

**Adopt Eng 500, previously effective 1/1/12 (Document #10045) and expired 1/1/22, as follows:**

CHAPTER Eng 500 ETHICAL STANDARDS AND LICENSE SURRENDER

PART Eng 501 ETHICAL STANDARDS

Eng 501.01 Purpose and Scope.

(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 profession of engineering the following rules of professional conduct are promulgated in accordance with RSA 310-A.

(b) These rules shall be binding upon every person holding a license as a professional engineer and on all persons, corporations or other legal entities authorized to perform engineering in this state.

Eng 501.02 Obligation To Obey.

(a) Violation of these ethical standards shall result in disciplinary sanctions. Conduct proscribed by these ethical standards, when performed by an Engineer-In-Training or a candidate for licensure as a professional engineer in this state, or during a prior period of licensure, shall result in denying a license application.

(b) All persons licensed under RSA 310-A shall be considered to have knowledge of the existence of these rules of professional conduct and shall be deemed to be familiar with their several provisions. Such knowledge shall encompass the understanding that the practice of professional engineering is a privilege, as opposed to a right, and the licensed professional engineer shall be forthright and candid in the licensee's statements or written response to the board or its representatives on matters pertaining to professional conduct.

(c) Licensees shall submit only truthful and correct information in any application or other document filed with or statement made to the board.

(d) Licensees shall inform the board of a principal business or home address to which all official board communications should be directed, and of all addresses where they are practicing. The establishment of a business or home address or the change or abandonment of a business or home address shall be reported to the board within 30 days.

Eng 501.03 Standards of Conduct.

(a) The professional engineer shall hold paramount the safety, health and welfare of the public as follows:

- (1) Perform their services only in areas of their competence;
- (2) Issue statements only in an objective and truthful manner;
- (3) Act for each employer or client as faithful agents or trustees;
- (4) Avoid deceptive acts;

- (5) Conduct themselves ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession;
  - (6) Undertake to perform engineering assignments only when qualified by education or experience in the specific technical field of professional engineering involved;
  - (7) Accept an assignment requiring education or experience outside of their own field of competence, but only to the extent that the services are restricted to those phases of the project in which the licensee is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees;
  - (8) Not affix their signature or seal to any engineering plan or document dealing with subject matter for which they lack competence by virtue of education or experience, nor to any such plan or document not prepared under their direct supervisory control;
  - (9) Exercise direct supervisory control, which requires a licensee to maintain responsible charge which includes:
    - a. Providing all client contracts;
    - b. Internal and external financial control; and
    - c. Overseeing employee training;
  - (10) Exercise control and supervision over all jobs requirements which includes:
    - a. Research;
    - b. Planning;
    - c. Design;
    - d. Field supervision; and
    - e. Work product review;
  - (11) Not delegate responsible charge or direct supervisory control to a non-licensed individual to provide professional services as specified in Eng 501.03 (a) (9); and
  - (12) May affix their seal and signature to drawings and documents depicting the work of 2 or more professionals provided they designate by a note under there seal the specific subject matter for which they are responsible.
- (b) The professional engineer shall issue public statements only in an objective and truthful manner; as follows:
- (1) Be objective and truthful in all professional reports, statements, or testimony and 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, express an expert 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 their testimony;

(3) Issue no statements, criticisms, or arguments on engineering issues connected with public policy which are influenced or paid for by an interested party, or parties, unless they have prefaced their comment by explicitly identifying themselves by disclosing the identities of the party or parties on whose behalf they are speaking, and by revealing the existence of any pecuniary interest they may have in the instant matters;

(4) Not attempt to injure, maliciously or falsely, directly, or indirectly, the professional reputation, prospects, practice or employment of another engineer nor shall they indiscriminately criticize another engineer in public; and

(5) If they believe that another engineer is guilty of misconduct or illegal practice, he shall present such information to the board.

(c) The professional engineer shall avoid conflicts of interest as follows:

(1) Promptly inform their employer or client of any business associations, interests, or circumstances, which could influence their judgment, or the quality of their services;

(2) Not accept compensation, financial or otherwise, from more than one party for services pertaining to the same project, unless the circumstances are fully disclosed to, and agreed to, by all interested parties;

(3) Not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products;

(4) Not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their client or employer in connection with work for which they are responsible;

(5) When in public service as a member, advisor, or employee of a governmental body or department, not participate in considerations or actions with respect to services provided by them or their organization in private engineering practices; and

(6) Not solicit or accept an engineering contract from a governmental body on which a principal or officer of their organization serves as a member.

(d) The professional engineer shall solicit or accept work only on the basis of their qualifications as follows:

(1) 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;

- (3) Not solicit or submit proposals for professional services containing false, fraudulent, misleading, deceptive or unfair statement or claim regarding the cost, quality or extent of services to be rendered;
  - (4) Not falsify or permit misrepresentation of their, or their employees or co-worker's, academic or professional qualifications;
  - (5) Not misrepresent their degree of responsibility in or for the subject matter of prior assignments; and
  - (6) Not distribute brochures or other presentations incident to the solicitation of employment which shall not misrepresent pertinent facts concerning employers, employees, associates, joint ventures, or their past accomplishments with the intent and purpose of enhancing their qualifications and their work.
- (e) The professional engineer shall provide their services in an ethical and lawful manner as follows:
- (1) Not knowingly associate with or permit the use of their name or firm name in a business venture by any person or firm which they know, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature;
  - (2) If they have knowledge or reason to believe that another person or firm may be in violation of any of these provision or provisions of RSA 310-A, present such information to the board in writing and cooperate with the board in furnishing such further information or assistance as may be required by the board; and
  - (3) Cooperate with investigations and requests for information from the board and the boards' representatives.

#### PART Eng 502 VOLUNTARY LICENSE SURRENDER

Eng 502.01 Procedure for Surrendering a License. Any person holding a license may voluntarily surrender that license by returning it to the board accompanied by a signed letter stating that they intend to surrender their license.

#### Eng 502.02 Effect of Voluntary License Surrender.

(a) A licensee who voluntarily surrenders a license shall retain no right or privilege to practice professional engineering in New Hampshire except as may be specifically set forth in a board order or settlement agreement authorizing the voluntary surrender. Unless otherwise provided by the board, a licensee who reapplies for licensure in New Hampshire after a voluntary surrender shall have the burden of proving compliance with all of the requirements then in effect for new applicants, including professional character requirements.

(b) Surrender or non-renewal of a license shall not preclude the board from investigating or completing a disciplinary proceeding based upon the licensee's professional conduct while the license was still in effect. Such investigations and proceedings shall be handled in the same manner as other disciplinary investigations and proceedings.

#### Eng 502.03 Voluntary Surrender When Misconduct Allegations are Pending.

(a) A licensee who wishes to surrender their license as part of a settlement of pending misconduct allegations shall make a written settlement offer to the board before the close of the record in a disciplinary hearing.

(b) Any settlement agreement reached under (a), above, shall include the following concessions:

(1) That the license surrender has occurred in settlement of pending disciplinary charges; and

(2) That the pending disciplinary allegations shall be issues to be resolved in any future application the licensee may submit in New Hampshire.

(c) The board shall decline to accept a settlement agreement under (a), above, if the board believes the licensee has unreasonably declined to disclose material information concerning the alleged misconduct or has refused to stipulate to the truth of specific material facts concerning the alleged misconduct which would be necessary to protect the public interest in the event the licensee subsequently reapplies for a license.

(d) A licensee’s stipulation of facts shall be exempt from public disclosure to the extent permitted by RSA 91-A and if the public portion of the settlement agreement or surrender document expressly states that a separate, confidential stipulation of facts is on file with the board.

(e) The fact of license surrender and the terms of any settlement agreement pertaining thereto shall be distributed to all relevant licensing authorities and professional societies in the same manner as a final decision containing specific finding of professional misconduct.

### Appendix

| <b>Rule</b> | <b>Specific State Statute which the Rule Implements</b> |
|-------------|---|
| Eng 501     | RSA 310-A:6, I, (f)                                     |
| Eng 502     | RSA 310-A:23  |