Engineering Ethics for Louisiana Professional Engineers

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# Table of Contents

**Chapter 1: Overview of Louisiana Engineering Board Regulations**

Louisiana Professional Engineering and Land Surveying Board .......................... 3
Louisiana Administrative Code (LAC) ................................................................. 3
Louisiana Revised Statutes (LRS) ......................................................................... 4
Louisiana Board Disciplinary Process ............................................................. 4

**Chapter 2: LA Administrative Code - Professional Conduct**

Chapter 25. Professional Conduct

§2501. Scope; Knowledge; Definition of Licensee ........................................... 5
§2503. Licensees ............................................................................................... 6
§2505. Services .................................................................................................. 7
§2507. Conflicts of Interest ............................................................................... 8
§2509. Improper Solicitation ......................................................................... 9
§2511. Conduct of Advertising ..................................................................... 9

**Chapter 3: Ethical and Disciplinary Case Studies**

Case No: 2018-120 ......................................................................................... 11
Case No: 2017-045 ......................................................................................... 12
Case No: 2014-009 ......................................................................................... 13

**Appendix A: References** ............................................................................ 15
Chapter 1
Overview of Louisiana Engineering Board Regulations

Louisiana Professional Engineering and Land Surveying Board

The Louisiana Professional Engineering and Land Surveying Board is the primary government body that regulates the practice of engineering within the State of Louisiana. The Board consists of eleven (11) members as follows: nine (9) licensed professional engineers and two (2) licensed professional surveyors and two public members. All ten members are appointed by the Governor for five- to six-year terms.

The Board has the authority to implement provisions of Title 37, Chapter 8 of the "Louisiana Revised Statutes" (LRS), also known as the "Engineering Law" and Title 46, Part LXI of the Louisiana Administrative Code (LAC), which constitute the "Rules of the Board".

Louisiana Administrative Code (LAC)

The Louisiana Revised Statutes are supplemented by rules embodied in the Louisiana Administrative Code (LAC). Title 46, Professional and Occupational Standards, Part LXI. Professional Engineers and Land Surveyors constitute the "Rules of the Board".

The LAC is a compilation of the rules and regulations of the Louisiana regulatory agencies. Its counterpart in the federal system is the Code of Federal Regulations. It is organized by titles with each title number representing a department, commission, board or other agency. The set has a single comprehensive index volume.

The LAC states the rule followed by statutory authority, implementation and a history of the rule. The set is annotated with decisions of the Federal courts, State appellate courts, State Attorney General opinions, final and recommended orders of the Division of Administrative Hearings and final agency orders. At the end of each rule in the LAC, an authority note is located indicating the LRS citation promulgating this rule. Furthermore, a history note is also located indicating when the rule has been modified, renumbered, or repealed.

Title 46, Part LXI of the LAC pertains exclusively to the Louisiana Professional Engineering and Land Surveying Board and its functions with respect to the practice of engineering. Pertinent sections of Title 46, Part LXI of the Louisiana Administrative Code, which relate to the code of professional conduct and responsibility, are presented in Chapter 2.
**Louisiana Revised Statutes (LRS)**

The Louisiana Legislature found that it was necessary in the interest of public health and safety to regulate the practice of engineering in the State of Louisiana and thus created the Louisiana Revised Statutes (LRS) 37:681 through 37:703 of Chapter 8. These statutes are a collection of state laws organized by subject area into a code made up of titles and chapters. They are enacted by the Louisiana Legislature and can be amended only by the Legislature.

The LRS establish and delineate the powers of the Professional Engineering and Land Surveying Board and are commonly referred to as "the engineering law" or "the law". Under this law, the Louisiana Board is responsible for reviewing applications, administering examinations, licensing qualified applicants, and regulating the practice of engineering throughout the state.

Similar to Title 46 of the Louisiana Administrative Code, these statutes were created by laws that adopt, amend, or repeal statutory material.

**Louisiana Board Disciplinary Process**

Under Louisiana Revised Statutes 37:698, the Board has the authority to take disciplinary action against any licensee or certificate holder who is found by the Board to be guilty of any of the acts or offenses under the laws and rules of the engineering profession. That disciplinary action can include reprimand, probation, suspension, revocation of license or certificate, refusal to renew license or certificate, or fine in an amount not to exceed five thousand dollars ($5,000.00) per violation.

Under Louisiana Revised Statutes 37:700, the Board also has the authority to take enforcement action against any non-licensee or non-certificate holder who is found by the Board to be guilty of any of the acts or offenses under the laws and rules of the engineering profession. That enforcement action can include a fine in an amount not to exceed five thousand dollars ($5,000.00) per violation.

Any of these actions may be taken following an administrative disciplinary/enforcement hearing. An administrative hearing may result when results of the investigation of a sworn affidavit of complaint substantiates the allegation that a violation of the Board’s laws and/or rules may have occurred.

In situations where the Board determines after investigation that the allegations(s) filed are completely unfounded, more appropriately resolved outside the formal disciplinary or enforcement proceedings, or not within the jurisdiction of the Board, the Board will notify the respondent and complainant in writing of its decision.

Several disciplinary cases, presented in Chapter 3 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
LA Administrative Code - Professional Conduct

Title 46, Part LXI: Professional Engineers and Land Surveyors

The following are excerpts from Title 46, Part LXI of the Louisiana Administrative Code as it relates to professional conduct. If you wish to review the entire part, please visit the website of the Louisiana Board at:


Chapter 25. Professional Conduct

§2501. Scope; Knowledge; Definition of Licensee

A. In order to safeguard life, health and property, to promote the public welfare, and to establish and maintain a high standard of integrity and practice, the following rules of professional conduct shall be binding on every licensee. These rules of professional conduct deal primarily with the relationship between licensees and the public and should not be construed as a substitute for codes of ethics of the various professional and technical societies.

B. All licensees are charged with having knowledge of the licensure law and the rules of the board and shall be deemed to be familiar with their provisions and to understand them.

C. For purposes of this Chapter only, the term licensee shall mean any professional engineer, professional land surveyor, engineer intern, land surveyor intern, or firm holding a license or certificate issued by the board.

D. A licensee possessing personal knowledge of a violation of the licensure law or the rules of the board shall report such knowledge to the board in writing and shall cooperate with the board in furnishing such further information or assistance as it may require.

E. Licensees shall timely respond to all inquiries and correspondence from the board and shall timely claim correspondence sent to them from the board via the U.S. Postal Service or other delivery service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.
HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 4:299 (August 1978), amended LR 7:648 (December 1981), LR 16:776 (September 1990), amended by the Department of Transportation and Development, Professional Engineering
§2503. Licensees

A. Licensees shall hold paramount the life, health, property and welfare of the public in the performance of their professional duties.

B. 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 by nontechnical authority, they will clearly point out the consequences, notifying the proper authority of any observed conditions which endanger public life, health, property and welfare.

C. Licensees shall approve and seal only those documents which are safe for public life, health, property, and welfare, which are complete and accurate, which are in conformity with accepted engineering and land surveying standards or practice, and which conform to applicable laws and ordinances.
   1. Licensees shall comply fully with Chapter 27 (Use of Seals).
   2. Except as permitted by §2701.A.3.b.ii, licensees shall not seal the work of or take the professional responsibility for any documents related to engineering or land surveying not performed by the licensee or under their responsible charge.
   3. Licensees shall not accept the responsibility for, nor review, revise, sign, or seal documents when such documents are begun by persons not properly licensed; or do any other act to enable anyone to evade the requirements of the licensure law.

D. Licensees shall submit to a client only that work prepared by the licensee or under their responsible charge; however, licensees, as third parties, may complete, correct, revise, or add to the work of another licensee or other related design professional, if allowed by Louisiana law, when engaged to do so by a client, provided:
   1. the client furnishes the documentation of all such work submitted to him/her by the previous licensees or other related design professionals;
   2. the previous licensees or other related design professionals are notified in writing by the licensee of the engagement referred to herein immediately upon acceptance of the engagement; and
   3. all work completed, corrected, revised, or added to shall contain a notation describing the work done by the licensee now in responsible charge, shall have the seal and signature of the licensee affixed thereto, shall contain the date of execution, and shall become the responsibility of the licensee.

E. Licensees shall be objective and truthful in all professional reports, statements or testimony. Licensees shall include all relevant and pertinent information in such reports, statements or testimony.

F. When serving as an expert or technical witness before any court, commission, or other tribunal, licensees 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 the licensee's testimony.

G. Licensees shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy which are inspired or paid for by an interested party or parties, unless the licensee has prefaced the comment by explicitly
identifying the licensee's name, by disclosing the identities of any party or parties on whose behalf the licensee is speaking, and by revealing the existence of any pecuniary interest the licensee may have in the instant matter.

H. Licensees shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another licensee, nor indiscriminately criticize another licensee's work in public. If the licensee believes that another licensee is guilty of misconduct or illegal practice, such information shall be presented to the board in a manner consistent with the requirement of those rules for reporting personal knowledge of rule or licensure law violations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

§2505. Services

A. Licensees shall perform services only in the area of their competence.

B. Licensees shall undertake assignments only when qualified by education or experience in the specific technical fields of engineering or land surveying involved.

C. Licensees shall not affix their signatures or seals to any documents dealing with subject matters in which they lack competence, nor to any such document not prepared by them or under their responsible charge. Responsible charge requires a licensee to have client contact, provide internal and external financial control, oversee training of subordinates, and exercise control and supervision overall job requirements to include research, planning, design, field supervision and work product review. A licensee shall not contract with a non-licensed individual to provide these professional services. Other types of research, such as land title searches and material testing, may be contracted to a non-licensed individual, provided the licensee reviews the work. Licensees may affix their seal, signature and date to documents depicting the work of two or more licensees or other related design professionals provided that a note under the seal designates the specific subject matter for which each is responsible.

D. Licensees may accept an assignment outside of their areas 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 they are satisfied that all other phases of such project will be performed or supervised by other licensees, in which case they may then seal, sign and date the documents for the whole project.

E. In the event a question arises as to the competence of a licensee in a specific technical field which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the licensee or on its own volition, may require the licensee to take an appropriate examination or quiz or submit to an appropriate interview.
F. Firms may offer and/or provide a combination of engineering and construction services in connection with a design-build project in Louisiana without obtaining a firm license from the board, provided that:

1. prior to the execution of the contract for the project, the firm obtains an authorization certificate from the board by filing, on a form approved by the board, a written disclosure on which it shall designate a professional engineer (professional of record) licensed in Louisiana to be in responsible charge of all engineering services offered and/or provided by the firm for such project;

2. the professional of record and an officer of the firm sign the written disclosure submitted to the board, identifying the professional of record’s role in the project and certifying that the professional of record will be in responsible charge of all engineering services offered and/or provided by the firm for the project;

3. all engineering services offered and/or provided by the firm for the project are performed by or under the responsible charge of the professional of record; and

4. in the event such professional of record’s services terminate with respect to the project or his/her role in the project otherwise changes, then within five business days:
   a. both the firm and the professional of record shall notify the board in writing of such termination or change; and
   b. the firm shall file with the board a new written disclosure designating a new professional of record employed by the firm and licensed in Louisiana to be in responsible charge of all engineering services offered and/or provided by the firm for such project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.


§2507. Conflicts of Interest

A. Licensees shall further act in professional matters for each employer or client as faithful agents or trustees and shall avoid conflicts of interest.

B. Licensees shall disclose all known or potential conflicts of interest to their employers or clients by promptly informing them of any business association, interest, or other circumstances which could influence their professional judgment or the quality of their professional services.

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

D. Licensees shall not solicit or accept, directly or indirectly, benefits of any substantial nature or significant gratuity, from any supplier of materials or equipment, or from contractors, their agents, servants or employees or from any other party dealing with the client or employer of the licensee in connection with any project on which the licensee is performing or has contracted to perform professional services.
E. When in public service as a member, advisor or employee of a governmental body or agency, or under contract to provide consultation, advice, technical reviews and recommendations to a governmental body or agency, licensees shall not participate in considerations or actions with respect to professional services provided by them or their organization to that governmental body or agency or to any other person.

F. Licensees shall not solicit nor accept professional services from a governmental body or agency of which the licensee or a principal, officer or employee of the licensee's firm serves as a member, employee, consultant, contractor or representative, except upon public disclosure of all pertinent facts and circumstances and consent of all parties.

G. Licensees shall not attempt to supplant another licensee in a particular engagement after becoming aware that the other has been selected for the engagement.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1038 (July 2001), LR 30:1722 (August 2004), LR 44:625 (March 2018).

§2509. Improper Solicitation

A. Licensees shall avoid improper solicitation of professional employment or services.

B. Licensees shall not falsify or permit misrepresentation or exaggeration of:
   1. the licensee's or any associate's academic or professional qualifications;
   2. the licensee's degree of responsibility in or for the subject matter of prior work; or
   3. pertinent facts concerning employers, employees, associates or joint ventures, of the licensee's or his/her firm's past accomplishments

C. Licensees shall not pay nor offer to pay, directly or indirectly, any commission, or gift, or other valuable consideration in order to secure work, except under the following circumstances:
   1. securing salaried positions through employment agencies; or
   2. as a bona fide employee, or a bona fide established commercial marketing agency retained by them.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:688.

**HISTORICAL NOTE:** Promulgated by the Department of Transportation and Development, Board of Registration for Professional Engineers and Land Surveyors, LR 7:648 (December 1981), amended by the Department of Transportation and Development, Professional Engineering and Land Surveying Board, LR 27:1038 (July 2001), LR 30:1722 (August 2004), LR 44:625 (March 2018).

§2511. Conduct of Advertising

A. Licensees shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance in brochures, correspondence, listings, websites, or other public communications.
B. The prohibitions listed in Subsection A include, but are not limited to:
1. the use of statements containing a material misrepresentation of fact;
2. omitting a material fact necessary to keep the statement from being misleading;
3. the use of statements intended or likely to create an unjustified expectation; and
4. the use of statements containing a prediction of future success.

C. Consistent with the foregoing, licensees may advertise for recruitment of personnel.

D. Consistent with the foregoing, licensees may prepare articles for the lay or technical press. Such articles shall not imply credit to the author for work performed by others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:688.

Chapter 3

Ethical and Disciplinary Case Studies

As explained in Chapter 2, we, as Professional Engineers, are expected to take reasonable precautions or care in the practice of our engineering profession as we must hold paramount the safety, health and welfare of the public. So, what happens when we fall short of our professional responsibilities for which we were entrusted by the public when we earned our honorable title of "Professional Engineer"?

The following disciplinary cases were extracted from the website of the Louisiana Board Professional Engineering and Land Surveying Board. In selecting these cases, different scenarios of violations are depicted along with their corresponding final decisions issued by the Board.

**CASE. NO. 2018-120**

**VIOLATION:** Falsification of Information on License Renewal Application

**ACTION DATE:** January 28, 2020

**Case Review:**

An investigation was opened based upon the Board's receipt of information and/or documents which suggested that Respondent may have committed violations of the Board's laws and/or rules. The investigation disclosed that in June 2018 the North Carolina Board of Examiners for Engineers and Surveyors [hereinafter "North Carolina Board"] took disciplinary action against Respondent for failing to notify the North Carolina Board of a license discipline within thirty (30) days and submitting false information on a renewal form. In a Decision and Order dated June 28, 2018 in connection with Case No. V2018-015, the North Carolina Board reprimanded Respondent's North Carolina professional engineer license.

On or about August 8, 2019, Respondent submitted to the Board his 2019 Louisiana professional engineer license renewal online, confirming thereon that (a) he had not been subject to disciplinary action by the licensing authority in another jurisdiction since his previous license renewal in 2017, (b) all information provided in his online renewal was true and correct to the best of his knowledge, information and belief and (c) an omission or untrue response may constitute fraud, deceit, material misstatement, perjury or the giving of false or forged evidence under the Board's licensure law.
Board Decision:

La. R.S. 37:698(A)(l) prohibits licensees from committing any fraud, deceit, material misstatement or perjury, or the giving of any false or forged evidence, in applying for a renewal license with the Board.

La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(l), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding.

La. R.S. 37:698(A)(l) and La. R.S. 37:698(H) were in effect at all times material hereto.

The Respondent agreed to enter into a consent order with the Board whereby the Respondent agreed to:

- Pay a fine of $1,000.00;
- Pay administrative costs of $896.17;
- Complete the Board’s online LA Laws and Rules Quiz within 60 days; and
- Complete the Board’s online LA Professionalism and Ethics Quiz within 60 days

CASE. NO. 2017-45

VIOLATION: Unlicensed Practice of and/or Offering to Practice Engineering in LA

ACTION DATE: November 18, 2019

Case Review:

An investigation was opened based upon the Board’s receipt of an Affidavit of Complaint and documents which suggested that Respondent may have committed violations of the Board’s laws and/or rules. The investigation disclosed that since February 16, 2011 Respondent has admittedly (a) offered to provide engineering services in Louisiana and provided engineering services on projects in Louisiana which included preparing, sealing with his Louisiana professional engineer seal and issuing to clients and governmental agencies engineering documents containing pile foundation designs and (b) represented on ASSCI’s letterhead, building/permit applications and other documents in Louisiana that he was a "professional engineer".

The investigation also disclosed that since at least October 2014 ASSCI has admittedly (a) offered to provide engineering services in Louisiana and provided engineering services on projects in Louisiana which included preparing, sealing (with Respondent’s Louisiana professional engineer seal) and issuing to clients and governmental agencies engineering documents containing pile foundation designs, (b) represented on its letterhead, on building/permit applications and on other documents in Louisiana that it could provide "professional engineering" services and/or that Respondent was a "professional engineer" and (c) Respondent provided engineering services for and on behalf of ASSCI in Louisiana in connection with said projects.
Board Decision:

La. R.S. 37:681 and La. R.S. 37:700(A)(I), (7) and (9), to wit LAC Title 46:LXI§2301(B), prohibit the practicing of and/or offering to practice engineering and the use of the words "engineer", "engineering" or any modification or derivative thereof in a person's name or form of business or activity without proper licensure.

La. R.S. 37:698(A)(6), to wit LAC Title 46:LXI§2103(A), allow a professional engineer in a retired status to represent himself to the public as a "P.E. Retired", but prohibit him from otherwise practicing or offering to practice engineering.

La. R.S. 37:698(A)(9) and (16) prohibit licensees from practicing and/or offering to practice engineering with a license in a retired status.

La. R.S. 37:698(A)(12) prohibits licensees from aiding or assisting another person in violating the laws and/or rules of the Board.

La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(6), to wit LAC Title 46:LXI§2103(A), and La. R.S. 37:698(A)(9), (12) and (16), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding.

La. R.S. 37:681, La. R.S. 37:698(A)(6), (9), (12) and (16), La. R.S. 37:698(H), La. R.S. 37:700(A)(I), (7) and (9), LAC Title 46:LXI§2103(A) and LAC Title 46:LXI§2301(B) were in effect at all times material hereto.

The Respondent agreed to enter into a consent order with the Board whereby the Respondent agreed to:

- Pay a fine of $2,000.00;
- Pay administrative costs of $1,641.16;
- Pay past unpaid renewal fees of $240.00;
- Complete the Board’s online LA Laws and Rules Quiz within 60 days;
- Complete the Board’s online LA Professionalism and Ethics Quiz within 60 days;
- Cease and desist practicing and/or offering to practice engineering and using the words "engineer", "engineering" or any modification or derivative thereof; and
- Ensure that ASSCI immediately ceases and desists practicing and/or offering to practice engineering and using the words "engineer", "engineering" or any modification or derivative thereof.

CASE. NO. 2014-09

VIOLATION: Disciplinary Action by the Licensing Authority of another State

ACTION DATE: November 16, 2015

Case Review:

An investigation was opened based upon the Board’s receipt of information and documents which suggested that the Respondent may have been disciplined by the licensing authority of another state for matters recognized as grounds for disciplinary action in Louisiana. The
investigation disclosed that the Kansas State Board of Technical Professions [hereinafter the "Kansas Board"] had taken disciplinary action against the Respondent for gross negligence, incompetency, misconduct or wanton disregard for the rights of others in the practice of engineering, by designing, preparing and sealing plans and specifications for the fire alarm systems in (i) a church building which contained 12 deviations from generally accepted engineering standards and practices and constituted a danger to the health, safety and welfare of the public, and (ii) a retail store building, which contained 9 deviations from generally accepted engineering standards and practices and constituted a danger to the health, safety and welfare of the public.

In a Final Order dated July 17, 2012 in connection with Case No. 12-06, the Kansas Board placed Respondent on probation for a period of two years and assessed him with $19,729.46 in fines and $5,270.54 in fees and expenses.

**Board Decision:**

La. R.S. 37:698(A)(7) authorizes the Board to take disciplinary action against licensees who have been disciplined by the licensing authority of another state, territory or district of the United States for a matter recognized as a ground for disciplinary action in Louisiana at the time the action was taken.

La. R.S. 37:698(A)(2) prohibits licensees from committing any fraud, deceit, gross negligence, material misrepresentation, gross incompetence or gross misconduct in the practice of engineering in Louisiana.

La. R.S. 37:698(A)(6), to wit LAC Title 46:LXI§2503(C), requires licensees to approve and seal only those design documents which are safe for public health, property and welfare, which are complete and accurate, which are in conformity with accepted engineering standards or practice, and which conform to applicable laws and ordinances.

La. R.S. 37:698(H) permits the Board to take disciplinary action against persons who violate La. R.S. 37:698(A)(7), upon a finding of guilt following the preferral of charges, notice and hearing and a majority vote of its entire membership authorized to participate in the proceeding.

La. R.S. 37:698(A)(2), (6) and (7), La. R.S. 37:698(H) and LAC Title 46:LXI§2503(C) were in effect at all times material hereto.

The Respondent agreed to enter into a consent order with the Board whereby the Respondent agreed to:

- Have his professional engineer license placed on probation for five years and subject to permanent revocation if convicted while on probation;
- Pay a fine of $2000.00;
- Pay administrative costs of $1,172.11;
- Complete the Board’s online LA Laws and Rules Quiz within 60 days; and
- Complete the Board’s online LA Professionalism and Ethics Quiz within 60 days.
Appendix A

References

Louisiana Professional Engineering and Land Surveying Board
http://www.lapels.com/

How to File an Affidavit of Complaint
http://www.lapels.com/Enforcement/Affidavit.pdf

Louisiana Revised Statutes (LRS) 37:681 through 37:703, Professional Engineering and Surveying Laws

Louisiana Administrative Code, Title 46, Part LXI, Professional Engineering and Surveying Rules

Louisiana Board Disciplinary Actions
http://www.lapels.com/Disciplinary_Actions.html