

Ethics, Rules & Regulations for PEs and EITs

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License Committee Chairman
June 2015

Agenda

- Why are we here??
- Ethics, Rules and Regulations
- Responsibilities of an Engineer
- Case Scenarios
- Legislative News
- Complaint Process and Subsequent Enforcement –
SHOULD TIME ALLOW



DISCLAIMER:

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DISCLAIMER:

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GROUND RULES

- Incentives for answering my questions and for asking ANY question.
 - These incentives are not to be construed as:
 - A Gift to exceed the value of \$25
 - Payola
 - A Mordida
- There are no stupid questions!
 - Just stupid people that never ask questions

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- § 137.17(d) A minimum of 1 PDH per renewal period must be in the area of professional ethics, roles and responsibilities of professional engineering, or review of the Texas Engineering Practice Act and Board Rules.
- Why was Texas Engineering Practices Act established? The Board?



1937

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History of TBPE

- New London School Explosion
 - 300 students and teachers killed
 - Result of improperly designed mechanical and electrical devices
- **Created by Texas Legislature (45R) in 1937**
- **Established a Board to regulate the practice of engineering through licensing and rules of practice (ie. Texas Engineering Practices Act)**

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Expectations of a Licensed Engineer

- Technical Competence (TEPA)
- Professionalism (TEPA)
- Ethical Responsibility (TEPA)
- Understanding of Laws and Rules
- **EXPECTATIONS = PERCEPTION**

Expectations of Licensure

Licensing Engineers

- The 3 “E”s of licensure
 - Education
 - Experience
 - Exams
- The 4th “E”
 - ETHICS!

Engineering Ethics

- Laws and Rules
- Ethical behavior / Professionalism
 - Not just what we do, but how we are expected to treat clients/employers/public/other engineers
 - Most TBPE enforcement is related to ethics (and integrity) rather than technical incompetence

Difference between RIGHT and WRONG

- Some VERY obvious

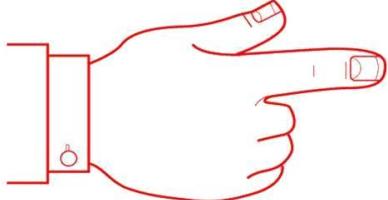
Difference between RIGHT and WRONG



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Difference between RIGHT and WRONG

**I'M WITH
STUPID.**



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Ethical Expectations of a PE



What is 'Ethics' to me?

What is 'Ethics' to me?



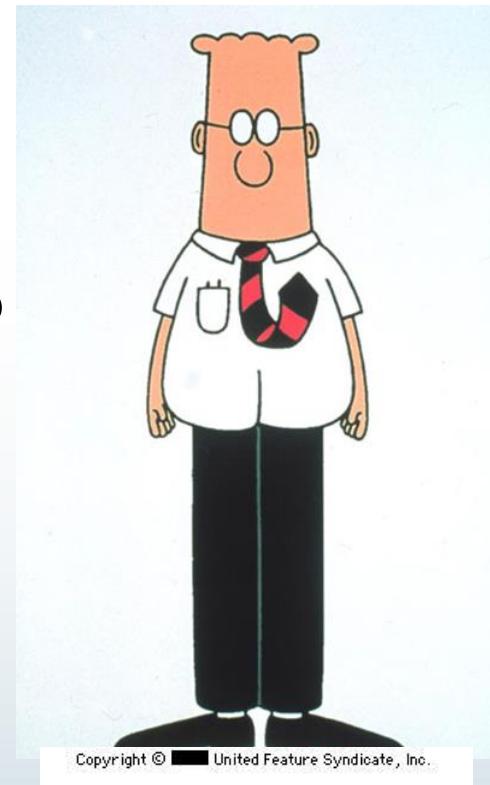
What is 'Ethics' to me?



Public Perception

What does the general public think?

- What is Engineering?
- Why is it important?
- What is a Professional Engineer?
- Who can be one?



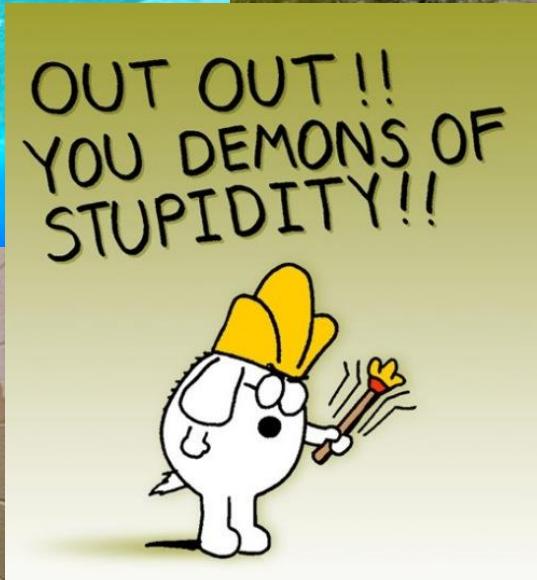
Public Perception

1001.302. License Eligibility Requirements

(d) A person is not eligible to be licensed as an engineer unless the person is of good character and reputation.



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Law and Rules a PE is obligated to Follow

- Board is authorized by the Texas Engineering Practice Act
- Other statutes also apply to engineering (PSPA, etc.)
- Board interprets and implements the statute to create Rules and provides **Policy Advisory Opinions**
- Texas Professional Engineers are expected to know both

Policy Advisory Opinions

- Provision Added to TEPA in 2003
- Allows Board to develop formal written interpretations of law and rules
 - Specific or hypothetical situations
 - Interpretations – ‘Gray Areas’
- Over 30 interpretations for a variety of subjects
 - Water Quality Planning, Power Poles, Use of PE Title, Fire Alarm / Sprinklers, PSPA – Contractors, Building Commissioning, etc.

Policy Advisory Opinions

- **Information**
 - All Policy Advisories at:
 - <http://engineers.texas.gov/policy.htm>
 - How to submit PAO Request / Forms at:
 - http://engineers.texas.gov/Policy_Advisory.htm

New Policy Advisory Opinions

Industrial Exemption / Licensure (May 2014)

- Licensure requirements for ‘Internal’ Engineers vs ‘External’ Engineers
- Consultants providing engineering services to ‘exempt’ industries
- Consultants providing ‘engineers’ to ‘exempt’ industries
- Primarily Oil & Gas, but includes Manufacturing

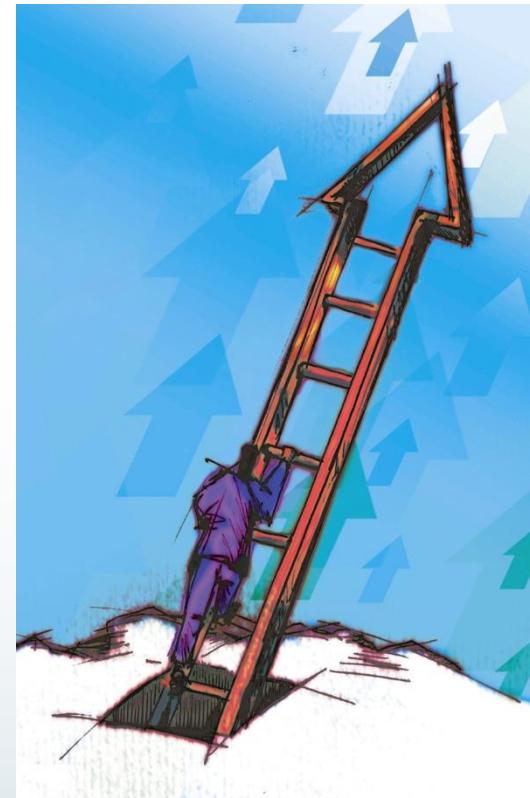
New Policy Advisory Opinions

Construction Management (May 2014)

- Certified Construction Managers are not all engineers.
- What parts of Construction Management are engineering?
- Who can legally perform which tasks?

Responsibilities to yourself!

- Keep track of the expectations of a PE or EIT
- Utilize a Mentor
- Manage well
 - Management Courses
 - Leadership Course
- Social Media



Responsibilities to yourself!

137.63(a) “Engineers shall ...

attempt to enhance society’s awareness of engineers’ responsibilities to the public and encourage the communication of these principles of ethical conduct among engineers.”

Responsibilities to others

- Mentor a future engineer
 - Have you ever wondered who needs to be licensed?
 - Do you want to know how you can become an engineer in Texas?
 - TBPE website
- Lead by example
- Serve your community



Responsibilities to others

137.17(f) PDH units may be earned as follows:

- (10) Active participation in educational outreach activities involving K-12 or higher education students. (up to 3 hours)

Examples: E-Week, DiscoverE, Classroom Presentations, Science Fairs, MathCounts, Robotic Competitions, FutureCities, etc.

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Case Scenarios

- Criminal History
- Sealing Rules
- PE References
- PE Responsibility

Criminal History

- A PE has an arrest from last year in another state.
- The court heard the case two weeks ago and it resulted in a misdemeanor conviction with short probation that he will complete before his renewal.
- He has had background checks run for employment recently and he was not asked about the issue.
- He has already completed fingerprinting for the new Criminal History Records Check.

Criminal History

True or False?

- This conviction does not need to be reported. If the terms were completed before the renewal, the Board doesn't need to know.

False. Rule 137.5 requires reporting of convictions within 30 days.

- However, since it happened in another state, reporting it to the Texas Board is not required.

False. Rule 137.5 requires reporting of all convictions.

Criminal History

True or False?

- If the judgment had been deferred by the court and ultimately dismissed, no notification is required.

True. Only convictions must be reported.

- If the conviction was expunged by the court, notification is not required.

True. Expunged incidents should not be reported.

Criminal History

- All misdemeanor and felony convictions must be reported within 30 days.
- The CHRC includes all incidents in all states. They don't go away.
- Future incidents after the one-time CHRC will be reported to the Board by the DPS.

Seals

Which of These is Correct?

A



B



C



And the best answer is?

- **B or C (with the date added)**
- 137.33(f) License holders shall affix their seal and original signature or electronic seal and signature with the date on the final version of their engineering work before such work is released from their control.
- (1) The signature and date shall not obscure the engineer's name or license number in the seal.
- MYTH: The signature MUST touch the seal. ***Not true.***

PE References

- You have an EIT working for your firm who wants to pursue licensure.
- He doesn't work for you directly and you know his work by reputation only.
- His supervisor has complained about his work ethic.
- Based on client feedback, his work is ok, but he's still learning.
- Your company would benefit from his licensure.
- He has asked you to provide a reference for his application.

PE Responsibility

- A. Give a reference. You are obligated to do so if asked.
- B. Let his supervisor write the reference and you can sign it as the responsible PE.
- C. Provide the reference, skip the character questions, and only address his work.
- D. Don't provide the reference since you don't want to be the reason the application is denied.
- E. None of the above.

And the best answer is?

- E – None of the above
- In all cases, the reference must address:
 - Character and readiness for independent practice
 - Technical competence
- PEs are not obligated to give a reference
- References are confidential forever.
- PE references are taken at face-value and given significant weight in the application review process.
- If the Board needs to know something, make sure they do.

PE Responsibility

- Your company has been selected to provide electrical design related to a larger building project.
- The Project Lead works for the Engineer/Architect firm that is also responsible for structural design.
- When they send you a courtesy copy of preliminary documents, one of your engineers, who is also a licensed structural engineer, notices a significant design issue.

What should a Texas PE do?

- A. Do nothing. These plans are preliminary. It's not an issue at this point.
- B. Have the engineer on your staff contact the design engineer responsible and let them know.
- C. Notify the Project Lead office in writing as soon as possible.
- D. Notify the PE board.

Best Answer

- **B and possibly C and/or D**
- Notify the engineer directly. If that does not result in appropriate resolution, contact the Project Lead.
- If there is still no resolution and the error presents a danger to health, safety, and welfare or a violation of the Engineering Practice Act, then contact TBPE and/or appropriate authorities.

A Twist

- How does the answer change if the error was noticed on a final sealed document? What if the error appears to be an imminent threat to the public?
- A PE has an ethical responsibility to protect the public. The answer is ultimately the same, but the urgency may be enhanced if warranted.

Know the Law

- PEs are required to know the Act, Board Rules, applicable state laws and local codes.
- Windstorm, Architectural Barriers/ADA, etc.
- If you have any questions about interpretation of the Act or Rules, contact us.
- Keep an eye on our emails and newsletter to make sure you know about changes.

Preventing Complaints

- CLEAR:
 - Communication (between all parties)
 - Contract (expectations and responsibilities)
 - Calculations (do excellent work)

Most importantly – know the law, and call if you have a question

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Legislative News

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Legislation 84th Session (2015)

- TBPE Tracking Bills
- Engineering /Board Bills tracked on the TBPE website
 - <http://engineers.texas.gov/legislature84.html>
 - Windstorm
 - PE Indemnification related to state contracts
 - Professional Fee repeal
 - SDSI changes
 - Telephony Exemption
 - Others relating to Alternative Delivery, procurement, etc

Legislation / Rule Changes

2013 Legislative Session - SB 204 – Agency Sunset Bill

- Enforcement
 - Cease and Desist for Unlicensed Practice
 - Emergency Suspension Orders
 - Increase maximum penalty from \$3k to \$5k
- Criminal History Record Checks

Legislation / Rule Changes

- Criminal History Record Checks
 - Required starting January 1, 2014
 - All **Active** license 1st renewal and new applicants
 - FAQ and Instructions on website:
<http://engineers.texas.gov/recordcheck.html>
 - Detailed written procedures

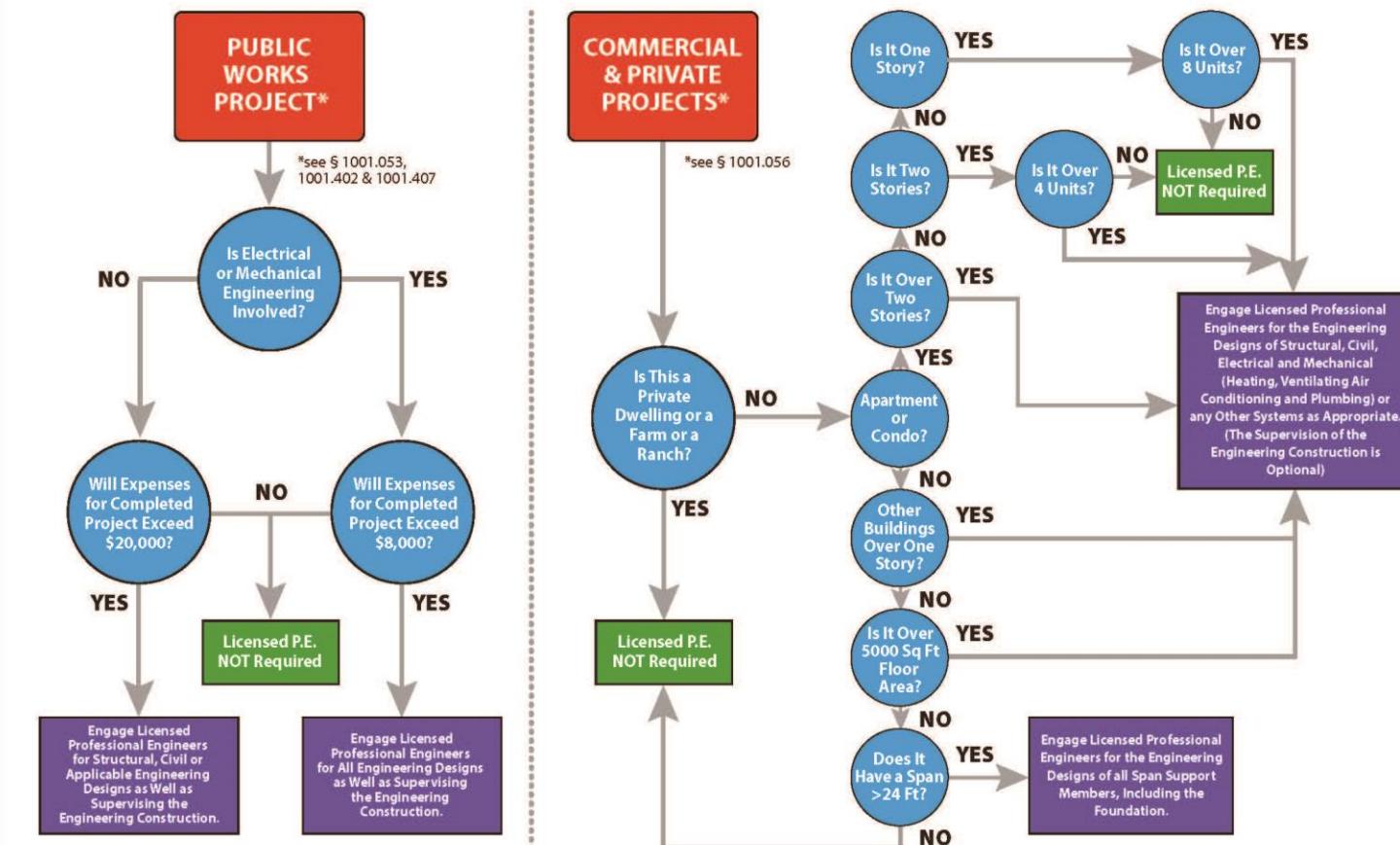
Update on NCEES

- August 2014 Model Law changes
 - BS+30/Masters Or Equivalent moved from NCEES model law to a position statement
 - Decoupling of PE exam from experience allows “early” PE exam **(and not “early” Licensure)** in some states.
- CBT – Computer Based Testing – FE 2014
 - Exams began January 1, 2014 -- 8 Months / year
 - 6 Hour Exam
 - Continuous Registration

Working with Public Agencies

- Government Advisory Group
 - State agencies, Cities, Counties, School Districts
- TBPE Outreach
 - Building Officials
 - Texas Municipal League, etc.
- What we can do for them
 - When PE is required on projects / public works
 - Better understanding of State Laws
 - The role of a Professional Engineer

When is a Professional Engineer required on a project?



This flowchart is intended for guidance purposes only and the Texas Engineering Practice Act and Rules govern final interpretation. Local codes and ordinances may be more restrictive as long as not in conflict with the Texas Engineering Practice Act and Rules.

Visit <http://engineers.texas.gov/downloads.htm> for a copy of the Texas Engineering Practice Act and Board Rules and download this diagram.

Agency Visibility and Outreach

- Webinars
 - PE Ethics
 - March, June, September, December
 - Sign up online
 - FE Exam / Why become a PE? (Students)
 - How to Apply (EITs)
- Hardcopy Media – Brochures
- Newsletter and Webpage

Outreach

Fiscal Year	Attendees	Presentations
2011	8,954	153
2012	7,332	166
2013	11,559	177
2014	14,866	155

- Quarterly Webinars
- Includes K-12 / E-Week

<http://engineers.texas.gov/outreachsurvey>

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We want to hear from you

- How did we do today?
- How are we doing in general?

<http://engineers.texas.gov/outreachsurvey>

<http://engineers.texas.gov/feedback>

Website and Social Media

<http://engineers.texas.gov>

- Facebook: Texas Board of Professional Engineers 
- Twitter: TBPE_Exec 
- LinkedIn: Texas Board of Professional Engineers 
- RSS Feed available on our website:
engineers.texas.gov 



Thank You

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Complaint Process and Subsequent Enforcement –

SHOULD TIME ALLOW

Filing A Complaint

- Online, email, phone, facsimile, mail – all are acceptable for initial contact
- A complaint form or detailed letter/email is needed to cover all the bases
- Provide specific instances of violation
- Provide evidence to show probable cause

Complaint Process

- If a complaint is filed against a PE or an unlicensed person
- A letter would be sent from the Board explaining the charge in detail
- Written response required
 - Providing as much documentation as possible
 - The person should be open, honest and forthcoming.

Enforcement Sanctions

- Reprimands (Formal and Informal)
- Suspension (possible probation)
- Refuse to Renew
- Revocation
- \$5,000 per violation per day
- Cease and Desist Orders
- Emergency Suspension

Violations are Published

- By law, all violations, except informal reprimands, must be published
 - On website by Board Meeting Date
 - Added to NCEES Enforcement Exchange (national database)
 - Published in the paper newsletter which is mailed at least annually and quarterly E-newsletter emails



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