

A SunCam online continuing education course

Ohio Engineering Ethics 2022 - 2023 Biennium

by

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Abstract

This course presents the Ohio Code of Ethics for Professional Engineers and Surveyors, the rules governing the sealing and signing of engineering documents by Ohio registered professional engineers, and actions of the State Board of Professional Engineers and Surveyors. This course is tailored to the registered professional engineer in the 2022 - 2023 biennium seeking credit for the ethics/ laws and rules requirement. Upon successful completion of this course, the participant will earn one hour of the required two hours in professional ethics or rules relevant to the practice of engineering.



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1. INTRODUCTION

1.1 Overview

This course presents the Ohio Code of Ethics for Engineers and Surveyors, and the rules governing the use of registered engineers' seals in the State of Ohio.

The Code of Ethics for Engineers and Surveyors can be found in the Ohio Administrative Code, Chapter 4733-35 Code of Ethics for Engineers and Surveyors. The laws and rules on the use of seals can be found in the Ohio Revised Code <u>4733.14 Certificate of registration - seals.</u> and the Ohio Administrative Code, Chapter 4733-23 Registrant's Seal.

This course will enable the currently registered Ohio professional engineer earn one (1) continuing professional development hour towards the requirement of two (2) hours for continuing education on the subject of "professional ethics or rules relevant to the practices of engineering or surveying" for the 2022 – 2023 biennium in order for the registrant to seek renewal of Ohio registration for the 2024 – 2025 biennium. Beyond this time frame, this course may be used to earn general credit towards completing continuing education requirements. Engineers registered in other states may use this course to obtain credit in ethics/ laws and rules of practice or general credit depending on the rules of that state.

Upon completion of this course, participants will be familiar with the State of Ohio Code of Ethics for Engineers and Surveyors, the rules governing the sealing and signing of engineering documents by Ohio registered engineers and disciplinary actions of the state board of professional engineers and surveyors.

Unless otherwise stated, the names of individuals and business entities, and the cases used in the illustrative examples in this course are fictitious. Any similarities or resemblances to any actual persons, business entities, cases or events is purely coincidental. Actual cases used in this manuscript are taken from the public record. In this manuscript, regular font indicates the author's narrative, whereas italicized font represents a direct quote from the linked source. In this manuscript, the terms "State Board of Registration for Professional Engineers and Surveyors", "Ohio Board of Engineers and Surveyors", "Ohio Board", "State Board", and "the Board" are used interchangeably.



2. THE CODE OF ETHICS

Per the Ohio Administrative Code;

4733-35 Code of Ethics for Engineers and Surveyors

4733-35-01 Preamble.

In order to safeguard the life, health, property and welfare of the public and the state of Ohio, to maintain integrity and high standards of skills and practice in the professions of engineering and surveying, the following rules of professional conduct, promulgated in accordance with Chapter 4733. of the Revised Code, shall be binding upon every person holding a certificate of registration as a professional engineer or as a professional surveyor.

The engineer or surveyor, who holds a certificate of registration from the Ohio state board of registration for professional engineers and surveyors, is charged with having knowledge of the existence of the reasonable rules and regulations hereinafter provided for his or her professional conduct as an engineer or surveyor, and also shall be deemed to be familiar with their several provisions and to understand them. Such knowledge shall encompass the understanding that the practice of engineering, or of surveying, is a privilege, as opposed to a right, and the registrant shall be forthright and candid in statements or written responses to the board or its representatives on matters pertaining to professional conduct.

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.
- (B) Undertake to perform assignments only when the registrant's consulting support are qualified by training and experience in the specific technical fields involved. In the event a question arises as to the competence of an engineer or surveyor to perform an engineering or surveying assignment in a specific technical field of engineering or surveying which cannot be otherwise resolved to the board's satisfaction, the board, either upon request of the engineer or surveyor or by its own volition, may require the engineer or surveyor to submit to an appropriate inquiry by or on behalf of the board;
- (C) Be completely objective in any professional report, statement or testimony and shall include all relevant and pertinent information in the report, statement or testimony when the result of omission would, or reasonably could, lead to a fallacious conclusion;
- (D) Express an opinion as a technical or expert witness before any court, commission or other tribunal, 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 his or her testimony.

4733-35-04 Public statements and certifications.

- (A) The engineer or surveyor will issue no statements, criticisms or arguments on engineering or surveying matters connected with public policy which are inspired or paid for by an interested party, or parties, unless the engineer or surveyor has prefaced his or her remarks by explicitly identifying himself or herself, by disclosing the identities of the party, or parties, on whose behalf the engineer or surveyor is speaking, and by revealing the existence of any pecuniary interest he or she may have in the instant matters.
- (B) The engineer or surveyor will publicly express no opinion on an engineering or surveying subject unless 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 his or her testimony.



- (C) The engineer or surveyor shall decline to sign and/or seal any form of certification, warranty, or guaranty that
- (1) Relates to matters beyond his or her technical competence,
- (2) Involves matters which are beyond the scope of services for which he or she was retained, or
- (3) Relates to engineering or surveying work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility.

"Certification" shall mean a statement signed and/or sealed by an engineer or surveyor representing that the engineering or surveying services addressed therein have been performed, according to the engineer or surveyor's knowledge, information and belief, in accordance with commonly accepted procedures consistent with applicable standards of practice, and is not a guaranty or warranty, either expressed or implied.

The term "technical competence" in general terms refers to an individual's specialized skills, field(s) of knowledge and expertise needed to accomplish a specific task or to achieve a particular objective. For a registered engineer, technical competence relates to the registrant's engineering expertise required to independently produce the engineering document. This expertise is gained through some combination of education, training and experience.

4733-35-05 Conflict of interest.

- (A) The engineer or surveyor shall conscientiously avoid conflict of interest with the employer or client, but, when unavoidable, the engineer or surveyor shall forthwith disclose the circumstances to the employer or client.
- (B) The engineer or surveyor shall promptly inform the client or employer of any business association, interests, or circumstances which could influence his or her judgment or the quality of services to the client or employer.
- (C) The engineer or surveyor 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 to, and agreed to, by all interested parties or their duly authorized agents.



- (D) The engineer or surveyor shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying their products.
- (E) The engineer or surveyor shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents or other parties dealing with his client or employer in connection with work for which he or she is responsible.
- (F) As an elected, retained or employed public official, an engineer or a surveyor (in the capacity as a public official) shall not review or approve work that was performed by himself, or under his direction, on behalf of another employer or client.

In general terms, a conflict of interest occurs when there is a clash between a person's self-interest and their professional duties. In other words, there is a division of loyalties that can affect sound judgement or leads the individual to neglect their professional responsibilities. Typical examples of situations that can lead to conflict of interest include

- a professional engineer that has family or financial ties to a contractor
- a professional engineer that has family or financial ties to a vendor or supplier
- accepting payment that may influence or change a professional opinion
- a regulator auditing a company in which she or he has a personal interest

Conflict of interest may be mitigated by various means such as

- removing one of the opposing interests, for example selling off ones shares in a contracting company
- disclosing the conflict to all relevant parties
- recusing or disqualifying oneself from relevant cases
- using an independent third party to make the relevant decision

4733-35-06 Solicitation of employment.

- (A) The engineer or surveyor shall not pay, solicit nor offer, directly or indirectly, any bribe or commission for professional employment with the exception of payment of the usual commission for securing salaried positions through licensed employment agencies.
- (B) The engineer or surveyor shall seek professional employment on the basis of qualifications and competence for proper accomplishment of the work.



- (C) The engineer or surveyor shall not falsify or permit misrepresentation of academic or professional qualifications and shall not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments.
- (D) 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.

4733-35-07 Improper conduct.

- (A) The engineer or surveyor shall not sign and/or seal professional work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility. This is interpreted by the board to mean that an engineer or surveyor shall not sign and/or seal professional work unless that work was prepared under his/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.
- (B) The engineer or surveyor shall not knowingly associate with, or permit the use of his or her name or firm name in, a business venture by any person or firm which he or she knows, or has reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.
- (C) If the engineer or surveyor has knowledge or reason to believe that another person or firm is guilty of violating any of the provisions of <u>Chapter 4733</u>, of the Revised Code, or any of these rules of professional conduct, he or she shall present this information to the board in writing.
- (D) If a professional engineer or professional surveyor is found guilty of a felony or had his or her registration revoked or suspended by another jurisdiction, the professional engineer or professional surveyor shall notify the board in writing within sixty days.

4733-35-08 Other jurisdiction.

Conviction of a felony without restoration of civil rights, or the revocation, voluntary surrender, or suspension of a professional engineer's or surveyor's license by another jurisdiction, if for a cause which in the state of Ohio would constitute a violation of Ohio Revised Code Chapter 4733 or of these rules, shall be grounds for a charge of violation of these rules.



4733-35-09 Records.

Each registrant or certificate of authorization holder shall keep a true and correct record in the English language of all of the business transactions in the registrant's or holder's office relevant to enforcement of <u>Chapter 4733</u>. of the Revised Code. Such records shall be available at all reasonable hours for inspection and copying by the Ohio state board of registration for professional engineers and surveyors.

Each registrant or licensee shall cooperate with the board in its investigation of complaints or possible violations of <u>Chapter 4733</u>. of the Revised Code. This cooperation shall include responding timely to written communications from the board, providing information or documents requested within thirty days of the date on which the communication was mailed, and appearing before the board or its designee upon request.



3. REGISTRANTS' SEALS

Per the Ohio Revised Code:

4733.14 Certificate of registration - seals.

The state board of registration for professional engineers and surveyors shall, upon payment of the registration fee, register and issue a certificate showing initial registration of an applicant who, in the opinion of the board, has satisfactorily met all the requirements of this chapter. In the case of a registered professional engineer, the certificate shall authorize the practice of "professional engineering," and in the case of a registered professional surveyor, the certificate shall authorize the practice of "professional surveying." Certificates of registration shall show the full name of the registrant, shall have a serial number, and shall be signed by the chairperson and the secretary of the board under seal of the board. Registration by the board shall be evidence that the person named therein is entitled to all the rights and privileges of a registered professional engineer, or of a registered professional surveyor, while the registration remains unrevoked or unexpired. Each registrant may, upon completing registration, obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "registered professional engineer," or "registered professional surveyor," provided, however, that any registered surveyor's seal obtained prior to the amendment of this section effective April 4, 1985, 140 Ohio Laws 4092, shall remain as a legal seal for any registrant who was registered as a "registered surveyor." Plans, specifications, plats, reports, and all other engineering or surveying work products issued by a registrant shall be stamped with the seal and be signed and dated by the registrant or bear a computer-generated seal and electronic signature and date, but no person shall stamp, seal, or sign any documents after the registration of the registrant named thereon has expired or the registration has been revoked or suspended, unless the registration has been renewed or reissued.

Per the Ohio Administrative Code;

4733-23-01 Registrant's seal.

(A) Each registrant may upon registration obtain a seal of the design authorized by the board, bearing the registrant's name and the legend, "Registered Professional Engineer," or "Registered Professional Surveyor." Plans, specifications, plats, reports and all other engineering or surveying work product issued by a registrant shall be stamped with the said seal and be signed and dated by the registrant, or bear a computer generated seal and electronic



signature and date. No person shall stamp or seal any document with said seal after the certificate of the registrant named thereon has expired, or suspended, or has been revoked, unless said certificate of registration shall have been renewed or reissued.

- (B) Each registrant is charged with the safeguarding of their personal seal.
- (C) By affixing their seal to any document, the registrant certifies to the accuracy and completeness of the information contained in the sealed document, and by such action, assumes full responsibility thereof.
- (D) Plans, specifications, plats, reports and all other engineering or surveying work product bearing a computer generated seal and electronic signature and date shall have an electronic authentication process attached to or logically associated with the electronic document. The electronic signature must be unique to the person using it; capable of verification; under the sole control of the person using it; linked to a document in such a manner that the electronic signature is invalidated if any data in the document is changed.

Also recall the Code of Ethics in Ohio Administrative Code 4733-35-04,

- (C) The engineer or surveyor shall decline to sign and/or seal any form of certification, warranty, or guaranty that
- (1) Relates to matters beyond his or her technical competence,
- (2) Involves matters which are beyond the scope of services for which he or she was retained, or
- (3) Relates to engineering or surveying work for which he or she does not have personal professional knowledge and direct supervisory control and responsibility.

As previously discussed, "technical competence" relates to the registrant's engineering expertise required to independently produce the engineering document. This expertise is gained through some combination of education, training and experience.



Ohio State Board of Professional Engineers and Surveyors Guidance

Upon completion of the professional registration process per Ohio law, a registrant is authorized to obtain a seal for use, per law, on engineering plans, reports, specifications, designs and other engineering documents.

The seal shall bear the following:

- the words "State of Ohio"
- the registrant's name
- the registrant's serial number
- the legend "Registered Professional Engineer" or "Registered Professional Surveyor."

The size of the seal shall be

- 1-3/4 inches in (outside) diameter for a rubber stamp seal, or
- 1-5/8 inches in (outside) diameter for an embossing seal

The choice of rubber stamp seal and/ or embossing seal is up to the preference of the registrant. Seals may be purchased from vendors and office supply companies. The Board does not provide seals.

A typical example of a seal (not to scale) that meets the Board's specifications is shown in Figure 1.





Figure 1: Typical seal

[Source: Ohio State Board of Professional Engineers and Surveyors (2022)]

Once the seal is affixed on a document, the registrant shall add his or her signature and date across the imprint. The signature and date shall be added in a manner that does not obscure the name and serial number of the registrant.

Each sheet in a set of plans shall be sealed and signed by the engineer who is in responsible charge for that sheet. For reports and studies, the common practice is to seal and sign the cover page, or a certification page that follows the cover page. Documents that shall be sealed and signed are those that will be filed in the public record or those that will be submitted to the owner(s) or their representatives, or documents that are required by the contract.

Documents may be sealed and signed by electronic methods that meet the requirements of Ohio Administrative Code 4733-23-01(A) and 4733-23-01(D). Registrants shall obtain electronic seals and software on their own through supply businesses and vendors. It is pertinent to note that some of the commonly used software employed by engineers for word processing, drafting, modeling, data management, etc. may include capabilities for creating seals and electronic signatures.

Plan Stamping

Plan stamping is the unlawful act of sealing and signing documents that were not prepared under the supervisory control and responsibility of the registrant. Plan stamping may be done innocuously by an unengaged or inattentive registrant, or it may be done with the knowledge that



the documents were prepared by another person, an unlicensed person or by or for an unauthorized firm. Thus, plan stamping violates Ohio Administrative Code 4733-35-07 (A) and Ohio Revised Code 4733.22.

Per the state board (State Board of Registration for Professional Engineers and Surveyors, 2022),

Plan stamping is 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 is best demonstrated when a Professional Engineer or Professional Surveyor has been personally retained by an owner, registered design professional or a design/build contractor and is personally aware of a project's scope, needs, parameters, limitations and special requirements. It is preferred that the professional engineer or professional surveyor contract directly with the owner for all professional services to be rendered and then subcontract services such as drafting as needed.

Direct supervisory control and responsibility is best demonstrated when a Professional Engineer or Professional Surveyor has direct professional knowledge and is the actual author or has been in responsible charge of a design or project from its very inception to its completion.



4. ACTIONS OF THE STATE BOARD

This chapter presents actions taken by the State Board of Registration for Professional Engineers and Surveyors. The cases discussed in this chapter are actual cases selected from the public record. The cases were brought before the Ohio board.

The first two cases are presented with the detailed narrative to illustrate how the Board pursues complaints and allegations of unlawful activities and conducts investigations.

Case No. 10-046

Subject: Professional Engineer

On January 11, 2010 the Board received a complaint alleging Subject's design of a theater located at a state university contained serious errors and deficiencies. Specifically, the allegations stated there were serious design issues relative to lateral load paths, lateral bracing for beams subjected to torsion and lateral bracing for the compression flange of beams. Attached to the complaint was a peer review report that was compiled by professional engineers after a portion of the theater collapsed during construction.

On March 9, 2010 Board staff mailed out a notice of apparent violation requesting a written response to the complaint, to include plans, design notes, calculation sheets, drafts for the project and all correspondence related to the project. On April 30, 2010 Subject submitted his written response and the entire project file for the Board's review.

On January 28, 2011 the entire case contents were forwarded to a structural engineering consultant group for their independent review and report of findings. On July 20, 2013 the Board received the consultant's report. The consulting engineers concurred with the peer review engineers in that Subject structural designs related to the complaint contained serious errors and deficiencies.

Motion by Mr. Snyder, second by Mr. Kohman, to open an investigation.



Case No. 10-011

Subject: James R. Hogan

On September 18, 2010 the Board received a complaint concerning an Ohio-based sign company that appeared to prepare structural engineering plans for an outdoor sign at a Walgreens store located in Pickerington, Ohio. The sign company did not have a certificate of authorization to provide engineering in Ohio. The permit application and design documents submitted by the sign company contained a copy of an Ohio engineer's seal and signature with the sign's mounting and load calculations.

According to information gathered during the Board's investigation, the permit was originally submitted bearing the Ohio seal (E-55665) and signature of James R. Hogan; according to Board records James R. Hogan is not as a registered engineer in the state of Ohio. The E-55665 license number belongs to a James M. Hogan. Mr. James M. Hogan provided a notarized letter explaining that the signature was not his and he was not involved in the preparation of the plans.

After further investigation by Board staff, it was determined that an individual living in the State of Illinois with the name James R. Hogan had entered into a contract with the Ohio sign company to provide mounting and load calculations for the sign to be installed in Pickerington, Ohio.

Board staff was able to contact James R. Hogan by phone and received an admission from him explaining that he had thought his company had made application for his professional engineer's registration to the Ohio Board on his behalf. In doing so, he had obtained his Ohio seal to perform engineering services for the above project. James R. Hogan also indicated he was a registered P.E. in the state of Illinois. Board staff was unable to confirm that he is a professional engineer in the State of Illinois and found no evidence he had ever applied to the Ohio Board to obtain registration as a professional engineer.

On December 19, 2013 Board staff received a signed settlement agreement wherein James R. Hogan agreed to cease and desist any practice of engineering in the State of Ohio and accept a \$500.00 fine for his unlicensed practice and use of a fraudulent seal.

Motion by Mr. Snyder, second by Mr. Ringle, to open an investigation, accept the settlement agreement and close the investigation. Motion carried.



Board Rulings

The following actual cases selected from the public record are presented to illustrate the Board's rulings on typical cases.

Case I

Subject: Professional Engineer and owner of a Firm offering and providing engineering services. Columbus, Ohio

Violations: Provided engineering services with expired professional engineer registration. The Firm was offering and providing engineering services with an expired certificate of authorization. [violation of Ohio Revised Code 4733.02, 4733.14, 4733.16, 4733.20 (A)(2) and (5), 4733.22 and Ohio Administrative Code 4733-23-01 (A)].

Board Action: Settlement agreement with a reprimand and \$4,700 fine.

Case II

Subject: Professional Engineer

Vero Beach, Florida

Violations: Failed to respond to the continuing education audit; falsely reported that he had completed the continuing education requirement on his annual renewal; failed to complete continuing education [violation of Ohio Revised Code 4733.151, 4733.20 (A)(1) and (5), 4733.22 and Ohio Administrative Code 4733-19-01 and 4733-35-09].

Board Action: Board issued a Final Order revoking registration.

Case III

Subject: Professional Engineer

Cuyahoga Falls, Ohio

Violations: Convicted of a felony [violation of Ohio Revised Code 4733.20 (A)(4) and (5) and Ohio Administrative Code 4733-35-07 and 4733-35-08].

Board Action: Board issued a final order placing Subject on probation for 3 years and pay a \$250 fine. One year suspension stayed pending no additional violations of law.



Case IV

Subject: Professional Engineer

Chattanooga, Tennessee

Violations: Reported disciplinary action in another state; voluntarily surrendered license in Oklahoma in lieu of disciplinary action [violation of Ohio Revised Code 4733.20 (A)(5) and Ohio Administrative Code 4733-35-08].

Board Action: Settlement agreement wherein Subject voluntarily surrendered his license in Ohio until reinstated and in good standing in Oklahoma.

Case V

Subject: Firm Cincinnati, Ohio

Violations: Illegal use of the term engineers in the firm's name [violation of Ohio Revised Code 4733.16].

Board Action: Settlement agreement to permanently remove engineers from Firm's name.

Case VI

Subject: Professional Engineer

Columbus, Ohio

Violations: Submitted engineering plans for permit approval while professional engineer registration was expired [violation of Ohio Revised Code 4733.02, 4733.14, 4733.20 (A)(2) and (5), 4733.22; and Ohio Administrative Code 4733-23-01(A)].

Board Action: Board issued a Final Order revoking registration.

Case VII

Professional Engineer and Professional Surveyor Cincinnati, Ohio



Violations: Code of Ethics violations and failing to cooperate with the Board's investigation [violation of Ohio Revised Code 4733.20 (A)(2); and Ohio Administrative Code 4733-35-07 (D), 4733-35-01, 4733-35-02 and 4733-35-03].

Board Action: Board issued a Final Order revoking professional engineer registration.

Case VIII

Professional Engineer Corning, Ohio

Violations: Incorrectly listing himself as a full-time employee of a firm offering engineering services [violation of Ohio Revised Code 4733.16(D) and 4733.20 (A)(5)].

Board Action: Board issued a reprimand.

Case IX

Professional Engineer Brunswick, Ohio

Violations: Unlicensed practice of surveying and affixing a professional surveyor seal to plats without the surveyor's knowledge [violation of Ohio Revised Code 4733.20 (A) (2) and (5), 4733.22 and Ohio Administrative Code 4733-35-02].

Board Action: Board issued a Final Order revoking registration.

Case X

Professional Engineer Pepper Pike, Ohio

Violations: Sealed drawings prepared by revoked architect [violation of Ohio Revised Code 4733.20 (A) (2) (3) and (5) and Ohio Administrative Code 4733-35-07 (A) and (B)].

Board Action: Settlement agreement to cease and desist, one year probation and \$500 fine.



7. CONCLUSION

This course presented the Ohio Code of Ethics for Professional Engineers and Surveyors, the laws and rules governing the sealing and signing of engineering documents by registered professional engineers in the State of Ohio, and actions of the State Board of Professional Engineers and Surveyors.

It is recommended that participants remain familiar with these topics and update their knowledge intermittently. Practitioners should consider this information in their day-to-day activities and decisions as registered professional engineers.

It has been my utmost pleasure presenting this topic to you. Thank you.



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