

SECTION .0700 – RULES OF PROFESSIONAL CONDUCT

21 NCAC 56 .0701 RULES OF PROFESSIONAL CONDUCT

(a) In order to safeguard the life, health, property, and welfare of the public and to establish and maintain a high standard of integrity, skills, and practice in the professions of engineering and land surveying, the Rules of Professional Conduct in this Rule are adopted in accordance with G.S. 89C-20 and are binding upon every person holding a certificate of licensure as a Professional Engineer or Professional Land Surveyor (licensee), and on all business entities authorized to offer or perform engineering or land surveying services in this state. All persons licensed under the provisions of Chapter 89C of the General Statutes are charged with having knowledge of the Board Rules, including the Rules of Professional Conduct, and are deemed to be familiar with their provisions and to understand them.

(b) A licensee shall conduct their practice in a manner that protects the public health, safety, and welfare by complying with the rules of this Chapter and G.S. 89C. The licensee shall at all times recognize the primary obligation to protect the public in the performance of their professional duties. If the licensee's engineering or land surveying judgment is overruled under circumstances where the health, safety, or welfare of the public are endangered, the licensee shall inform the employer, the client, the contractor, other affected parties, and any appropriate regulatory agency of the possible consequences of the situation.

(c) A licensee shall perform services only in areas of the licensee's competence and:

- (1) Shall undertake to perform engineering and land surveying assignments only when qualified by education or experience in the specific technical field of professional engineering or land surveying involved;
- (2) May accept an assignment or project requiring education or experience outside of the licensee's own areas of competence, but only to the extent that the services are restricted to those portions or disciplines of the assignment in which the licensee is qualified. All other portions or disciplines of such assignment shall be performed by associates, consultants, or employees who are licensed and competent in those portions or disciplines.

(d) A licensee shall not affix his or her signature or seal to any engineering or land surveying plan or document for which the licensee was not in responsible charge of the work through direct control and personal supervision. In order to exercise responsible charge of engineering or surveying work, either when delegating tasks to others, in circumstances where a licensee in responsible charge of the work is unavailable to complete the work, or the work is a design plan signed and sealed by an out-of-jurisdiction licensee (not a site adaptation of a standard design plan under Rule 21 NCAC 56 .1106), the licensee must possess full professional knowledge of and control over the work and shall:

- (1) Have and exercise the authority to review and to change, reject or approve both the work in progress and the final work product, through examination, evaluation, communication and direction throughout the development of the work;
- (2) Be personally aware of the scope of the work, its needs, parameters, limitations and special requirements;
- (3) Be capable of answering questions relevant to the surveying or engineering decisions made as part of the services provided, in sufficient detail to demonstrate knowledge of the proficiency in the work; and
- (4) Accept full responsibility for the work.
 - (A) The burden for demonstrating responsible charge lies with the licensee, including maintaining records, calculations, drawings, surveys, specifications, and other documents associated with the work.

A licensee may affix his or her seal and signature to drawings and documents depicting the work of two or more professionals, provided it is designated by a note under the seal stating the specific subject matter for which each is responsible.

(e) A licensee shall issue public statements only in an objective and truthful manner and:

- (1) Shall be objective and truthful in all professional reports, statements or testimony. The licensee shall include all relevant and pertinent information in such reports, statements or testimony;
- (2) When serving as an expert or technical witness before any court, commission, or other tribunal, 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;

- (3) Shall issue no statements, criticisms, or arguments on engineering or land surveying matters connected with public policy on behalf of 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 the 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 matters; and
 - (4) Shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another engineer or land surveyor, nor indiscriminately criticize another engineer or land surveyor's work in public. Indiscriminate criticism includes statements without valid basis or cause, that are not objective and truthful, or that fail to include all relevant and pertinent information. If the licensee believes that another engineer or land surveyor is guilty of misconduct or illegal practice, such information shall be presented to the North Carolina Board of Examiners in the form of a complaint.
- (f) A licensee shall avoid conflicts of interest and:
- (1) Shall inform the employer or client, and any reviewing agency, of any business association, interests, or circumstances which could influence judgment or the quality of services;
 - (2) Shall not accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are disclosed to, and agreed to, in writing, by all interested parties;
 - (3) Shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;
 - (4) Shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with the client or employer in connection with work for which the licensee is responsible;
 - (5) When in public service as a member, advisor, or employee of a governmental body or department, shall not participate in considerations or actions with respect to services provided by the licensee or the licensee's firm in private engineering and land surveying practices;
 - (6) Shall not solicit or accept an engineering or land surveying contract from a governmental body on which a principal or officer of the licensee's firm serves as a member; and
 - (7) Shall not attempt to supplant another engineer or land surveyor in a particular employment after becoming aware that the other has been selected for the employment.
- (g) A licensee shall solicit or accept work only on the basis of qualifications and:
- (1) Shall not offer to pay, either directly or indirectly, any commission, political contribution, gift, or other consideration in order to secure work, exclusive of securing salaried positions through employment agencies;
 - (2) Shall compete for employment on the basis of professional qualification and competence to perform the work. The licensee shall not solicit or submit proposals for professional services containing a false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;
 - (3) Shall, with regard to fee bidding on public projects, comply with the provisions of G.S. 143-64.31 et seq., (or for federal projects, the Brooks Act, 40 U.S. Code 541 et seq.) and shall not knowingly cooperate in a violation of any provision of G.S. 143-64.31 et seq. (or of 40 U.S. Code 541 et seq.); and
 - (4) Shall not falsify or permit misrepresentation of academic or professional qualifications and shall only report educational qualifications when a degree or certificate was awarded, unless it is stated that no degree or certificate was awarded. The licensee shall not misrepresent 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 and purpose of enhancing qualifications and work.
- (h) A licensee shall perform services in an ethical and lawful manner, as required by this Rule, and shall not knowingly associate with or permit the use of the licensee's name or firm name in a business venture by any person or firm which the licensee knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature or is not properly licensed.
- (i) If a licensee has knowledge of or reason to believe that any person or firm may be in violation of Board Rules or G.S. 89C, the licensee shall report such information to the Board as a complaint and shall cooperate with the Board by providing any additional information or assistance requested. A licensee under investigation shall timely respond

to all inquiries and correspondence from the Board and shall timely claim any correspondence sent by U.S. Postal Service or other delivery service. For purposes of this Rule, "timely" means within the time specified in the correspondence, or if no time is specified, within 30 days of receipt. Certified mail is considered timely claimed if it is claimed before being returned by the U.S. Postal Service to the Board.

(j) A Professional Engineer or Professional Land Surveyor whose professional license is revoked, suspended, denied, refused renewal, refused reinstatement, put on probation, restricted, or surrendered as a result of disciplinary action by another jurisdiction is subject to discipline by the Board if the licensee's action constitutes a violation of G.S. 89C or the rules adopted by the Board.

*History Note: Authority G.S. 89C-17; 89C-20; 89C-10;
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