
Engineering Ethics for Illinois Professional Engineers

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Chapter 1

Overview of the Illinois Engineering Ethics, Laws and Rules

Engineering Ethics

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

Illinois State Board of Professional Engineers

The practice of professional engineering became regulated between 1945 and 1946. The Board is appointed by the Secretary and is made up of ten members, consisting of one public member and nine professional engineers licensed under the Act. Each licensed member must have been licensed in Illinois as a Professional Engineer for at least ten years and have not been disciplined within those ten years. The Board is charged with reviewing education and experience qualifications of applicants, conducting hearings regarding disciplinary actions and advising the Secretary on matters related to professional competence and conduct.

The Board has the authority to implement provisions of the Illinois Compiled Statutes: 225 ILCS 325, "Professional Engineering Practice Act of 1989" and the Illinois Administrative Code: Part 1380, "Professional Engineering Practice Act of 1989".

Illinois Compiled Statutes

The Illinois Compiled Statutes are a compilation of state laws organized by subject area into a code made up of chapters and sections. Chapter 225 ILCS 325, "Professional Engineering Practice Act of 1989" was enacted by the Illinois General Assembly in the interest of public health and safety to regulate the practice of engineering in the State of Illinois. It is continuously updated by laws that create, amend, or repeal statutory material. The Illinois Compiled Statutes state the law followed by the history of the law which indicates when it was originally filed and subsequent effective dates of enactment.

Pertinent sections of Chapter 225 ILCS 325, which relate to the code of professional conduct and responsibility, are presented in Chapter 2 below.

Illinois Administrative Code

The Illinois Administrative Code is a compilation of the rules and regulations created by the Illinois General Assembly. It is organized by titles and chapters with each chapter number

representing a department, commission, board or other agency. Chapter VII, Part 1380 of the administrative code pertains to the "Professional Engineering Practice Act of 1989". It is continuously updated by the Joint Committee on Administrative Rules. The code states the rule followed by the history of the rule which indicates when the rule was originally filed and its effective date, as well as the date on which any amendment or repeal was filed and its effective date.

Pertinent sections of Chapter VII, Part 1380, which relate to the code of professional conduct and responsibility, are presented in Chapter 3 below.

Illinois Department of Professional Regulation Disciplinary Authority

The design professional Acts are State law. Violations of these Acts are violations of State law that may result not only in civil penalties, but criminal prosecution also. Violating any provision of the Acts or their Rules could subject a person to criminal prosecution.

The Department shall adopt rules setting standards of professional conduct and establish appropriate penalty for the breach of such Acts or their Rules. The Department may, singularly or in combination, refuse to issue, renew, or restore a license or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action with regard to a person licensed under this Act, including but not limited to, the imposition of a fine not to exceed \$10,000 per violation upon any person, corporation, partnership, or professional design firm licensed or registered under this Act, for any one or combination of causes.

The Attorney General's office has fines and equitable remedies that may be imposed for violations of the Environmental Barriers Act and the Accessibility Code. The failure to follow State law may also impact the coverage of any liability insurance or indemnification policy. Therefore, compliance with State law by the code enforcement official as well as the municipality's elected officials is imperative.

The disciplinary process of the Illinois State Board of Professional Engineers is illustrated in Chapter 4 below. Several disciplinary cases, presented in Chapter 5 below, were selected at random to further illustrate the disciplinary actions taken by the Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.

Chapter 2

Illinois Compiled Statutes - 225 ILCS 325

225 ILCS 325: Professional Engineering Practice Act of 1989

The following are excerpts from Chapter 225 ILCS 325 of the Illinois Compiled Statutes. If you wish to review the entire chapter, please visit the website of the Illinois Board at:

<https://www.idfpr.com/profs/Boards/profeng.asp>

Section 14. Seal.

Every professional engineer shall have a reproducible seal, which may be computer generated, the imprint of which shall contain the name of the professional engineer, the professional engineer's license number, and the words "Licensed Professional Engineer of Illinois". Any reproducible stamp heretofore authorized under the laws of this State for use by a professional engineer, including those with the words "Registered Professional Engineer of Illinois", shall serve the same purpose as the seal provided for by this Act.

The engineer shall be responsible for his or her seal and signature as defined by rule. When technical submissions are prepared utilizing a computer or other electronic means, the seal may be generated by the computer. The licensee may provide, at his or her sole discretion, an original signature in the licensee's handwriting, a scanned copy of the technical submission bearing an original signature, or a signature generated by a computer.

The use of a professional engineer's seal on technical submissions constitutes a representation by the professional engineer that the work has been prepared by or under the personal supervision of the professional engineer or developed in conjunction with the use of accepted engineering standards. The use of the seal further represents that the work has been prepared and administered in accordance with the standards of reasonable professional skill and diligence.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 15. Technical submissions.

(a) Technical submissions are the designs, drawings, and specifications that establish the scope of the professional engineering project, the standard of quality for materials, workmanship, equipment, and constructions systems, and the studies and other technical reports and calculations prepared in the course of the practice of professional engineering. All technical submissions prepared by or under the personal supervision of a professional engineer shall bear that professional engineer's seal, signature, and license expiration date. The licensee's written signature and date of signing, along with the date of license expiration, shall be placed adjacent to the seal.

(b) All technical submissions intended for use in the State of Illinois shall be prepared and administered in accordance with standards of reasonable professional skill and diligence. Care shall be taken to reflect the requirements of State statutes and, where applicable, county and municipal ordinances in such submissions. In recognition that professional engineers are licensed for the protection of the public, health, safety, and welfare, submissions shall be of such quality and scope, and be so administered, as to conform to professional standards.

(c) No officer, board, commission, or other public entity that receives technical submissions shall accept for filing or approval any technical submissions relating to services requiring the involvement of a professional engineer that do not bear the seal and signature of a professional engineer licensed under this Act.

(d) It is unlawful to affix one's seal to technical submissions if it masks the true identity of the person who actually exercised responsible control of the preparation of such work. A professional engineer who seals and signs technical submissions is not responsible for damage caused by subsequent changes to or uses of those technical submissions where the subsequent changes or uses, including changes or uses made by State or local governmental agencies, are not authorized or approved in writing by the professional engineer who originally sealed and signed the technical submissions.

(e) The professional engineer who has contract responsibility shall seal a cover sheet of the technical submissions, and those individual portions of the technical submissions for which the professional engineer is legally and professionally responsible. The professional engineer practicing as the support design professional shall seal those individual portions of technical submissions for which the professional engineer is legally and professionally responsible.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 17.5. Continuing education.

The Department may adopt rules of continuing education for persons licensed under this Act. The Department shall consider the recommendations of the Board in establishing the guidelines for the continuing education requirements. The requirements of this Section apply to any person seeking renewal or restoration under Section 17 of this Act. For the purposes of this Act, continuing education shall also be known as professional development.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 24. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew a license or registration, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem proper, including fines not to exceed \$10,000 per violation, with regard to any license issued under this Act, for any one or a combination of the following reasons:

- (1) Material misstatement in furnishing information to the Department.
- (2) Negligence, incompetence, or misconduct in the practice of professional engineering.
- (3) Failure to comply with any provisions of this Act or any of its rules.

- (4) Fraud or any misrepresentation in applying for or procuring a license under this Act or in connection with applying for renewal or restoration of a license under this Act.
- (5) Purposefully making false statements or signing false statements, certificates, or affidavits to induce payment.
- (6) Conviction of or entry of a plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or sentencing, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge or first offender probation under the laws of any jurisdiction of the United States that is (i) a felony or (ii) a misdemeanor, an essential element of which is dishonesty, that is directly related to the practice of the profession of professional engineering.
- (7) Aiding or assisting another person in violating any provision of this Act or its rules.
- (8) Failing to provide information in response to a written request made by the Department within 60 days after receipt of such written request.
- (9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.
- (10) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, narcotics, stimulants, or any other substances that results in the inability to practice with reasonable judgment, skill, or safety.
- (11) A finding by the Department that an applicant or licensee has failed to pay a fine imposed by the Department.
- (12) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation or failed to comply with such terms.
- (13) Inability to practice the profession with reasonable judgment, skill, or safety as a result of physical illness, including, but not limited to, deterioration through the aging process, loss of motor skill, mental illness, or disability.
- (14) Discipline by another state, territory, foreign country, the District of Columbia, the United States government, or any other government agency if at least one of the grounds for discipline is the same or substantially equivalent to those set forth in this Act.
- (15) The making of any willfully false oath or affirmation in any matter or proceeding where an oath or affirmation is required by this Act.
- (16) Using or attempting to use an expired, inactive, suspended, or revoked license or the certificate or seal of another or impersonating another licensee.
- (17) Directly or indirectly giving to or receiving from any person or entity any fee, commission, rebate, or other form of compensation for any professional service not actually or personally rendered.
- (18) Signing or affixing the professional engineer's seal or permitting the seal to be affixed to any technical submissions not prepared by the professional engineer or under the professional engineer's supervision and control.

(19) Making a statement pursuant to the Environmental Barriers Act that a plan for construction or alteration of a public facility or for construction of a multi-story housing unit is in compliance with the Environmental Barriers Act when such plan is not in compliance.

(a-5) In enforcing this Section, the Department or Board, upon a showing of a possible violation, may order a licensee or applicant to submit to a mental or physical examination, or both, at the expense of the Department. The Department or Board may order the examining physician to present testimony concerning his or her examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Board or Department. The licensee or applicant may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of a licensee or applicant to submit to any such examination when directed, without reasonable cause as defined by rule, shall be grounds for either the immediate suspension of his or her license or immediate denial of his or her application.

If the Secretary immediately suspends the license of a licensee for his or her failure to submit to a mental or physical examination when directed, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

If the Secretary otherwise suspends a license pursuant to the results of the licensee's mental or physical examination, a hearing must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The Department and Board shall have the authority to review the licensee's record of treatment and counseling regarding the relevant impairment or impairments to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

Any licensee suspended under this subsection (a-5) shall be afforded an opportunity to demonstrate to the Department or Board that he or she can resume practice in compliance with the acceptable and prevailing standards under his or her license.

(b) The determination by a circuit court that a registrant is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code operates as an automatic suspension. Such suspension will end only upon a finding by a court that the patient is no longer subject to involuntary admission or judicial admission, the issuance of an order so finding and discharging the patient, and the recommendation of the Board to the Secretary that the registrant be allowed to resume practice.

(c) In cases where the Department of Healthcare and Family Services (formerly the Department of Public Aid) has previously determined that a licensee or a potential licensee is more than 30 days delinquent in the payment of child support and has subsequently certified the delinquency to the Department, the Department shall refuse to issue or renew or shall revoke or suspend that person's license or shall take other disciplinary action against that person based solely upon the certification of delinquency made by the Department of Healthcare and Family Services in accordance with paragraph (5) of subsection (a) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(d) The Department shall refuse to issue or renew or shall revoke or suspend a person's license or shall take other disciplinary action against that person for his or her failure to file

a return, to pay the tax, penalty, or interest shown in a filed return, or to pay any final assessment of tax, penalty, or interest as required by any tax Act administered by the Department of Revenue, until the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 2105-15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(Source: P.A. 100-872, eff. 8-14-18; 101-310, eff. 8-9-19.)

Section 25. Injunction; cease and desist order.

(a) If any person or entity violates the provisions of this Act, the Secretary, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois or the State's Attorney of the county in which the violation is alleged to have occurred, may petition the circuit court for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court may issue a temporary restraining order, without bond, and may preliminarily and permanently enjoin such violation. If it is established that such person or other entity has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) (Blank)

(c) (Blank)

(d) Whenever in the opinion of the Department, any person or entity violates any provision of this Act, the Department may issue a notice to show cause why an order to cease and desist should not be entered against that person or entity. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued immediately.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 26. Investigations; notice and hearing.

(a) The Department may investigate the actions of any applicant or of any person or entity holding or claiming to hold a license or registration under this Act.

(b) Before the initiation of a formal complaint, the matter shall be reviewed by a subcommittee of the Board according to procedures established by rule for the Complaint Committee. If a subcommittee has not been formed, the matter shall proceed through the process as stated in subsection (c) of this Section.

(c) The Department shall, before disciplining an applicant or licensee, at least 30 days before the date set for the hearing, (i) notify in writing the applicant or licensee of the charges made and the time and place for the hearing on the charges, (ii) direct the applicant or licensee to file a written answer to the charges under oath within 20 days after the service of the notice, and (iii) inform the applicant or licensee that failure to file a written answer to the charges will result in a default being entered against the applicant or licensee.

(d) Written or electronic notice, and any notice in the subsequent proceeding, may be served by personal delivery, by email, or by mail to the applicant or licensee at his or her address of record or email address of record.

(e) At the time and place fixed in the notice, the Board or hearing officer appointed by the Secretary shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any statement, testimony, evidence, and argument as may be pertinent to the charges or to their defense. The Board or hearing officer may continue the hearing from time to time.

(f) In case the licensee or applicant, after receiving the notice, fails to file an answer, the license or application may, in the discretion of the Secretary, having first received the recommendation of the Board, be suspended, revoked, or placed on probationary status, or be subject to whatever disciplinary action the Secretary considers proper, including limiting the scope, nature, or extent of the person's practice or imposition of a fine, without hearing, if the act or acts charged constitute sufficient grounds for the action under this Act.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 27. Record of proceedings.

(a) The Department, at its expense, shall provide a certified shorthand reporter to take down the testimony and preserve a record of all proceedings at the hearing of any case in which a license may be revoked or suspended or in which a licensee may be placed on probationary status, reprimanded, fined, or subjected to other disciplinary action with reference to the license when a disciplinary action is authorized under this Act and its rules. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of the testimony, the report of the Board, and the orders of the Department shall be the record of the proceedings. The record may be made available to any person interested in the hearing upon payment of the fee required by Section 2105-115 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(b) The Department may contract for court reporting services, and, if it does so, the Department shall provide the name and contact information for the certified shorthand reporter who transcribed the testimony at a hearing to any person interested, who may obtain a copy of the transcript of any proceedings at a hearing upon payment of the fee specified by the certified shorthand reporter.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 27.5. Subpoenas; depositions; oaths.

(a) The Department has the power to subpoena documents, books, records, or other materials, to bring before it any person, and to take testimony either orally or by deposition, or take written interrogatories, or any combination thereof, with the same fees and mileage and in the same manner prescribed in civil cases in courts of this State.

(b) The Secretary, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct and any other oaths authorized in any Act administered by the Department.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 28. Compelling testimony.

Any circuit court may, upon application of the Department or its designee or of the applicant or registrant against whom proceedings under Section 26 of this Act are pending, enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

(Source: P.A. 86-667.)

Section 29. Hearing; motion for rehearing.

(a) The Board or hearing officer appointed by the Secretary shall hear evidence in support of the formal charges and evidence produced by the licensee. At the conclusion of the hearing, the Board or hearing officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. If the Board fails to present its report, the applicant or licensee may request in writing a direct appeal to the Secretary, in which case the Secretary may issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order.

(b) At the conclusion of the hearing, a copy of the Board or hearing officer's report shall be served upon the applicant or licensee, either personally or as provided in this Act for the service of the notice of hearing. Within 20-calendar days after such service, the applicant or licensee may present to the Department a motion, in writing, for a rehearing which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20-calendar days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or upon denial of a motion for rehearing, the Secretary may enter an order in accordance with the recommendations of the Board or hearing officer. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-calendar day period within which a motion may be filed shall commence upon delivery of the transcript to the applicant or licensee.

(c) If the Secretary disagrees in any regard with the report of the Board, the Secretary may issue an order contrary to the report. The Secretary shall notify the Board on any such deviation and shall specify with particularity the reasons for such action in the final order.

(d) Whenever the Secretary is not satisfied that substantial justice has been done, the Secretary may order a hearing by the same or another hearing officer.

(e) At any point in any investigation or disciplinary proceeding provided for in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 32. Hearing officer.

Notwithstanding any provision in this Act, the Secretary has the authority to appoint an attorney duly licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue or renew a license or discipline a licensee. The Board may have at least one member present at any hearing conducted by the hearing officer. The

hearing officer shall have full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law, and recommendations to the Board and to the Secretary. If the Secretary disagrees in any regard with the report of the Board or hearing officer, the Secretary may issue an order in contravention thereof, following the procedures set forth in Section 7. The Secretary shall provide a written report to the Board on any deviation, and shall specify with particularity the reasons for said action.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 33. Order or certified copy; Prima facie proof.

An order or a certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, shall be prima facie proof:

- (a) That such signature is the genuine signature of the Secretary;
- (b) That such Secretary is duly appointed and qualified; and
- (c) That the Board and the members thereof are qualified to act.

(Source: P.A. 96-626, eff. 8-24-09.)

Section 34. Restoration from disciplinary status.

(a) At any time after the successful completion of a term of probation, suspension, or revocation of any license under this Act, the Department may restore the license to the licensee upon the written recommendation of the Board, unless after an investigation and a hearing, the Department determines that restoration is not in the public interest.

(b) Where circumstances of suspension or revocation so indicate, the Department may require an examination of the licensee prior to restoring his or her license.

(c) No person whose license has been revoked as authorized in this Act may apply for restoration of that license until such time as provided for in the Department of Professional Regulation Law of the Civil Administrative Code of Illinois.

(d) A license that has been suspended or revoked shall be considered nonrenewed for purposes of restoration and a licensee restoring his or her license from suspension or revocation must comply with the requirements for restoration as set forth in Section 17 and any related rules adopted.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 35. Surrender of license.

Upon the revocation or suspension of any license, the registrant shall immediately surrender the license or licenses to the Department and, if the registrant fails to do so, the Department has the right to seize the license.

(Source: P.A. 86-667.)

Section 36. Temporary suspension of a license.

The Secretary may temporarily suspend the license of a professional engineer without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 26 of this Act, if the Secretary finds that evidence in the Secretary's possession indicates that a professional engineer's continuation in practice would constitute an imminent danger to the public. In the event that the Secretary temporarily suspends the license of a professional engineer without a hearing, a hearing by the Board must be held within 30 days after such suspension has occurred.

(Source: P.A. 96-626, eff. 8-24-09.)

Section 37. Administrative review.

(a) All final administrative decisions of the Department are subject to judicial review pursuant to the provisions of the Administrative Review Law and all rules adopted pursuant thereto. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of this State, the venue shall be in Sangamon County.

(c) The Department shall not be required to certify any record to the court or file any answer in court or to otherwise appear in any court in a judicial review proceeding until the Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department.

(d) Failure on the part of the plaintiff to file a receipt in court shall be grounds for dismissal of the action.

(e) During the pendency and hearing of any and all judicial proceedings incident to a disciplinary action, the sanctions imposed upon the accused by the Department shall remain in full force and effect.

(Source: P.A. 101-310, eff. 8-9-19.)

Section 41. Violation; political subdivisions, county, city or town; construction without professional engineer.

It is unlawful for the State or any of its political subdivisions, or any county, city or town to engage in the construction of any public work involving professional engineering unless the engineering plan, specifications, and estimates have been prepared by, and the construction is executed under, the guidance of a professional engineer licensed under this Act.

(Source: P.A. 101-310, eff. 8-9-19.)

Chapter 3

Illinois Administrative Code - Part 1380

Part 1380: Professional Engineering Practice Act of 1989

The following are excerpts from Chapter VII, Part 1380 of the Illinois Administrative Code. If you wish to review the entire part, please visit the website of the Illinois Board at:

<https://www.idfpr.com/profs/Boards/profeng.asp>

Section 1380.295 Seal Requirements

Every licensed professional engineer shall have a reproducible seal or facsimile, which may be computer generated, the impression of which shall contain the name, the license number of the professional engineer, and the words "Licensed Professional Engineer of Illinois". A professional engineer shall seal all documents prepared by or under the direct supervision and control of the professional engineer. Any document that bears the name of a professional design firm, rather than bearing the name of the individual licensed professional engineer responsible for the document, shall be deemed an invalid seal. The individual licensee's written signature and date of signing, along with the date of license expiration, shall be placed adjacent to the seal. The licensee may provide, at his or her sole discretion, an original signature in the licensee's handwriting, a scanned copy of the document bearing an original signature, or a signature generated by a computer.

(Source: Amended at 39 Ill. Reg. 14859, effective November 13, 2015)

Section 1380.296 Acts Constituting the Practice of Professional Engineering Pursuant to Section 4 of the Act

a) The term "technical submissions" is defined by the Board as including, but not limited to, documents submitted for approval to any authority having jurisdiction, and means designs, drawings and specifications that establish the standards of quality for materials, workmanship and equipment and the construction systems, studies and other technical reports prepared in the course of a design professional's practice.

b) Design/Build: The design/build project delivery process is a method whereby an entity signs a single contract to provide a combination of professional engineering and construction services.

c) The design/build entity will not be required to register as a professional design firm pursuant to Section 23 of the Act only if the services in the design/build project delivery process are provided by the entity in accordance with the following:

1) A professional engineer licensed or a professional design firm registered in Illinois independently contracts with the entity and participates substantially in all material aspects

of the offering and providing of services relating to any bid process, contract negotiations, design, consultation, development, preparation and coordination of technical submissions, and verification of adherence to technical submissions and completion.

2) At the time of offering services, a written disclosure shall be given to the client by the entity identifying the licensed professional engineer who will be engaged by and is contractually responsible to the entity offering design/build project services.

3) The entity agrees that the licensed professional engineer will have direct supervision of the professional engineering work and the engineering services will not be terminated on the project without immediate replacement by another licensed professional engineer mutually agreed to by the client and the entity.

d) A design/build entity shall not offer to provide or provide professional engineering services, unless the design/build entity is an Illinois licensed professional engineer or professional design firm. Offering to provide professional engineering services shall include, but shall not necessarily be limited to, any tender of engineering services either independently or in combination with construction services by any sign, card, advertisement or other device that might indicate to the public that the entity is entitled to provide engineering services.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.300 Standards of Professional Conduct

In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity in the practice of professional engineering, the following Standards of Professional Conduct shall be binding on every person holding a license as a professional engineer and on all corporations authorized to practice professional engineering in this State.

a) Professional Responsibility. Licensees shall be responsive to the needs of clients and employers, but shall hold paramount life, health, property and the welfare of the public.

1) Licensees shall at all times recognize that their primary obligation is to protect the life, health, property and welfare of the public. If their professional judgment is overruled under circumstances where the life, health, property or welfare of the public is endangered, they shall notify their client or employer and such authority(ies) as may be appropriate (which may include the Division or other law enforcement agencies).

2) Licensees shall approve and seal only those designs prepared by them or under their direct supervision and found to be safe for the public health, property and welfare. In circumstances where a licensee in responsible charge of the work is unavailable to complete the work in instances such as death, incapacity, termination of employment or relocation, a successor licensee may take responsible charge by performing all professional services, including design criteria, recalculations, code research and compliance, and any other necessary and appropriate changes, in order to complete the project. The successor licensee shall have control of and responsibility for the work product and the signed and sealed originals of all documents.

3) Licensees shall not reveal confidential facts, data or information obtained in a professional capacity without the prior consent of the client, except as authorized or required by law.

4) Licensees shall not permit the use of their name or firm's name, nor shall they be associated in business ventures with persons or firms which they have reason to believe to be engaging in fraudulent or dishonest business practices.

5) Licensees having knowledge of any alleged violation of any of this Part shall cooperate with the Division, furnishing such information or assistance as may be required to conduct an investigation resulting from a complaint.

b) Competence. Licensees shall perform services only in areas of their competence.

1) Licensees shall undertake assignments only when qualified by education and experience in the specific technical field of engineering involved.

2) Licensees shall not affix their signature or seal to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared by them or under their direct supervisory control.

3) Licensees may accept an assignment outside of their fields of competence to the extent that their services are restricted to those phases of the project in which they are qualified, and to the extent that all other phases of the project will be performed by registrants qualified in those phases.

c) Professional Integrity. Licensees shall issue professional statements in an objective and truthful manner.

1) Licensees shall be completely objective and truthful in all professional reports, statements or testimony.

2) Licensees may express publicly a professional opinion on technical subjects only when it is founded upon adequate knowledge of the facts and a background of competence in the subject matter.

3) A licensee, when acting as a representative of an individual or organization, shall issue no statements, criticisms, or arguments on engineering matters without first prefacing such comments by explicitly identifying on whose behalf the comments will be made. When the licensee is acting as a consultant, expressing a professional opinion, such opinion shall be prefaced by complete personal identification as a consultant, without necessarily naming the client. Such licensee shall reveal any personal interest in the matter.

d) Conflict of Interest. Licensees shall act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.

1) Licensees shall conscientiously avoid conflicts of interest with their employers or clients. Whenever conflicts of interest appear unavoidable; however, licensees shall disclose promptly to their employers or clients any business association, interest or circumstance which may influence judgment or quality of services.

2) Licensees shall not accept compensation, financial or other, from more than one party for services on a project or for services pertaining to a project unless the licensee makes full disclosure and receives consent of all interested parties.

3) Licensees shall not solicit or accept financial or other valuable consideration from any material supplier or equipment supplier for specifying the supplier's products except when the licensee is a known employee or agent of the supplier.

4) Licensees shall not solicit or accept gratuities, directly or indirectly, from any contractor, architect, engineer or other party dealing with the licensee's employer or client in connection with work for which the licensee is responsible.

5) Licensees in public service as members, advisors or employees of a governmental body or department shall not participate in decisions with respect to professional services solicited or provided by them or their organization.

6) Licensees shall not solicit or accept a professional contract from a governmental body on which a principal or officer of their firm or organization serves as a member.

e) Employment Solicitation. Licensees shall avoid improper solicitation of professional employment.

1) Licensees shall not offer to pay, either directly or indirectly, any commission, political contribution, gift or other consideration in order to secure professional assignments.

2) 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 or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures or past accomplishments with the intent or purpose of enhancing their qualifications and/or their work.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.305 Professional Engineer Complaint Committee

a) The Professional Engineer Complaint Committee of the State Board of Professional Engineers authorized by Sections 7 and 26 of the Act shall be composed of 2 members the State Board of Professional Engineers, a Supervisor over Design Investigations and a Chief of Prosecutions over Design Prosecutions. The Director of Enforcement shall designate the Supervisor and Chief assigned to the Complaint Committee.

b) The Complaint Committee shall meet at least once every 2 months to exercise its functions and duties set forth in subsection (c). The Complaint Committee may meet concurrently with the Complaint Committees of the Architecture Licensing Board, Land Surveyors Examining Board and the Structural Engineering Board to discuss interrelated professional matters. The Complaint Committee shall make every effort to consider expeditiously and take prompt action on each case file.

c) The Complaint Committee shall have the following duties and functions:

1) To review investigative case files after an initial inquiry into the involved parties and their licensure status have been obtained. "Case file" means the allegation made against an involved party that resulted in a preliminary inquiry and other information being obtained in order to determine whether an investigation should be initiated or prosecution pursued. A

"Formal Complaint" means the notice of allegations and charges or basis for licensure denial which begins the formal proceedings.

2) To refer the case file to the Supervisor over the Design Investigators for further action. The Complaint Committee shall give the Supervisor an indication as to the prosecutorial merit and relative severity of the allegations to aid in the prioritization of investigative activity.

3) To recommend that a case file be closed.

4) To recommend that an Administrative Warning Letter be issued and the case file closed.

5) To refer the case file to Prosecutions for review and action.

6) To report the actions of the Complaint Committee at each Board meeting and to present enforcement statistics such as the type of alleged violation.

d) In determining what action to take or whether to proceed with investigation and prosecution of a case file, the Complaint Committee shall consider the following factors, but not be limited to: the effect on the public's health, safety and welfare; the sufficiency of the evidence presented; prosecutorial merit; and sufficient cooperation from complaining parties.

e) At any time after referral to Prosecutions, the Division may enter into negotiations to resolve issues informally by way of a Consent Order. Factors to be considered in deciding whether to enter into settlement negotiations shall include, but not be limited to: the effect on the public's health, safety and welfare caused by the respondent's alleged conduct; sufficient investigation of the case; prosecutorial merit; relative severity of the respondent's alleged conduct; and past practices of the Division.

f) No file shall be closed nor Formal Complaint dismissed except upon recommendation of the Complaint Committee and/or approval by the State Board of Professional Engineers. Those case files that previously have been before the Board and are the subject of a Consent Order or Formal Order of the Director may be closed without further recommendation or approval of the State Board of Professional Engineers or the Complaint Committee.

g) Disqualification of a State Board of Professional Engineers member.

1) A Board member shall be disqualified from consideration of a case file or Formal Complaint when the Board member determines that a conflict of interest or prejudice would prevent that Board member from being fair and impartial.

2) Participation in the initial stages of the handling of a case file, including participation on the Complaint Committee and in informal conferences, shall not bar a Board member from future participation or decision making relating to that case file.

h) An informal conference is the procedure established by the Division that may be used for compliance review, fact finding, discussion of the issues, resolving case files, licensing issues or conflicts prior to initiating any Formal Complaint or formal hearing. An informal conference may only be conducted upon agreement of both parties. Informal conferences shall be conducted by a Division attorney and shall include a member or members of the Board. Board members shall be scheduled for informal conferences on a rotating basis.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Section 1380.325 Professional Development

The professional development required as a condition for license renewal under the Professional Engineering Act of 1989 is set forth in this Section. All professional engineers shall meet these requirements.

a) Professional Development Hours Requirements

1) Beginning with the November 30, 2005 renewal and every renewal thereafter, in order to renew a license as a professional engineer, a licensee shall be required to complete 30 professional development hours (PDH) relevant to the practice of professional engineering. Failure to comply with these requirements may result in non-renewal of the professional engineer's license or other disciplinary action, or both.

2) A pre-renewal period is the 24 months preceding November 30 of each odd-numbered year.

3) One professional development hour shall equal a minimum of 50 minutes of instruction or participation. If a program is taken that awards continuing education units (CEU) rather than professional development hours, one CEU equals 10 professional development hours of class in an approved continuing education course.

4) A renewal applicant shall not be required to comply with the professional development requirements for the first renewal of an Illinois license.

5) Professional engineers licensed in Illinois but residing and practicing in other states shall comply with the professional development requirements set forth in this Section.

6) Professional development units used to satisfy the professional development requirements of another jurisdiction may be applied to fulfill the professional development requirements of the State of Illinois if they are substantially equivalent.

b) Professional Development Activities shall include, but not be limited to:

1) Successful completion of a college or university course in the area of professional engineering, related sciences and engineering ethics. One semester hour completed shall equal 15 PDHs and one quarter hour shall equal 10 PDHs;

2) Successful completion of professional engineering courses or programs in which professional development hours are earned;

3) Active participation and successful completion of professional engineering programs, seminars, tutorials, workshops, short courses, on-line or in-house courses. Credit will be given for self study courses only if an examination has been completed by the licensee and graded by the sponsor;

4) Attending program presentations at related technical or professional meetings;

5) Teaching or instructing. Teaching credit is valid for teaching a course or seminar for the first time only. Two PDHs will be earned for every hour of teaching. This does not apply to faculty in the performance of their regularly assigned duties;

- 6) Authoring papers or articles that appear in nationally circulated journals or trade magazines or presented to a university, professional society or organization. 10 PDHs per paper or presentation, but not both, are allowed for this activity;
 - 7) Receiving a patent within the renewal period. Ten PDHs may be earned per patent;
 - 8) Active participation on a committee or holding an office in a professional or technical society. Two PDHs will be awarded per committee membership or office held. A maximum of 8 PDHs may be accepted per pre-renewal period.
- c) All professional development programs, activities or courses shall:
- 1) Contribute to the advancement, extension or enhancement of the professional skills and/or scientific knowledge of the licensee in practice of professional engineering;
 - 2) Foster the enhancement of general or specialized practice and values of professional engineering, related sciences and engineering ethics;
 - 3) Be developed and presented by persons with education and/or experience in the subject matter of the program.
- d) It shall be the responsibility of a licensee to maintain a record of PDHs for 6 years that includes, but is not limited to, the following:
- 1) The name and address of the sponsor or provider, the number of hours attended in each program, the date and place of the program and a certificate of attendance; or
 - 2) A log of activities that includes the date and number of hours claiming as PDHs, a brief statement of the subject matter, printed program schedules, registration receipts or other proof of participation; or
 - 3) Transcripts or records of professional development hours maintained by an acceptable provider as set forth in subsection (e).
- e) Acceptable providers for structured educational activities shall include, but not be limited to:
- 1) National Council of Examiners for Engineering and Surveying (NCEES);
 - 2) National Society of Professional Engineers (NSPE);
 - 3) Illinois Society of Professional Engineers (ISPE);
 - 4) American Council of Engineering Companies of Illinois (ACEC-IL);
 - 5) Technical or professional societies or organizations relating to professional engineering, such as the American Society of Civil Engineers (ASCE);
 - 6) Colleges, universities or other educational institutions;
 - 7) Other technical or professional societies or organizations including manufacturers.
- f) The Division shall not pre-approve individual courses or programs.

g) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, full compliance with the professional development requirements set forth in this Section.

2) The Division may require additional evidence demonstrating compliance with the CE requirements as set forth in subsection (d). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

h) Restoration of Non-renewed License. Upon satisfactory evidence of compliance with PDH requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1380.275.

i) Waiver of PDH Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these PDH requirements shall file with the Division a renewal application along with the required fee set forth in Section 1380.275, a statement setting forth the facts concerning non-compliance and request for waiver of the PDH requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of PDH requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the PDH requirements during the applicable pre-renewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of the pre-renewal period;

B) An incapacitating illness documented by a statement from a currently licensed physician;

C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; or

D) Any other similar extenuating circumstances.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 34 Ill. Reg. 5623, effective March 30, 2010)

Chapter 4

Disciplinary Process

Investigations, Notice and Hearing

(a) The Department may investigate the actions of any applicant or of any person or entity holding or claiming to hold a license or registration under this Act.

(b) Before the initiation of a formal complaint, the matter shall be reviewed by a subcommittee of the Board according to procedures established by rule for the Complaint Committee. If a subcommittee has not been formed, the matter shall proceed through the process as stated in subsection (c) of this Section.

(c) The Department shall, before disciplining an applicant or licensee, at least 30 days before the date set for the hearing, (i) notify in writing the applicant or licensee of the charges made and the time and place for the hearing on the charges, (ii) direct the applicant or licensee to file a written answer to the charges under oath within 20 days after the service of the notice, and (iii) inform the applicant or licensee that failure to file a written answer to the charges will result in a default being entered against the applicant or licensee.

(d) Written or electronic notice, and any notice in the subsequent proceeding, may be served by personal delivery, by email, or by mail to the applicant or licensee at his or her address of record or email address of record.

(e) At the time and place fixed in the notice, the Board or hearing officer appointed by the Secretary shall proceed to hear the charges, and the parties or their counsel shall be accorded ample opportunity to present any statement, testimony, evidence, and argument as may be pertinent to the charges or to their defense. The Board or hearing officer may continue the hearing from time to time.

(f) In case the licensee or applicant, after receiving the notice, fails to file an answer, the license or application may, in the discretion of the Secretary, having first received the recommendation of the Board, be suspended, revoked, or placed on probationary status, or be subject to whatever disciplinary action the Secretary considers proper, including limiting the scope, nature, or extent of the person's practice or imposition of a fine, without hearing, if the act or acts charged constitute sufficient grounds for the action under this Act.

Subpoenas, Depositions and Oaths

(a) The Department has the power to subpoena documents, books, records, or other materials, to bring before it any person, and to take testimony either orally or by deposition, or take written interrogatories, or any combination thereof, with the same fees and mileage and in the same manner prescribed in civil cases in courts of this State.

(b) The Secretary, the designated hearing officer, and every member of the Board has the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct and any other oaths authorized in any Act administered by the Department.

Hearing, Motion for Rehearing

(a) The Board or hearing officer appointed by the Secretary shall hear evidence in support of the formal charges and evidence produced by the licensee. At the conclusion of the hearing, the Board or hearing officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. If the Board fails to present its report, the applicant or licensee may request in writing a direct appeal to the Secretary, in which case the Secretary may issue an order based upon the report of the hearing officer and the record of the proceedings or issue an order remanding the matter back to the hearing officer for additional proceedings in accordance with the order.

(b) At the conclusion of the hearing, a copy of the Board or hearing officer's report shall be served upon the applicant or licensee, either personally or as provided in this Act for the service of the notice of hearing. Within 20-calendar days after such service, the applicant or licensee may present to the Department a motion, in writing, for a rehearing which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20-calendar days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or upon denial of a motion for rehearing, the Secretary may enter an order in accordance with the recommendations of the Board or hearing officer. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20-calendar day period within which a motion may be filed shall commence upon delivery of the transcript to the applicant or licensee.

(c) If the Secretary disagrees in any regard with the report of the Board, the Secretary may issue an order contrary to the report. The Secretary shall notify the Board on any such deviation and shall specify with particularity the reasons for such action in the final order.

(d) Whenever the Secretary is not satisfied that substantial justice has been done, the Secretary may order a hearing by the same or another hearing officer.

(e) At any point in any investigation or disciplinary proceeding provided for in this Act, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

Chapter 5

Review of Disciplinary Cases

The following disciplinary cases were extracted from the May 2019 to June 2020 disciplinary reports posted on the website of the Illinois State Board of Professional Engineers. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Illinois Board.

Case No. 1

This case involves fining a licensed professional engineer \$5,000 for signing an engineering inspection report while his professional engineering license was in non-renewed status – June 2020.

Case No. 2

This case involves suspending the license of a professional engineer for failing to file and/or pay Illinois state income taxes – March 2020.

Case No. 3

This case involves fining a licensed professional engineer \$500 for failing to provide sufficient proof of completion for all 30 of the required professional engineering continuing education hours for the 2009-2011 reporting period – February 2020.

Case No. 4

This case involves reprimanding the license and fining the professional engineer \$2,500, and also revoking the design firm license for practicing structural engineering services without a valid structural engineering professional design firm registration or having a licensed structural engineer on staff – November 2019.

Case No. 5

This case involves placing a professional engineer in refuse to renew status due to unlicensed practice and failure to comply with seal requirements – May 2019.

Appendix A

References

Illinois Board of Professional Engineers

<https://www.idfpr.com/profs/Boards/profeng.asp>

Illinois Compiled Statutes: Title 68, Chapter VII, 225 ILCS 325, Professional Engineering Practice Act of 1989.

<https://ilga.gov/legislation/ilcs/ilcs3.asp?ActID=1344&ChapAct=225%26nbsp%3BILCS%26nbsp%3B325%2F&ChapterID=24&ChapterName=PROFESSIONS+AND+OCCUPATIONS&ActName=Professional+Engineering+Practice+Act+of+1989%2E>

Illinois Administrative Code: Part 1380, Professional Engineering Practice Act Of 1989

<https://www.ilga.gov/commission/jcar/admincode/068/06801380sections.html>

Disciplinary Reports

<http://www.idfpr.com/News/Disciplines/DiscReports.asp>