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Alaska Ethics for Professional Land Surveyors

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Gilbert Gedeon, P.E.



Continuing Education and Development, Inc.

P: (877) 322-5800
info@cedengineering.com

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Chapter 1

Overview of the Alaska Land Surveying Ethics

Land Surveying Ethics

Land surveying ethics is (1) the study of moral issues and decisions confronting individuals and organizations involved in land surveying and (2) the study of related questions about moral conduct, character, ideals and relationships of peoples and organizations involved in professional land surveying practice (Martin and Schinzinger, *Ethics in Engineering*).

Alaska State Board of Registration for Architects, Engineers, and Land Surveyors

The Alaska State Board of Registration for Architects, Engineers, and Land Surveyors (Board) was created under AS 08.48.011 with the charge of safeguarding the life, health, property, and welfare of the public through the licensure and regulation of qualified architects, engineers, land surveyors, and landscape architects. The Board administers the provisions of AS 08.48 and complies with the Alaska Administrative Procedure Act, AS 44.62. The Board has the power to adopt regulations, establish bylaws governing its meetings and activities, publish a code of ethics or professional conduct binding on every registrant, and establish continuing education requirements as a condition of license renewal. The Board reviews applications, administers examinations, licenses qualified applicants, and regulates the professional practice of registrants throughout the state.

Alaska Statutory Authority

The Alaska Statutes (AS) are a collection of state laws organized by subject area into titles, chapters, and sections. AS 08.48, titled Architects, Engineers, Land Surveyors, and Landscape Architects, was enacted by the Alaska Legislature in the interest of public health and safety to regulate the practice of land surveying in the State of Alaska. Under AS 08.48.101, the Board is authorized to publish a code of ethics or professional conduct binding on all registrants, and under AS 08.48.111, the Board may suspend, refuse to renew, or revoke a certificate, or reprimand a registrant, found guilty of fraud or deceit in obtaining a certificate, gross negligence, incompetence, or misconduct in practice, or a violation of the chapter, a regulation adopted under it, or the Board's code of ethics.

Alaska Administrative Code

The Alaska Administrative Code (AAC) is a compilation of the regulations of Alaska's regulatory agencies. It is organized by titles and chapters, with each chapter representing a department, board, or other agency. 12 AAC 36, adopted by the Board under the authority of AS 08.48.101, contains the Board's Code of Ethics and Rules of Professional Conduct, found at 12 AAC 36.200 through 12 AAC 36.245, which are binding upon every individual holding a certificate of registration as a land surveyor in Alaska. Selected provisions of this code are presented in Chapter 2 below.

Alaska Board Disciplinary Authority

The Alaska State Board of Registration for Architects, Engineers, and Land Surveyors is charged with the duty of issuing certificates to those land surveyors it has determined to be qualified. Under AS 08.48.121, any person may file with the Board's investigator a written, sworn charge of fraud, deceit, gross negligence, incompetence, misconduct, or a violation of AS 08.48, a regulation adopted under it, or the Board's code of ethics. A charge may be dismissed by the Board or the investigator as unfounded or trivial. The Board is not authorized to settle boundary line disputes, establish costs for services, correct miscalculations or errors in a survey of real property, or settle contractual disputes. These types of problems are civil matters and are usually settled between the parties involved either in or out of the courts. If wrongdoing by a registrant is proven in court, the Board would like to have certified copies of any orders issued to prevent the wrongdoing from happening again and to take other action as considered appropriate. Likewise, the Board has no powers of restitution, as these are reserved for the courts.

Selected disciplinary case studies illustrating violations of Alaska's ethics standards for land surveyors are presented in Chapter 4 below.

Chapter 2

Alaska Rules of Professional Conduct and Ethics for Land Surveyors

Alaska Administrative Code, 12 AAC 36.200–36.245: Code of Ethics and Rules of Professional Conduct

The following are excerpts from the Code of Ethics and Rules of Professional Conduct of the Alaska State Board of Registration for Architects, Engineers, and Land Surveyors, governing the professional conduct of land surveyors in Alaska. If you wish to review the complete Alaska Administrative Code, 12 AAC 36, please visit the website at:

<https://www.commerce.alaska.gov/web/Portals/5/pub/aelsstatutesregs.pdf>

§AS 08.48.101: Regulations; Policy Guidance; Bylaws; Code of Ethics

(a) The board may adopt regulations and provide policy guidance to accomplish the purpose of this chapter by

- (1) describing the contents of an examination;
- (2) establishing the conduct of an examination;
- (3) establishing a minimum score for passing an examination;
- (4) establishing bylaws governing its meetings and activities;
- (5) publishing a code of ethics or professional conduct for registrants and entities authorized under AS 08.48.241;
- (6) establishing continuing education requirements for registrants that must be completed before a certificate may be renewed; the requirements may not exceed standards established by a national accrediting body or other recognized professional organization;
- (7) establishing the types of work and providing guidance on design of minor importance and other areas of overlapping jurisdiction among regulated professions, branches, and disciplines.

§AS 08.48.111: Power to Revoke, Suspend, or Reissue Certificate

The board may suspend, refuse to renew, or revoke the certificate of or reprimand a registrant, corporation, limited liability company, limited liability partnership, or limited partnership who is found guilty of (1) fraud or deceit in obtaining a certificate; (2) gross negligence, incompetence, or misconduct in the practice of architecture, engineering, land surveying, or landscape architecture; or (3) a violation of this chapter, a regulation adopted under this chapter, or the code of ethics or professional conduct as adopted by the board. The code of ethics or professional conduct shall be distributed in writing to every registrant and applicant for registration under this chapter. This publication and distribution of the code of ethics or professional conduct constitutes due notice to all registrants. The board may revise and amend its code and, upon doing so, shall immediately notify each registrant in writing of the revisions or amendments. The board may, upon petition of the registrant, corporation, limited liability company, limited liability partnership, or limited partnership, reissue a certificate if a majority of the members of the board vote in favor of the reissuance.

§AS 08.48.121: Disciplinary Action and Procedure

Any person may file with the investigator of the board a charge of fraud, deceit, gross negligence, incompetence, misconduct, or violation of this chapter, a regulation adopted under it, or the code of ethics of the board. The charge, constituting an accusation under AS 44.62 (Administrative Procedure Act), shall be in writing and sworn to by the person making it. A charge may be dismissed by the board or the investigator as unfounded or trivial.

§12 AAC 36.200: Ethical Standards

(a) In order to establish and maintain a high standard of integrity, skill, and practice in the professions of architecture, engineering, land surveying, and landscape architecture and to safeguard the life, health, property, and welfare of the public, 12 AAC 36.200 - 12 AAC 36.245 are binding upon every individual holding a certificate of registration as an architect, engineer, land surveyor, or landscape architect, and upon all partnerships, corporations, limited liability companies, limited liability partnerships, limited partnerships, or other legal entities authorized to offer or perform architectural, engineering, land surveying, or landscape architectural services in this state.

(b) A registrant shall act with complete integrity in professional matters.

(c) A registrant may not practice architecture, engineering, land surveying, or landscape architecture if the registrant's professional competence is substantially impaired.

§12 AAC 36.210: Professional Conduct

(a) A registrant

(1) must at all times recognize that a registrant's primary obligation is to protect the safety, health, property, and welfare of the public in the performance of his or her professional duties;

(2) must, if the registrant's professional judgment is overruled creating circumstances in which the safety, health, property, and welfare of the public are endangered, notify his or her employer, client, and other proper authority of the situation and possible consequences as may be appropriate;

(3) may perform assignments only if the registrant's associates, consultants, and employees are qualified by education, training, or experience and, if required, registered in the specific technical branches or fields involved;

(4) shall be completely truthful in all professional reports, statements, or testimony, and shall include in them all relevant and pertinent information known to the registrant;

(5) may not knowingly associate with, or permit the use of his or her name or firm name in a business venture by a person or firm that the registrant knows or has reason to believe is engaging in business or professional practices in a fraudulent or dishonest manner;

(6) shall inform the board if he or she has knowledge or reason to believe that another person or firm might be in violation of AS 08.48, or a regulation adopted under it, and shall cooperate with the board by furnishing all further information or assistance required;

(7) may not offer or make a payment or gift to a government official, whether elected or appointed, with the intent of influencing the official's judgment in connection with a prospective or existing project in which the registrant is interested;

(8) may not knowingly design, lay out, certify, approve, or otherwise imply or certify as suitable or fit for use a project in violation of applicable federal, state, or local laws relating to the practice of architecture, engineering, land surveying, or landscape architecture;

(9) may not deliberately make a materially false statement or deliberately fail to disclose a material fact requested in connection with an application for registration or renewal of a registration issued under AS 08.48;

(10) shall make every reasonable effort to provide professional services in a complete and efficient manner so as not to unduly delay a project.

(b) If, in the course of a registrant's work on a project, the registrant becomes aware of a decision made by his or her employer or client, against the registrant's advice, which violates applicable state or municipal building laws and as a result of which the finished project will, in the registrant's judgment, materially and adversely affect the safety of the public, the registrant shall

(1) report the decision to the local building inspector or other public official charged with the enforcement of the applicable state or municipal building laws; and

(2) refuse to consent to the decision.

§12 AAC 36.220: Conflict of Interest

(a) A registrant

(1) shall attempt to avoid all conflicts of interest with his or her employer or client but, if some conflict is unavoidable a registrant shall promptly inform his or her employer or client of the registrant's business association, interests, or circumstances that could influence the registrant's judgment or the quality of the registrant's service to the employer or client;

(2) may not accept financial or other compensation from more than one party for services on or pertaining to the same project, unless the circumstances are fully disclosed to and agreed to by all interested parties or their authorized agents;

(3) may not solicit or accept financial or other valuable consideration from a supplier for specifying a supplier's product, unless the registrant is the vendor or supplier of the specified product and has fully disclosed that fact to the client; and

(4) may not solicit or accept gratuities from other parties dealing with the registrant's client or employer in connection with the work for which the registrant is responsible.

(b) If a registrant is in public service as a member, advisor, or employee of a government body, the registrant may not review work previously performed by the registrant or the registrant's former private sector employer.

§12 AAC 36.230: Solicitation of Employment

(a) A registrant may not pay, solicit, nor offer, directly or indirectly, a bribe or commission for professional employment, except for payment of the usual commission for securing salaried position through a licensed employment agency.

(b) Deleted 11/18/83.

(c) A registrant may not falsify or permit misrepresentation of his or her associates' academic or professional qualifications. A registrant may not misrepresent or exaggerate his or her degree of responsibility in or for the subject matter of prior assignments. A registrant shall accurately represent his or her qualifications as required by 12 AAC 36.245(2).

(d) Brochures or other presentations incident to a registrant's solicitation of employment may not, with the intent and purpose of enhancing the registrant's qualifications and work, misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or the registrant's past accomplishments.

As of Register 88, Jan. 1984, 12 AAC 36.230(b) was deleted by the regulations attorney under AS 44.62.125(b)(6) and in accordance with a Stipulation and proposed Final Judgment filed on November 18, 1983 by the Board of Architects, Engineers and Land Surveyors and the United States Department of Justice in the United States District Court for the District of Alaska in United States v. Alaska Board of Registration for Architects, Engineers and Land Surveyors, Civil Action No. A82-423 CIV. This Stipulation and proposed Judgment were filed because 12 AAC 36.230(b) was in violation of section 1 of the Sherman Antitrust Act [15 U.S.C. 1]. The proposed Final Judgment which may become final on or soon after January 16, 1984 will, also prohibit further enforcement of any ban or board policy against competitive bidding.

§12 AAC 36.232: Offer to Practice

For the purposes of AS 08.48.281, 08.48.291, 08.48.295, and 08.48.321, an "offer to practice" architecture, engineering, land surveying, or landscape architecture includes

- (1) a response to a request for proposals (RFP) that contains information that could be used to qualify as a potential provider of services;
- (2) a proposal in which a monetary value is suggested as the acceptable payment for services offered; or
- (3) an acceptance of employment for the purpose of providing service or work described in the "practice of architecture", "practice of engineering", "practice of land surveying", or "practice of landscape architecture" in AS 08.48.341.

§12 AAC 36.235: Advertising

A registrant may not advertise his or her services in a deceptive or untruthful manner.

§12 AAC 36.245: Full Disclosure

A registrant

- (1) may not issue a statement, criticism, or argument on professional matters connected with the public interest which are inspired or paid for by an interested party, unless the registrant has prefaced the comment by disclosing the identity of the party and the existence of any pecuniary interest;
- (2) shall accurately represent to a prospective or existing client or employer his or her qualifications and scope of responsibility in connection with work for which the registrant is claiming credit; and
- (3) may not solicit or accept a professional contract from a governmental body on which a principal or officer of the registrant's organization serves as a member, except upon public disclosure of all pertinent facts and circumstances, consent of appropriate public authority, and compliance with all other applicable laws.

§12 AAC 36.300: Purpose of Disciplinary Guidelines

To ensure that the board's disciplinary policies are known and are administered consistently and fairly, the disciplinary guidelines in 12 AAC 36.310 - 12 AAC 36.330 are established.

§12 AAC 36.310: Violations

A person who, after a hearing under the Administrative Procedure Act (AS 44.62), is found to have violated a provision of AS 08.48 or this chapter, is subject to the disciplinary penalties listed in AS 08.01.075, including public notice of the violation and penalty in appropriate publications.

§12 AAC 36.500: Purpose of Continuing Education

The purpose of the continuing education program is to maintain a continuing level of competency and standards for professional architects, engineers, land surveyors, and landscape architects, in order to promote the public health, safety, and welfare within this state.

§12 AAC 36.510: Continuing Education Requirements 2.15 12 AAC 36.550: Definitions

In 12 AAC 36.500 - 12 AAC 36.550, unless the context requires otherwise,

(1) "college" includes a community college and a university;

(2) "continuing education unit" means a unit of credit customarily used for continuing education courses; for purposes of this paragraph, one continuing education unit equals 10 contact hours in an approved continuing education course;

(3) repealed 10/15/2023;

(4) repealed 10/15/2023;

(5) "professional development hour" means not less than 50 minutes of instruction or presentation in a continuing education course or activity that meets the requirements of 12 AAC 36.510;

(6) "ethics or business-related course or activity" means a qualifying course or activity with content areas related to

(A) awareness of ethical concerns and conflicts;

(B) familiarity with the codes of conduct;

(C) understanding of standards of practice;

(D) project management and risk-management; or

(E) other similar topics aimed at maintaining, improving, or expanding the skills set and knowledge relevant to the registrant's field and methods of practice;

(7) "outreach activity" includes active participation in educational outreach activities pertaining to professional licensure or the architecture, engineering, land surveying, or landscape architecture professions that involve K - 12 or higher education students;

(8) "qualifying course or activity"

(A) means a course or activity

(i) with a clear purpose and objective; and

(ii) that will maintain, improve, or expand the skills and knowledge relevant to the registrant's field of practice;

(B) does not include regular duties;

(9) "structured self-study" means time spent engaging in self-guided professional development.

Chapter 4

Review of Disciplinary Cases

The following cases were extracted from the official disciplinary action records published by the Alaska State Board of Registration for Architects, Engineers, and Land Surveyors. The selected cases involve licensed Land Surveyors and illustrate violations of Alaska's professional ethics standards and licensing laws governing the practice of land surveying.

CASE 1: Michael A. Swan, Land Surveyor
Case No.: 104-01-002

Case Review: Mr. Swan, a licensed Alaska land surveyor, was the subject of a complaint opened on September 26, 2001, and closed on February 23, 2004. The Board's official case record categorizes the complaint as "Violating Professional Ethics."

Board Decision: On February 20, 2004, the Alaska Board of Registration for Architects, Engineers, and Land Surveyors resolved the matter through a Memorandum of Agreement.

CASE 2: Albert Bianchi, Land Surveyor
Case No.: 104-96-001

Case Review: Mr. Bianchi, a licensed Alaska land surveyor, was the subject of a complaint opened on January 22, 1996, and closed on August 23, 2004. The Board's official case record categorizes the complaint as "Violating Professional Ethics."

Board Decision: On August 19, 2004, the Alaska Board of Registration for Architects, Engineers, and Land Surveyors resolved the matter through a Memorandum of Agreement.

CASE 3: Leslie F. Stallings, Land Surveyor
Case No.: 104-02-001

Case Review: Mr. Stallings, a licensed Alaska land surveyor, was the subject of a complaint opened on March 26, 2002, and closed on February 23, 2005. The Board's official case record categorizes the complaint as "Violating Professional Ethics."

Board Decision: On February 17, 2005, the Alaska Board of Registration for Architects, Engineers, and Land Surveyors resolved the matter through a Memorandum of Agreement.

CASE 4: Clifford E. Baker, Land Surveyor
Case No.: 104-04-001

Case Review: Mr. Baker, a licensed Alaska land surveyor, was the subject of a complaint opened on April 1, 2004. The Board's official case record categorizes the complaint as "Negligence." A formal hearing was requested on January 15, 2008.

Board Decision: On November 6, 2008, the Alaska Board of Registration for Architects, Engineers, and Land Surveyors issued a Board Order After Hearing.

Appendix A

References

Alaska State Legislature. (n.d.). *Alaska Statutes, AS 08.48: Architects, engineers, land surveyors, and landscape architects*. <https://www.akleg.gov/basis/statutes.asp#08.48>

Alaska Division of Corporations, Business and Professional Licensing. (n.d.). *Statutes and regulations, Board of Architects, Engineers, and Land Surveyors*. <https://www.commerce.alaska.gov/web/Portals/5/pub/aelsstatutesregs.pdf>

Alaska State Board for Architects, Engineers, and Land Surveyors. (n.d.). *AELS license actions / disciplinary actions* (Rev. 02/02/16) [Data set]. Alaska Department of Commerce, Community, and Economic Development, Division of Corporations, Business and Professional Licensing. https://www.commerce.alaska.gov/web/portals/5/pub/AELS_Disciplinary_Action.pdf