action alleging wrongful conduct;

5. When there is potential danger to the public's safety and well being.

(c) The engineer or land surveyor shall exercise reasonable care to prevent unauthorized disclosure or use by his or her employees and associates of private information or confidences regarding or in the possession of a client or employer, current or former.

(d) Nothing in this rule shall relieve an engineer or land surveyor from complying with Rule 330-X-14.05(j).

(e) Licensees shall not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed and agreed to by all interested parties.

Effective date: September 10, 1982. Last amendment effective: July 27, 2012.

(Auth: Section 34-11-35, Code of Ala. 1975)

Practice (Canon IV)

The engineer or land surveyor shall endeavor to build a practice and professional reputation on the merit of his or her services as follows:

(a) The engineer or land surveyor shall not offer, or promise to pay or deliver, directly or indirectly, any commission, political contribution, gift, favor, gratuity, benefit or reward as an inducement to secure any specific professional engineering or professional land surveying work or assignment; providing and excepting, however, that an engineer or land surveyor may pay a duly licensed employment agency its fee or commission for securing engineering or land surveying employment in a salaried position.

(b) The engineer or land surveyor shall not solicit professional employment by self-laudatory advertising, or in any manner contrary to high professional standards.

(c) Licensees shall not falsify or permit misrepresentation of their, or their associates, academic or professional qualifications. They shall not misrepresent or exaggerate their degree of responsibility in prior assignments nor the complexity of said assignments. Presentations incident to the solicitation of employment or business shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or past accomplishments.

(d) The engineer or land surveyor shall not supplant, nor attempt to supplant, directly or indirectly, another engineer or land surveyor in an ongoing engineering or land surveying project, after contracts have been awarded to such other engineer or land surveyor.

(e) The engineer or land surveyor shall not attempt to compete with another engineer or land surveyor for employment by reducing his or her usual charges or by the use of unethical practices.

(f) The engineer or land surveyor shall not participate in or implement procurement practices (bid submittals) which do not first determine the qualifications of the engineer or land surveyor prior to entering into fee negotiations for services being sought. An engineer or land surveyor having submitted a statement of qualification and performance data, and having first been judged as the qualified individual or firm to provide the services required for the proposed project, may proceed to negotiate a contract with a client and establish compensation or fees for the required services.

Should the engineer or land surveyor be unable to negotiate a satisfactory contract with the client for any reason, the engineer or land surveyor shall withdraw from further consideration for the engineering or land surveying services. Another engineer or land surveyor may then be selected for negotiations of a contract for the services on the stated project.

Examples include but are not limited to, simultaneous negotiations or solicitation of fee proposals by the client from two or more engineers or land surveyors constitutes "bidding" and participation by a licensee is prohibited.

(g) The engineer or land surveyor shall perform his or her work in accordance with approved standards of practice and care and shall endeavor to adhere to all laws in effect in the jurisdiction in which he or she is practicing.

(h) Should the engineer or land surveyor be presented with a Certification to be signed, sealed, and dated as summarized in Rule 330-X-11-.04 and defined in Rule 330-X-2-.01(7), he or she should carefully evaluate that Certification to determine if any of the circumstances set forth below would apply. The engineer or land surveyor who signs, seals, and dates Certifications which: (a) relate to matters which are beyond the engineer's or land surveyor's technical competence, or (b) involve matters which are beyond the engineer's or land surveyor's scope of services actually provided, or (c) relate to matters which were not prepared under the engineer's or land surveyor's responsible supervision, direction or control are subject to disciplinary action pursuant to Rule 330-X-16. If any of these circumstances would apply, the engineer or land surveyor shall either: (a) modify the Certification to limit its scope to those matters which the engineer or land surveyor can properly sign, seal, and date, or (b) decline to sign the Certification.

(i) The engineer or land surveyor shall be completely objective, truthful, and shall include all relevant and pertinent information in all professional reports, statements or testimony.

(j) The engineer or land surveyor shall issue no statements, or criticisms or arguments on matters connected with public policy which are inspired or paid for by an interested party, or parties, unless he or she has prefaced his or her comments by explicitly identifying himself or herself, by disclosing the

identities of the party, or parties, on whose behalf he or she is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matter.

(k) Licensees shall notify their employer or client and such other authority as may be appropriate when their professional judgment or covenants of this Code of Ethics are overruled under circumstances where life, health, property, or welfare of the public is endangered.

Effective date: September 10, 1982. Last amendment effective: July 27, 2012.
(Auth: Section 34-11-35, Code of Ala. 1975)

Ethics (Canon V)

The engineer or land surveyor shall contribute to the maintenance, integrity, independence and competency of the engineering or land surveying profession as follows:

(a) The engineer or land surveyor shall not:

1. Violate any provision of the Alabama Law regulating the practice of engineering and land surveying or of the Administrative Code of the Board of Licensure for Professional Engineers and Land Surveyors;

2. Participate, directly or indirectly, in any plan, scheme or arrangement attempting or having as its purpose the evasion of any provision of the Alabama Law regulating the practice of engineering and land surveying;

3. Fail to exercise reasonable care or diligence to prevent his or her partners, associates, and employees from engaging in conduct which if done by him or her, would violate any provision of the Alabama Law regulating the practice of engineering and land surveying;

4. Engage in any illegal conduct, whether a felony or misdemeanor, the essential element of which is dishonesty;

5. Engage in any conduct that discredits or tends to discredit the profession of engineering or land surveying

6. Permit or allow his or her professional identification, seal, firm, or business name, or his or her services to be used or made use of, directly or indirectly, or in any manner whatsoever, so as to make possible or create the opportunity for the unauthorized practice of engineering or land surveying by any person, firm, or corporation in this State;

7. Perform any acts, allow omissions or make any assertions or representations which are fraudulent, deceitful, or misleading, or which in any manner whatsoever tend to create a misleading impression;

8. Knowingly associate with or permit or allow the use of his or her name, firm name, or professional identification or seal in any business venture, project or enterprise which he or she knows or has reason to believe is engaged in professional practices which violate any provision of the Alabama Law regulating the practice of engineering and land surveying;

9. Knowingly associate with or permit the use of his or her name, professional identification, seal, firm, or business name in connection with any venture or enterprise which he or she knows, or has reason to believe, is engaging in trade, business or professional practice of a fraudulent, deceitful or dishonest nature;

10. Injure or attempt to injure or damage the professional reputation of another by any means whatsoever; provided and except, however, that this shall not relieve an engineer or land surveyor of the obligation to expose unethical or illegal conduct to the proper authorities or preclude a frank, but private, appraisal of engineers or land surveyors or other persons or firms considered for employment;

11. Aid or abet, directly or indirectly, any unlicensed person in connection with the unauthorized practice of engineering or land surveying; or any firm or corporation in the practice of engineering or land surveying unless carried on in accordance with the provisions of Chapter 11, Title 34 of the Alabama Law regulating the practice of engineering and land surveying;

12. Place his or her seal, signature, date, and license number on a document constituting a certification that the document was prepared by the licensee unless the document was prepared by the licensee or under his or her direct control and personal supervision or unless the licensee has reviewed the document in sufficient depth to fully coordinate and assume responsibility for plans prepared by another licensed professional engineer or licensed professional land surveyor.

13. Review the work of another engineer or land surveyor for the same employer, except with the knowledge or consent of the engineer or land surveyor, unless the connection of the engineer or land surveyor with the work has been terminated.

14. Participate in procurement procedures for engineering or land surveying services either by providing the bids or in requesting bids from other professional engineers or land surveyors where bidding is the primary consideration.

15. Fail to respond to the Board on Board inquiries within 60 days of receipt of Board inquiries.

(b) The engineer or land surveyor shall be personally and professionally responsible and accountable for the care, custody, control, and use of his or her engineer's or land surveyor's seal, professional signature, and identification. The engineer or land surveyor whose seal has been lost, misplaced, or stolen shall, upon discovery of its loss, report the loss immediately to the Board, which may invalidate the license number of the seal, if it deems this necessary, and issue another license number to the engineer or land surveyor.

(c) When in public service as a member or employee of any governmental body, agency, or department, the engineer or land surveyor shall not participate, directly or indirectly, use or make use of any property, facility or service of such governmental body, agency or department for the benefit of any private business or activity in which such engineer or land surveyor also may be engaged, unless prior, proper authority is obtained in writing.

(d) The engineer or land surveyor shall not, directly or indirectly, use or make use of any property, facility, or service of his or her client or employer for the benefit of the engineer or land surveyor, unless prior, proper authority is obtained in writing.

(e) The engineer or land surveyor shall not practice or offer to practice engineering or land surveying in any governmental jurisdiction in which to do so would be in violation of the laws regulating the practice of professional engineering or professional land surveying in that jurisdiction.

(f) Licensees having knowledge of possible/probable violations of any of these Rules of Professional Conduct shall provide the Board with the information and cooperate as necessary to make the final determination of such violation.

(g) It shall be the duty and sole responsibility of each licensee and intern to provide written notification to the Board of any changes to their mailing address and business affiliation within 30 days after the change.

Effective date: September 10, 1982. Last amendment effective: July 27, 2012.
(Auth: Section 34-11-35, Code of Ala. 1975)

Responsibility for Conduct

A corporation, partnership, or firm shall be held responsible for the conduct or acts of its agents, employees, officers, partners, or owners, licensed or non-licensed.

Effective date: September 10, 1982. Last amendment effective: October 28, 1998.
(Auth: Section 34-11-9 (d); Section 34-11-35, Code of Ala. 1975)