
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. The terms for all members shall be for 5 years. Each licensed member must have at least 12 years of experience in the practice of professional engineering. 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:

<http://www.idfpr.com/dpr/WHO/pe.asp>

Section 14. Seal.

Every professional engineer shall have a seal or stamp, the print of which shall be reproducible and 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 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. Signatures generated by computer shall not be permitted.

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.

It is unlawful to affix one's seal to technical submissions if it masks the true identity of the person who actually exercised direction, control and supervision 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 by the professional engineer who originally sealed and signed the technical submissions.

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

Section 15. Technical submissions.

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. Computer generated signatures are not permitted.

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.

All technical submissions intended for use in construction 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 documents. In recognition that professional engineers are licensed for the protection of the public health, safety and welfare, documents shall be of such quality and scope, and be so administered as to conform to professional standards.

(Source: P.A. 91-92, eff. 1-1-00; 92-145, eff. 1-1-02.)

Section 17.5. Continuing education.

The Department may promulgate 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 or 18 of this Act.

(Source: P.A. 91-92, eff. 1-1-00.)

Section 24. Rules of professional conduct; disciplinary or administrative action.

(a) The Department shall adopt rules setting standards of professional conduct and establish appropriate penalty for the breach of such rules.

(a-1) 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 the following causes:

(1) Material misstatement in furnishing information to the Department.

(2) Violations of this Act or any of its rules.

(3) Conviction of or entry of a plea of guilty or nolo contendere to any crime that is a felony under the laws of the United States or any state or territory thereof, or that is a misdemeanor, an essential element of which is dishonesty, or any crime that is directly related to the practice of engineering.

(4) Making any misrepresentation for the purpose of obtaining, renewing, or restoring a license or violating any provision of this Act or the rules promulgated under this Act pertaining to advertising.

(5) Willfully making or signing a false statement, certificate, or affidavit to induce payment.

(6) Negligence, incompetence or misconduct in the practice of professional engineering as a licensed professional engineer or in working as an engineer intern.

(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 30 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) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including, but not limited to, deterioration through the aging process or loss of motor skill, or mental illness or disability.

(11) Discipline by the United States Government, another state, District of Columbia, territory, foreign nation or government agency, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(12) Directly or indirectly giving to or receiving from any person, firm, corporation, partnership or association any fee, commission, rebate or other form of compensation for any professional services not actually or personally rendered.

(13) A finding by the Department that an applicant or registrant has failed to pay a fine imposed by the Department, a registrant whose license has been placed on probationary status has violated the terms of probation, or a registrant has practiced on an expired, inactive, suspended, or revoked license.

(14) Signing, affixing the professional engineer's seal or permitting the professional engineer's seal to be affixed to any technical submissions not prepared as required by Section 14 or completely reviewed by the professional engineer or under the professional engineer's direct supervision.

(15) Inability to practice the profession with reasonable judgment, skill or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug.

(16) The making of 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-2) The Department shall deny a license or renewal authorized by this Act to a person who has failed 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 such time as the requirements of the tax Act are satisfied in accordance with subsection (g) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(a-3) The Department shall deny a license or renewal authorized by this Act to a person who has defaulted on an educational loan or scholarship provided or guaranteed by the Illinois Student Assistance Commission or any governmental agency of this State in accordance with subdivision (a)(5) of Section 15 of the Department of Professional

Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(a-4) 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 subdivision (a)(5) of Section 15 of the Department of Professional Regulation Law of the Civil Administrative Code of Illinois (20 ILCS 2105/2105-15).

(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 the provisions of 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, as now or hereafter amended, 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 Director that the registrant be allowed to resume practice.

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

Section 25. Violations; Injunction; Cease and desist order.

(a) If any person or other entity violates the provisions of this Act, the Director, 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) If any person practices as a professional engineer or holds himself out as such, without being licensed under the provisions of this Act, then any professional engineer, or any interested party or any person injured thereby may, in addition to the Director, petition for relief as provided in this Section.

(c) (Blank)

(d) Whenever in the opinion of the Department, any person or other 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 other 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. 88-428; 88-595, eff. 8-26-94.)

Section 26. Investigations; notice and hearing.

The Department may investigate the actions of any applicant or of any person or entity holding or claiming to hold a license or registration or offering professional engineering services. Before the initiation of an investigation, the matter shall be reviewed by a subcommittee of the Board according to procedure established by rule for the Complaint Committee. The Department shall, before refusing to issue, restore or renew a license or registration or otherwise discipline a licensee or registrant, at least 30 days prior to the date set for the hearing, notify in writing the applicant for, or holder of, a license or registration of the nature of the charges, that a hearing will be held on the date designated, and direct the applicant or entity or licensee or registrant to file a written answer to the Department under oath within 20 days after the service of the notice and inform the applicant or entity or licensee or registrant that failure to file an answer will result in default being taken against the applicant or entity or licensee or registrant and that the license or certificate may be suspended, revoked, placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Secretary may deem proper. Written notice may be served by personal delivery or certified or registered mail to the respondent at the address of record. In case the person or entity fails to file an answer after receiving notice as provided in this Section, his or her license or certificate may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act. At the time and place fixed in the notice, the Board shall proceed to hear the

charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to their defense. The Board may continue the hearing from time to time.

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

Section 27. Stenographer; transcript.

The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case involving the refusal to issue, restore or renew a license or otherwise discipline a registrant. The notice of hearing, complaint and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the Board and orders of the Department shall be in the record of the proceeding. The Department shall furnish a transcript of the record to any person interested in the hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law (20 ILCS 2105/2105-115).

(Source: P.A. 91-239, eff. 1-1-00.)

Section 27.5. Subpoenas; depositions; oaths.

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.

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. 96-626, eff. 8-24-09.)

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. Notice of hearing; Findings and recommendations.

At the conclusion of the hearing, the Board shall present to the Secretary a written report of its finding and recommendations. The report shall contain a finding whether or not the accused person violated this Act or its rules or failed to comply with the conditions required in this Act or its rules. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary. The Board may take into consideration in making its recommendations for discipline all facts and circumstances bearing upon the reasonableness of the conduct of the respondent and the potential for future harm to the public, including but not limited to previous discipline by the Department, intent, degree of harm to the public and likelihood of harm in the future, any

restitution made, and whether the incident or incidents complained of appear to be isolated or a pattern of conduct. In making its recommendations for discipline, the Board shall endeavor to ensure that the severity of the discipline recommended bears some reasonable relationship to the severity of the violation. The report of findings of fact, conclusions of law and recommendation of the Board shall be the basis for the Department's order refusing to issue, restore or renew a license, or otherwise discipline a registrant. If the Secretary disagrees in any regard with the report of the Board, 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. The finding is not admissible in evidence against the person in a criminal prosecution brought for the violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for the violation of this Act.

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

Section 30. Board; Rehearing.

In any case involving the refusal to issue, restore or renew a license or the disciplining of a registrant, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days of 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 if a motion for rehearing is denied, then upon such denial, the Director may enter an order in accordance with recommendations of the Board except as provided in Section 29 of this Act. If the respondent orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, the 20 day period within which such a motion may be filed shall commence upon the delivery of the transcript to the respondent.

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

Section 31. Secretary; Rehearing.

Whenever the Secretary is not satisfied that substantial justice has been done in the refusal to issue, restore or renew a license, or otherwise discipline a registrant, the Secretary may order a rehearing by the same or other examiners.

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

Section 32. Appointment of a hearing officer.

Notwithstanding the provisions of Section 26, the Secretary has the authority to appoint any attorney duly registered to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore or renew a license or to discipline a registrant. The hearing officer has full authority to conduct the hearing. The hearing officer shall report the findings and recommendations to the Board and the Secretary. The Board has 60 days from receipt of the report to review the report of the hearing officer and present its findings of fact, conclusions of law and recommendations to the Secretary. If the Board fails to present its report within the 60 day period, the Secretary shall issue an order based on the report of the hearing officer except as herein noted. However, 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. 96-626, eff. 8-24-09.)

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 of suspended or revoked license.

At any time after the successful completion of a term of suspension, revocation, or probation of any license, the Department may restore it to the accused person, after review and upon the recommendation of the Board, unless after an investigation and a hearing, the Department determines that restoration is not in the public interest.

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

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; Venue.

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.

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.

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

Section 38. Certifications of record; Costs.

The Department shall not be required to certify any record to the Court or file any answer in court or otherwise appear in any court in a judicial review proceeding, unless there is filed in the court, with the complaint, a receipt from the Department acknowledging payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file such receipt in Court shall be grounds for dismissal of the action.

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

Section 39. Violations.

(a) Using or attempting to use an expired license or registration is a Class A misdemeanor.

(b) Each of the following acts is a Class A misdemeanor for the first offense and a Class 4 felony for a second or subsequent offense:

(1) A violation of any provision of this Act or its rules, except as noted in subsection (a) or (c) of this Section;

(2) The making of any willfully false oath or affirmation in any matter or proceeding where an oath or affirmation is required by this Act;

(3) Using or attempting to use an inactive, suspended, or revoked license or the license or seal of another, or impersonating another licensee, or practicing professional engineering while one's license is inactive, suspended, or revoked;

(4) The practice, attempt to practice, or offer to practice professional engineering without a license as a licensed professional engineer, with each day of practicing professional engineering, or attempting to practice professional engineering, and each instance of offering to practice professional engineering without a license as a licensed professional engineer constituting a separate offense;

(5) Advertising or displaying any sign or card or other device which might indicate to the public that the person or entity is entitled to practice as a professional engineer, or using the initials "P.E.", or using the title "engineer" or any of its derivations, unless such person holds an active license as a professional engineer in the State of Illinois, or such professional service corporation, corporation, partnership, sole proprietorship, professional design firm, limited liability company, or other entity is in compliance with Section 23 of this Act; or

(6) Obtaining or attempting to obtain a license by fraud.

(c) A violation of paragraphs (3), (6), (10), (11), (15), or (17) of subsection (a-1) of Section 24 is not subject to the penalty provisions of this Section.

(Source: P.A. 92-145, eff. 1-1-02)

Section 40. Unlawful practice.

It is unlawful for any person, sole proprietorship, professional service corporation, corporation, limited liability company, or partnership, or other entity to practice professional engineering, advertise or display any sign or card or other device which might indicate to the public that the person or entity is entitled to practice as a professional engineer, or use the initials "P.E.," or use the title "engineer" or any of its derivations, unless such person holds an active license as a professional engineer in the State of Illinois, or such professional service corporation, corporation, limited liability company, partnership, sole proprietorship, or other entity is in compliance with Section 23 of this Act.

(Source: P.A. 88-595, eff. 8-26-94; 89-61, eff. 6-30-95.)

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. 86-667.)

Section 42. Civil penalties.

(a) In addition to any other penalty provided by law, any person, sole proprietorship, professional service corporation, limited liability company, partnership, or other entity who violates Section 40 of this Act shall forfeit and pay to the Design Professionals Administration and Investigation Fund a civil penalty in an amount determined by the Department of not more than \$10,000 for each offense. The penalty shall be assessed in proceedings as provided in Sections 26 through 33 and Section 37 of this Act.

(b) Unless the amount of the penalty is paid within 60 days after the order becomes final, the order shall constitute a judgment and shall be filed and execution issued thereon in the same manner as the judgment of a court of record.

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

Section 43. Consent order.

At any point in the proceedings as provided in Sections 25 through 33 and Section 37, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

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

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:

<http://www.idfpr.com/dpr/WHO/pe.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. Computer generated signatures will not be permitted.

(Source: Added at 26 Ill. Reg. 4688, effective March 11, 2002)

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

Once a complaint is received by the Department, it is reviewed by a subcommittee of the Board according to procedures established by rule for the Complaint Committee. If the complaint is deemed valid, the Department will then notify in writing at least 30 days prior to the date set for the hearing, the applicant or licensee of the nature of the charges, that a hearing will be held on the date designated, and direct the applicant or licensee file a written answer to the Department under oath within 20 days after the service of the notice and inform the applicant or licensee that failure to file an answer will result in default being taken against the applicant or licensee and that the license or certificate may be suspended, revoked, placed on probationary status, or other disciplinary action may be taken, including limiting the scope, nature or extent of practice, as the Secretary may deem proper.

Written notice may be served by personal delivery or certified or registered mail to the respondent at the address of record. In case the person or entity fails to file an answer after receiving notice as provided, his or her license or certificate may, in the discretion of the Department, be suspended, revoked, or placed on probationary status, or the Department may take whatever disciplinary action deemed proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for such action under this Act.

At the time and place fixed in the notice, the Board shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present such statements, testimony, evidence and argument as may be pertinent to the charges or to their defense. The Board may continue the hearing from time to time.

Subpoenas, Depositions and Oaths

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.

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.

Notice of hearing, Findings and Recommendations

At the conclusion of the hearing, the Board shall present to the Secretary a written report of its finding and recommendations. The report shall contain a finding whether or not the accused person violated this Act or its rules or failed to comply with the conditions required

in this Act or its rules. The Board shall specify the nature of the violation or failure to comply, and shall make its recommendations to the Secretary. The Board may take into consideration in making its recommendations for discipline all facts and circumstances bearing upon the reasonableness of the conduct of the respondent and the potential for future harm to the public, including but not limited to previous discipline by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made, and whether the incident or incidents complained of appear to be isolated or a pattern of conduct.

The report of findings of fact, conclusions of law and recommendation of the Board shall be the basis for the Department's order refusing to issue, restore or renew a license, or otherwise discipline a registrant. If the Secretary disagrees in any regard with the report of the Board, the Secretary may issue an order in contravention thereof, following the procedures set forth in Section 7 of the Act. The Secretary shall provide a written report to the Board on any deviation, and shall specify with particularity the reasons for said action.

Rehearing

In any case involving the refusal to issue, restore or renew a license or the disciplining of a registrant, a copy of the Board's report shall be served upon the respondent by the Department, either personally or as provided in this Act for the service of the notice of hearing. Within 20 days after such service, the respondent may present to the Department a motion in writing for a rehearing, which motion shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20 days of 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 if a motion for rehearing is denied, then upon such denial, the Director may enter an order in accordance with recommendations of the Board except as provided in Section 29 of this Act.

Whenever the Secretary is not satisfied that substantial justice has been done in the refusal to issue, restore or renew a license, or otherwise discipline a registrant, the Secretary may order a rehearing by the same or other examiners.

Chapter 5

Review of Disciplinary Cases

The following disciplinary cases were extracted from the March 2008 to December 2009 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 the placement of a professional engineer in refuse to renew status for failure to report criminal arrest/conviction – December 2009.

Case No. 2

This case involves the placement of a professional engineer on probation to terminate his license on June 17, 2010 after he signed and sealed professional engineering plans that were not prepared by him and were also not under his direct supervision - July 2009.

Case No. 3

This case involves fining a professional engineer \$1,500 for instructing an employee to make a change on a land survey - December 2008

Case No. 4

This case involves revoking the license of a professional engineer and fining him \$5,000 after submitting sealed structural engineering plans without a structural engineering license – September 2008.

Case No. 5

This case involves suspending the license of a professional engineer license indefinitely for failing to file and/or pay Illinois state income taxes – March 2008.

Appendix A

References

Illinois Board of Professional Engineers

http://www.idfpr.com/dpr/learn/cb_doc/profeng.htm

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

<http://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

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

Disciplinary Reports for 2010

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