

Engineering & Surveying Ethics, Laws & Rules

John F. Greenhalge, Executive Director
State Board of Registration for Professional
Engineers and Surveyors

Board Mission

Protect safety, health and welfare of the public

1. Establishing minimum qualifications for entry into the profession
2. Adoption of rules defining and delineating unlawful and unethical conduct
3. Effective and accountable disciplinary process for those individuals or entities that violate the laws and rules

Board Functions

- Evaluation of applications & credentials
 - Exams, out-of-state applicants, engineering & surveying firms
- Licensing
 - Biennial renewals and reinstatements for individuals and firms
- Continuing professional development
- Exam development & administration
- Law enforcement

Law Change- H.B. 236

- Signed by Governor Kasich on January 6, 2017
- Effective January 1, 2018

Beginning with registrations expiring on or after the last day of December 2017, a person registered as a professional engineer or professional surveyor shall complete at least two of the thirty hours required under division (A) of this section on professional ethics or laws and rules relevant to the practices of engineering or surveying.

What would satisfy the requirement in H.B. 236?

- Courses and activities covering professional ethics
- Courses and activities covering Ohio's Code of Ethics for Professional Engineers & Surveyors [OAC 4733-35]
- Courses and activities covering the Board's laws and rules [ORC 4733 and OAC 4733]

Laws & Rules

Laws & Rules

- Ohio Revised Code 4733- Contains the laws that have been passed by the Ohio legislature.
- Ohio Administrative Code 4733- Rules that have been passed by various state agencies.
- *A Violation of the administrative rules is breaking the law.*

Ohio Revised Code 4733

- Requirements for licensure as a professional engineer/professional surveyor
- Exam specifications
- Delineates who can practice engineering & surveying
- Exemptions from licensure/registration
- Disciplinary actions and hearing process

Ohio Revised Code 4733

- Who can perform engineering & surveying
- Who can use terms *engineer* and *surveyor*
- Who can use the initials *P.E.* and *P.S.*
- Requirements for firms offering engineering and surveying
- Requirements for sealing engineering and surveying work product

Ohio Administrative Code 4733

- General requirements for licensure and completing applications
- Sealing documents/using electronic seals
- Reinstatement of lapsed license
- Minimum Standards for Boundary and Mortgage Location Surveys
- Certificate of Authorization (COA) requirements
- Code of Ethics

Code of Ethics

OAC 4733-35

Know the Laws & Rules

Ohio Administrative Code 4733-35-01:

The engineer or surveyor, who holds a certificate of registration from the state board of registration for professional engineers and surveyors, is charged with having knowledge of the existence of the reasonable rules and regulations and shall be familiar with their several provisions and to understand them.

Code of Ethics

- Found in Ohio Administrative Code (OAC) 4733-35
- Based on national model law developed by NCEES member boards
- The rules of professional conduct for engineers and surveyors practicing in Ohio

OAC 4733-35 Code of Ethics

- Requirement to be truthful in dealing with the Board
- Obligation to act with integrity in all professional matters
- Responsibility to protect the safety, health and welfare of the public in the performance of professional duties.
- Making public statements and certifications
- Conflict of interest
- Solicitation of employment

OAC 4733-35 Code of Ethics

- Improper conduct
 - Sealing professional work product
 - Shall not associate with persons or businesses suspected of being engaged in fraud or dishonest business practices
 - Reporting suspected violations of the Registration Act to the Board
 - Duty to notify the Board of criminal convictions and disciplinary action taken by other states
- Records
 - Responsibility to maintain business records and provide upon request
 - Duty to cooperate with the Board in its investigation of complaints and provide documents and information upon request

Common Violations

- Plan stamping
- Illegal Practice
- Practicing without a license or COA
- Misrepresentation of facts
- Aiding and abetting illegal practice
- Illegal use of the terms engineering or surveying in firm name
- Illegal use of P.E. or P.S. or title engineer or surveyor

Common Violations

- Minimum Standards
- Practicing outside area of competence
- Exam irregularity (cheating)
- Felony or criminal convictions
- Disciplinary action in another jurisdiction
- Failure to cooperate during an investigation
- CPD non-compliance
- Falsification of applications

4733-35-02 Integrity.

The engineer or surveyor is obligated to act with complete integrity in professional matters for each client or employer as a faithful agent; shall be honest and impartial, and shall serve the public, client and employer with devotion.

4733-35-03 Responsibility to the public.

The engineer or surveyor shall:

(A) Protect the safety, health and welfare of the public in the performance of professional duties. Should the case arise where the engineer or surveyor faces a situation where the safety, health and welfare of the public is not protected, the engineer or surveyor shall:

(1) Sever the relationship with the employer or client;

(2) Refuse to accept responsibility for the design, report or statement involved;

(3) Notify the proper authority if, in his or her opinion, the situation is sufficiently important.

*What should I do if I suspect
that someone is violating the
engineers and surveyors
registration law?*

**Code of Ethics for Professional
Engineers & Surveyors**

OAC 4733-35-07

- C. If the engineer or surveyor has knowledge or reason to believe that another person or firm is violating RC 4733 or the rules of professional conduct, he or she shall present this information to the Board in writing.

4733-35-03 Responsibility to the public.

The engineer or surveyor shall:

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(3) Notify the proper authority if, in his or her opinion, the situation is sufficiently important.

Who are the proper authorities?

- The Ohio PE/PS Board
- Supervisor/Manager
- Government agencies/regulatory bodies
- Public officials
- Law enforcement

What to look for when reviewing plans:

- Engineering plans/survey plats sealed by a PE/PS with active registration in Ohio
- The firm is registered with the Board and has active Ohio COA
- PE is not sealing plans/work product in multiple disciplines
- Work product is prepared within accepted standards of practice/complies with minimum standards
- Multiple requests for corrections/revisions
- Corrections to plans/plats/work product handled by PE/PS

(E) “The practice of engineering” includes any professional service, such as consultation, investigation, evaluation, planning, design, or inspection of construction or operation for the purpose of assuring compliance with drawings or specifications in connection with any public or privately owned public utilities, structures, buildings, machines, equipment, processes, works, or projects in the proper rendering of which the qualifications of section 4733.11 of the Revised Code are required to protect the public welfare or to safeguard life, health, or property.

Dear Mr. Greenhalge:

I am writing to express my concern about the Board complaint case referenced above. I'm not sure this is the road we want to go down when a surveyor has an issue with another's work. I know there has been a push about compliance with ALTA standards lately, and rightly so, however, is it at the sacrifice of professional courtesy?

[Complainant] contacted me about a survey submitted to him by an architect. Apparently it was just a portion of the survey, so [complainant] asked me who prepared it and could he get a copy of the complete survey. [SUBJECT] then emailed [complainant] a copy of the completed survey. It happened to be a survey of the property on which [complainant]'s office is located, so I'm sure he had a vested interest in the situation.

Several weeks later, [SUBJECT's firm] was preparing a topographic survey on a piece of property surveyed by [complainant's firm] and we found several corners missing (mag nails) that were called out as set. We completed the survey and submitted to our client.

To follow [complainant]'s lead, we should have filed a complaint with the Board. If we were inconvenienced in any way, I would have called [complainant] and I'm sure it would have been remedied. Situations arise and sometimes things fall between the cracks. If professional surveyors cannot communicate amongst themselves, I think the profession is on a downward spiral. If someone is a habitual offender (and we all come to realize who they are), then certainly Board action would be justified.

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Several weeks later, [SUBJECT's firm] was preparing a topographic survey on a piece of property surveyed by [complainant's firm] and **we found several corners missing (mag nails) that were called out as set. We completed the survey and submitted to our client.**

What is going to happen when the next surveyor has to retrace this survey?

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Filing Complaints

- Complaint should be in writing
- Name and contact information for subject of complaint
- Detailed description of acts or omissions that violate RC 4733
- Physical evidence and contact information for witnesses
- Certified copies of court records
- Should be filed as soon as possible after the act or omission occurred

Anonymous Complaints

Problems:

- Can't contact complainant
- Can't contact or locate witnesses
- Can't locate evidence

Working Outside Area of Competence

OAC 4733-35-03 & 4733-35-04

- Undertake assignments where you and your support staff are qualified by training, experience and education
- Do not sign and seal work product related to matters beyond your technical competence
- Only express opinions when they are founded upon adequate knowledge of the facts

Cooperation with the Board

4733-35-09

- Must be forthright and candid in statements or written responses to the Board
- Records shall be available for inspection and copying by the Board- in English
- Each registrant shall cooperate with the Board in its investigation of complaints
- Cooperation includes responses within 30 days and appearing before the Board upon request

OAC 4733-35-07 Improper Conduct

- A. The engineer or surveyor shall not sign and seal professional work product for which he or she does not have personal professional knowledge and direct supervisory control and responsibility. The engineer or surveyor shall not sign work unless it was prepared under his or her supervision and direction. The engineer or surveyor shall be involved in the project and must be closely involved in the preparation of the work product.

What is Plan-stamping?

Demonstrated when a professional engineer or professional surveyor places his or her registration seal on any drawings, designs, plats, descriptions and/or specifications that he or she did not author or for which he or she did not have personal professional knowledge and direct supervisory control and responsibility.

Personal Professional Knowledge

- Professional engineer or professional surveyor has been personally retained by an owner, registered design professional or a design/build contractor
- Personally aware of a project's scope, needs, parameters, limitations and special requirements
- Professional engineer or surveyor contracts with the owner for all professional services to be rendered and then subcontracts out services such as drafting as needed

Direct Supervisory Control & Responsibility

- Work product prepared under the professional's supervision and direction
- The professional is the author of the plans or work product
- Closely involved in the project from its inception to its completion

Who Should Seal Engineering Work Product?

The engineer responsible for the work product must seal the documents. This must be the professional engineer that provided the largest contribution to the preparation of the work product or the professional engineer that closely and directly supervised junior staff involved in its preparation.

Multi-Discipline Projects

- The supervising engineer must sign the work within the discipline for which he or she had supervisory control and responsibility.
- The engineer must only seal work involving a discipline of engineering for which he or she is qualified to perform based on education, experience and examination.
- Work involving multiple disciplines of engineering must be sealed by multiple professional engineers.

In general, draft or preliminary documents should not be sealed and should be clearly marked to indicate the plans are not complete and the contents are not ready to be relied upon.

- *Draft*
- *Preliminary*
- *For review only*
- *For discussion*
- *Not for construction*

Questions?

Contact Information:

State Board of Registration for Professional
Engineers and Surveyors

614-466-3651

www.peps.ohio.gov

John.greenhalge@pes.ohio.gov

Continuing Professional Development [CPD]

Acceptable CPD

The continuing professional development requirement may be satisfied by coursework or activities dealing with technical, ethical, or managerial topics relevant to the practice of engineering or surveying.

Acceptable Courses & Activities

- Attending seminars, workshops or conferences
- Completing or teaching university or college level coursework
 - *Teaching the class for the first time*
- Authoring published papers, articles or books [10 hours]
- Receiving patent awards [10 hours]
- Active participation as an officer or committee member of a professional or technical association [2 hours each year]

Correspondence Coursework

- Correspondence courses are courses that involve the student reading articles, textbooks, manuals or some other text delivered in either in print or electronic format. Correspondence courses are courses done by mail, email, computer or fax and does not involve contact or interaction with an instructor, or where contact with the instructor is limited. Correspondence education is typically self-paced. Correspondence education is not distance education.
- Allowed 3 hours of correspondence coursework per year

The Difference Between Correspondence and Online Coursework

- Distance learning or online learning means education where instruction is delivered instantaneously through an instructor, webinar or through live or recorded audio or video through the internet or other one-way or two-way transmissions. In distance learning or online learning the student is expected to attend the course or view the instruction for a set period of time where attendance is monitored. Distance learning or online learning does not have a maximum amount of hours that can be taken for continuing professional development in Ohio.

The Difference Between Correspondence and Online Coursework

- Correspondence courses can be given online; however, *not all online courses are correspondence courses.*

CPD Requirements

- 30 hours per biennial renewal period- can carry over 15 hours to the next year
- 1 hour spent on an activity, course or seminar equals 1 hour of CPD credit unless otherwise specified in the law [ORC 4733.151]
 - Exception: when taking college courses, one semester hour equals 45 hours of CPD
- Registrants must maintain records to demonstrate completion for 4 calendar years beyond the year in which the activity was completed
- Records shall include: certificates of attendance or other documents verifying attendance; log specifying the type of coursework or activity, its location and duration, instructor's name and hours earned

Continuing Professional Development Activity Log

4012

All CPD activities and courses must be relevant to the practice of engineering or surveying and include technical, ethical or managerial content. This form is required for tracking your CPD hours for Ohio P.E. and P.S. registration biennial renewal. This form does not replace copies of your certificates of completion or other documentation required by Ohio Revised Code section 4733.151. **30 CPD hours** are required for Ohio registration renewal. A maximum carryover of 15 CPD hours is permitted for the next biennial renewal period. For information about the Board's CPD requirements, go to our website at www.peps.ohio.gov.

YOUR OHIO P.E., P.S. NAME AS IT IS REGISTERED WITH THE BOARD

P.E. NUMBER

P.S. NUMBER

2014

DATE [MM/DD/YY]	SPONSOR/PROVIDER	LOCATION: STREET, CITY, STATE, ZIP	ACTIVITY TITLE AND DESCRIPTION	INSTRUCTOR	CPD HRS EARNED
FROM					0.00
TO					
FROM					0.00
TO					
FROM					0.00
TO					
FROM					0.00
TO					
FROM					0.00
TO					

AFFIDAVIT The CPD credits listed herein are true and correct, and accurately state the professional development hours I have earned.

This Year's CPD Hours ▶ 0.00

Previous Year CPD Carry Over ▶ 0.00

TOTAL CPD HOURS ▶ 0.00

SIGNATURE ▶ _____

DATE ▶ _____



State Board of Registration for Professional Engineers and Surveyors

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Components of Good Documentation

- Description of course or activity
- Location and duration documented
- Instructor's/provider's name
- Credentials listed
- Number of hours earned
- Certificate of completion or attendance record received

CERTIFICATE OF ATTENDANCE

Awarded to

John Doe, P.E.

To certify attendance at the following Continuing Professional Development Course

- Code of Ethics for Professional Engineers and Surveyors
- The Continuing Education Requirement and How to Respond to an Audit
 - State Board Investigations Procedures and the Hearing Process

Presented by

John F. Greenhalge, Executive Director

State Board of Registration for Professional Engineers and Surveyors

Thursday June 26, 2014

9:30 a.m. to 11:30 a.m.

Metropolitan Sewer District

Gina Ruffin Moore, Organizational
Development and Learning Leader

Problems Related to CPD Record Keeping

- Falsely certifying on renewal that CPD requirement was completed
- Failing to maintain CPD records for 5 years
- Failing to respond to CPD audit within time allotted
- Failing to provide or maintain documentation demonstrating completion of the requirement

Problems Related to CPD Record Keeping

- Provider records lack required info
- Unacceptable documentation
- Unacceptable logs
- Using activities that are part of full-time employment or hobbies
- Not completing the required number of hours

Unacceptable Documentation

- Receipt from provider
- Hotel receipts
- Expense reports
- Certificate with only the date listed
- Agendas without proper documentation
- Article or journal with no proof of publication
- Log with no supporting documentation

Did you know that it is a criminal offense to falsify CPD?

Ohio Revised Code Section 2921.13 Falsification

(3) The statement is made with purpose to mislead a public official in performing the public official's official function.

(5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release, or provider agreement.

1st degree misdemeanor

What would happen if I took a course or attended a seminar that I thought met the requirements, but the Board did not accept it?

Questions?

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Certificates of Authorization

Certificate of Authorization

- All firms, including sole proprietors, must obtain a certificate of Authorization [COA] in order to offer, provide or contract for engineering or surveying services in Ohio.
- Any firm using a name including one or more of the words *engineer*, *engineering*, *surveyor* or *surveying*, or any modification or derivation of those words must also obtain a COA.

Certificate of Authorization

Ohio Revised Code [ORC] 4733.16 (D) Each firm, partnership, association, limited liability company, or corporation through which professional engineering or professional surveying services are offered or provided in this state shall designate one or more full-time partners, managers, members, officers, or directors as being responsible for and in responsible charge of the professional engineering or professional surveying activities and decisions, and those designated persons shall be registered in this state.

Note:

The professional engineer or professional surveyor that is designated as the person responsible for and in responsible charge of the professional engineering or professional surveying activities and decisions for the firm can't be a part-time or 1099 employee.

Certificate of Authorization

Ohio Administrative Code [OAC] 4733-39-02 Definitions

(A) "Responsible charge" means being in control of, accountable for and in either direct or indirect supervision of the engineering and/or surveying activities of the business enterprise.

(B) "Fulltime" as stated in division (D) of section 4733.16 of the Revised Code means working more than thirty hours per week or working substantially all the engineering or surveying hours for a firm, partnership, association, limited liability company or corporation that holds a certificate of authorization.

COA Audits

- Audit of firm's records to verify compliance with COA requirements
- Types of records requested: payroll records including timesheets, state, local and federal taxes, social security tax, Medicare tax, state unemployment, workers compensation, healthcare coverage
- Interview of current and former employees

Why Does the Board Require a COA?

- To protect the health, safety and welfare of the public.
- To make sure that only qualified engineers and surveyors are performing engineering and surveying work in Ohio.
- To make sure that firms offering engineering and surveying are run and managed by professional engineers and surveyors
- To ensure that engineering and surveying performed by firms is done under with the personal professional knowledge and direct supervisory control and responsibility of professional engineers and surveyors.

Important COA Information

- COA's must be renewed every two years before July 1 of even-numbered years
 - 2018, 2020, 2022, 2024
- If the COA is not renewed or expired- cease offering engineering/surveying services immediately.
- Notify Board of all changes to COA immediately
 - Name change, change to person(s) listed on 3012, address change, closure/mergers/etc., adding/removing a professional service, owner change, additional employment, etc.
- Disclose disciplinary actions and convictions immediately

Questions?

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