



Engineering Ethics, “The Ethics of Saying ‘No’”

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Saying No to Whom?



OWNERS



CLIENTS



COLLEAGUES

Keep in Mind...

- When is it okay to say no? Or even required?
- Why is it okay to say no?
- How it is okay to say no?
- Gray Areas

What is a Code of Ethics?

- “A *code of ethics* is a set of official standards of conduct that the members of a group are expected to uphold.”
(www.dictionary.com)



How Does the Code of Ethics Help?

Defines the overall morality for the engineering profession

Checklists good behavior

Source for disciplining bad behavior

Resource for one who is faced with an ethical dilemma

Guidance on how to interact with other professionals including clients & colleagues



SOURCES FOR ENGINEERING ETHICAL STANDARDS

National Society of Professional Engineers ("NSPE")

- Established in 1934
- Organization that addresses the professional concerns for licensed engineers across all industries
- Created a Code of Ethics that helps govern the conduct of professional engineers
- Maintains a Board of Ethical Review ("BER"), a panel of engineers, which provide opinions interpreting and applying the Code of Ethics to real factual scenarios



NSPE Code of Ethics

The logo for the National Society of Professional Engineers (NSPE), consisting of the letters "NSPE" in a white, sans-serif font on a blue square background.

PREAMBLE

Engineering is an important and learned profession. As members of this profession, engineers are expected to exhibit the highest standards of honesty and integrity. Engineering has a direct and vital impact on the quality of life for all people. Accordingly, the services provided by engineers require **honesty, impartiality, fairness, and equity, and must be dedicated to the protection of the public health, safety, and welfare.** Engineers must perform under a standard of professional behavior that requires adherence to the **highest principles of ethical conduct.**

NSPE Code of Ethics

The logo for the National Society of Professional Engineers (NSPE), featuring the letters "NSPE" in white on a blue square background.

FUNDAMENTAL CANONS

- Engineers, in the fulfillment of their professional duties, shall:
 - Hold paramount the safety, health, and welfare of the public.
 - **Perform services only in areas of their competence.**
 - Issue public statements only in an objective and truthful manner.
 - Act for each employer or client as faithful agents or trustees.
 - **Avoid deceptive acts.**
 - Conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.

NSPE Code of Ethics - Competency

The logo for the National Society of Professional Engineers (NSPE), consisting of the letters "NSPE" in a white, sans-serif font on a blue square background.

RULES OF PRACTICE

- Engineers shall perform services only in the areas of their competence.
 - **Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.**
 - Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
 - Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

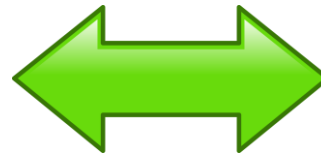
NSPE Code of Ethics – Competency

NSPE®

Employment Practice

- **BER Case 85-3**
 - More discretion and flexibility
 - Structure workforce to fit the particular needs of the job
 - Only those who are qualified with education and experience

DISTINGUISH



Consulting Practice

- **BER Case 85-3**
 - Dynamic in nature
 - Can establish joint ventures or subcontracts, hire qualified personnel, or make other arrangements to serve the needs of the client

NSPE Code of Ethics – Gifts

NSPE®

RULES OF PRACTICE

- Engineers shall act for each employer or client as faithful agents or trustees.
 - Engineers 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 fully disclosed and agreed to by all interested parties.
 - Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.

NSPE Code of Ethics - Deceptive Acts

The logo for the National Society of Professional Engineers (NSPE), consisting of the letters "NSPE" in a white, sans-serif font on a blue square background.

RULES OF PRACTICE

- Engineers shall avoid deceptive acts.
 - Engineers shall not falsify their qualifications or permit misrepresentation of their or their associates' qualifications. They shall not misrepresent or exaggerate their 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 venturers, or past accomplishments.
 - **Engineers shall not offer, give, solicit, or receive, either directly or indirectly, any contribution to influence the award of a contract by public authority, or which may be reasonably construed by the public as having the effect or intent of influencing the awarding of a contract. They shall not offer any gift or other valuable consideration in order to secure work. They shall not pay a commission, percentage, or brokerage fee in order to secure work, except to a bona fide employee or bona fide established commercial or marketing agencies retained by them.**

Corruption/Bribery/Deception

NSPE®

What factors are important in determining whether a gift is an inducement or social custom?

- BER Case 60-9
 - Size of gift is a material factor
 - Personal relationship
 - Tokens of appreciation, well-accepted norms
 - What a reasonable person might reasonably infer from the circumstance

When are gifts seen as inducements?

- BER Case 60-9
 - Gifts offered or accepted that are intended to influence one's judgment
 - Very expensive gifts

NSPE Code of Ethics

PROFESSIONAL OBLIGATIONS



American Society of Civil Engineers (“ASCE”)

- Founded in 1852
- Professional body of civil engineers
- Promotes professionalism specifically in the civil engineering context through its Code of Ethics



ASCE Code of Ethics



PREAMBLE

Members of The American Society of Civil Engineers conduct themselves with integrity and professionalism, and above all else protect and advance the health, safety, and welfare of the public through the practice of Civil Engineering.

Engineers govern their professional careers on the following fundamental principles:

- create safe, resilient, and sustainable infrastructure;
- treat all persons with respect, dignity, and fairness in a manner that fosters equitable participation without regard to personal identity;
- consider the current and anticipated needs of society; and
- utilize their knowledge and skills to enhance the quality of life for humanity.

All members of The American Society of Civil Engineers, regardless of their membership grade or job description, commit to all of the following ethical responsibilities. In the case of a conflict between ethical responsibilities, the five stakeholders are listed in the order of priority. There is no priority of responsibilities within a given stakeholder group with the exception that 1a. takes precedence over all other responsibilities.¹

ASCE Code of Ethics



SOCIETY

- **Engineers:**
 - **a.** first and foremost, protect the health, safety, and welfare of the public;
 - **b.** enhance the quality of life for humanity;
 - **c.** express professional opinions truthfully and only when founded on adequate knowledge and honest conviction;
 - **d.** have zero tolerance for bribery, fraud, and corruption in all forms, and report violations to the proper authorities;
 - **e.** endeavor to be of service in civic affairs;
 - **f.** treat all persons with respect, dignity, and fairness, and reject all forms of discrimination and harassment;
 - **g.** acknowledge the diverse historical, social, and cultural needs of the community, and incorporate these considerations in their work;
 - **h.** consider the capabilities, limitations, and implications of current and emerging technologies when part of their work; and
 - **i.** report misconduct to the appropriate authorities where necessary to protect the health, safety, and welfare of the public.

ASCE Code of Ethics



PROFESSION

- **Engineers:**
 - **a.** uphold the honor, integrity, and dignity of the profession;
 - **b.** practice engineering in compliance with all legal requirements in the jurisdiction of practice;
 - **c.** represent their professional qualifications and experience truthfully;
 - **d.** reject practices of unfair competition;
 - **e.** promote mentorship and knowledge-sharing equitably with current and future engineers;
 - **f.** educate the public on the role of civil engineering in society; and
 - **g.** continue professional development to enhance their technical and non-technical competencies.

ASCE Code of Ethics



CLIENTS AND EMPLOYERS

- **Engineers:**
 - **a.** act as faithful agents of their clients and employers with integrity and professionalism;
 - **b.** make clear to clients and employers any real, potential, or perceived conflicts of interest;
 - **c.** communicate in a timely manner to clients and employers any risks and limitations related to their work;
 - **d.** present clearly and promptly the consequences to clients and employers if their engineering judgment is overruled where health, safety, and welfare of the public may be endangered;
 - **e.** keep clients' and employers' identified proprietary information confidential;
 - **f.** perform services only in areas of their competence; and
 - **g.** approve, sign, or seal only work products that have been prepared or reviewed by them or under their responsible charge.

ASCE Code of Ethics

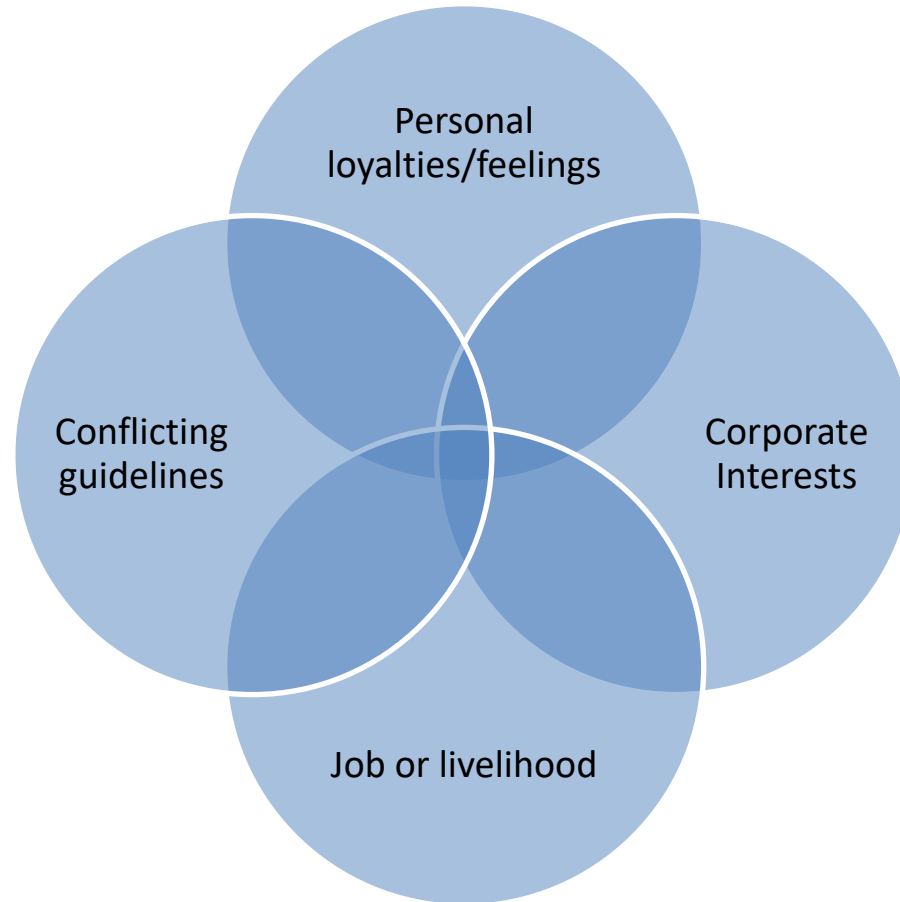


PEERS

- **Engineers:**
 - **a.** only take credit for professional work they have personally completed;
 - **b.** provide attribution for the work of others;
 - **c.** foster health and safety in the workplace;
 - **d.** promote and exhibit inclusive, equitable, and ethical behavior in all engagements with colleagues;
 - **e.** act with honesty and fairness on collaborative work efforts;
 - **f.** encourage and enable the education and development of other engineers and prospective members of the profession;
 - **g.** supervise equitably and respectfully;
 - **h.** comment only in a professional manner on the work, professional reputation, and personal character of other engineers; and
 - **i.** report violations of the Code of Ethics to the American Society of Civil Engineers.

COMPETING PRESSURES

What factors weigh against our Ethical duties?



ORGANIZATIONAL CULTURES

What is organizational culture?

- The values, norms, beliefs, morals, standards, and practices that shape how an organization functions.
- Design-Build/EPC



REAL LIFE EXAMPLES

- EPC and Design-Build Projects
- Value Engineering
- Single Source Specifications
- Facilitation Payments (foreign Projects)

BEST PRACTICES FOR SETTING A HIGHLY-ETHICAL WORK ENVIRONMENT

Establish a Well-Rounded Ethics Program

Provide Safe Avenues for Reporting Violations

Establish an Organizational Culture that Supports Ethical Responsibility

QUESTIONS?



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About the Presenter:

- G. Edgar "Eddie" James is a Member of James Sobba, LLC. He represents contractors, design professionals, owners, construction lenders, suppliers, and sureties on a wide variety of construction litigation matters in state and Federal courts, as well as in arbitration and mediation. Eddie has defended claims in numerous areas of construction law, including contract default claims, payment disputes, bid contests, delay, acceleration and disruption/inefficiency claims, reengineering and design error claims, MBE/DBE challenges, insurance coverage claims, mechanic's lien and bond claims.
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