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10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY

000. LEGAL AUTHORITY.

These rules are promulgated as authorized by Section 54-1208(1), Idaho Code. (7-1-93)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited in full as Idaho Board of Registration of Professional Engineers and Professional Land Surveyors, IDAPA 10, TITLE 01, Chapter 02, "Rules of Professional Responsibility." (7-1-93)

02. Scope. In order to establish and maintain a high standard of integrity, skills and practice in the professions of engineering and land surveying, and to safeguard the life, health, property and welfare of the public, the following Rules of Professional Responsibility, hereinafter referred to as Rules, have been promulgated in accordance with Section 54-1208, Idaho Code, and shall be binding in the state of Idaho upon every person holding a certificate of registration as a Professional Engineer or Professional Land Surveyor, on all entities authorized to offer or perform engineering or land surveying services through a corporation or other legal entity and on every person holding a certificate as an engineer-in-training or a certificate as a land surveyor-in-training. Each Registrant and Certificate Holder under the laws of the state of Idaho is charged with being familiar with these Rules and knowledgeable in their application to the practice of engineering and land surveying. Such application shall include the recognition that the practice of engineering or the practice of land surveying is a privilege and the Registrant or Certificate Holder shall be forthright and candid in statements or written responses to the Board, or its representatives, on matters pertaining to these Rules. All Registrants or Certificate Holders in their original application, and for renewals thereof, shall certify that they have read and agree to abide by the Rules as are in force at the time of application or renewal. These Rules shall not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Registrant or Certificate Holder to Board action pursuant to Chapter 12, Title 54, Idaho Code. (7-1-93)

002. (RESERVED).

003. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(16)(b)(iv), Idaho Code, this agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost in the main office of this agency. (7-1-93)

004. DEFINITIONS.

For the purposes of these rules, the following terms are used as defined below: (7-1-93)

01. Board. The Board of Registration of Professional Engineers and Professional Land Surveyors. (7-1-93)

02. Certificate Holder. Any person holding a current certificate as an Engineer-in-Training or a Land Surveyor-in-Training or a corporation (which is also herein referred to as a "person") holding a current certificate of authorization, as has been duly issued by the Board. (7-1-93)

03. Registrant. Any person holding a current certificate of registration as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, as has been duly issued by the Board. (7-1-93)

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Registrants and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (7-1-93)

02. Standard of Care. Each Registrant and Certificate Holder shall perform in accordance with the

standard of care for the profession and is under duty to the party for whom the service is to be performed to exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (7-1-93)

03. Professional Judgement. If any Registrant's or Certificate Holder's professional judgement is overruled under circumstances where the safety, health and welfare of the public are endangered, the Registrant or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (7-1-93)

04. Obligation to Communicate Discovery of Discrepancy. If a Registrant or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Registrant or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform and obtain a response from the Registrant or Certificate Holder, whose work is believed to contain the discrepancy, error or omission and shall notify the Board in the event a satisfactory response is not obtained. (7-1-93)

006. COMPETENCY FOR ASSIGNMENTS.

01. Assignments in Field of Competence. A Registrant shall undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Registrant, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Registrant is qualified. All other phases of such project shall be performed by qualified associates, consultants or employees. For projects encompassing one or more disciplines beyond the Registrant's competence, a Registrant may sign and seal all documents for the total project only when the Registrant has first determined that all elements of the project have been performed, signed and sealed by other associates, consultants or employees who are competent and qualified to perform such services in other disciplines, and are registered or licensed. (7-1-93)

02. Aiding and Abetting an Unregistered Person. A Registrant or Certificate Holder shall avoid actions and procedures which, in effect, amount to aiding and abetting an unregistered person to practice engineering or land surveying. (7-1-93)

03. Use of Seal on Documents. A Registrant shall affix his signature and seal only to plans or documents prepared under his responsible charge. (7-1-93)

007. PUBLIC STATEMENTS.

01. Complete, Objective and Truthful Reports, Statements or Testimony. A Registrant shall be complete, objective and truthful in all professional reports, statements or testimony. He shall, to the best of his knowledge include all relevant and pertinent information in such reports, statements or testimony. (7-1-93)

02. Opinions Based on Adequate Knowledge. A Registrant or Certificate Holder, 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 his testimony. (7-1-93)

03. Statements Regarding Public Policy. On matters connected with establishing public policy a Registrant or Certificate Holder shall issue no statements, criticisms or arguments which are paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party, or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the matters. (7-1-93)

04. Actions in Regard to Other Registrants or Certificate Holders. A Registrant or Certificate Holder shall not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Registrant or Certificate Holder, nor shall he indiscriminately criticize another Registrant's or Certificate Holder's work in public. If he believes that another Registrant or Certificate Holder is guilty of fraud, deceit, negligence, incompetence, misconduct or violation of these rules he should present such information to the Board for action. (7-1-93)

008. CONFLICT OF INTEREST.

01. Conflict of Interest to Be Avoided. Each Registrant or Certificate Holder shall conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, shall forthwith disclose the circumstances to the employer or client. In addition, the Registrant or Certificate Holder shall promptly inform the employer or client of any business association, interests, or circumstances which could influence a Registrant's or Certificate Holder's judgement or quality of service, or jeopardize the clients' interests. (7-1-93)

02. Compensations from Multiple Parties on the Same Project. A Registrant or Certificate Holder may accept compensation, financial or otherwise, from more than one party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. (7-1-93)

03. Solicitation from Material or Equipment Suppliers. A Registrant or Certificate Holder shall not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 008.02. (7-1-93)

04. Gratuities. A Registrant or Certificate Holder shall not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Registrant or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Registrant's or Certificate Holder's professional judgement. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither shall a Registrant or Certificate Holder make any such improper offer. (7-1-93)

05. Solicitation from Agencies. A Registrant, a Certificate Holder or a representative thereof shall not solicit or accept a contract from a governmental authority on which an existing principal or officer of his organization serves as a member of the elected policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract for the services of a Registrant or a Certificate Holder. (7-1-93)

06. Professional Services Decisions of Agencies. A Registrant, Certificate Holder or representative thereof serving as a member, advisor or consultant to a governmental board, commission or department shall not participate in decisions with respect to professional services to be offered, that have been offered or may have been performed by that person's associates, firm or employer for the concerned governmental body upon which that person serves, whether such professional services are commissioned by an entity of the said governmental body or by another person or entity. (7-1-93)

07. Unfair Advantage of Position and Work Outside Regular Employment. When a Registrant or an individual Certificate Holder is employed in a full time position, the person shall not use the advantages of the position to compete unfairly with other professionals and shall not accept professional employment outside of that person's regular work or interest without the knowledge of that person's employer. (7-1-93)

009. SOLICITATION OF WORK.

01. Commissions. A Registrant or Certificate Holder shall not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Registrant or Certificate Holder for the purpose of securing business or employment. (7-1-93)

02. Representation of Qualifications. A Registrant or Certificate Holder shall not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and shall not misrepresent or exaggerate the 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-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Registrant or Certificate Holder shall not indulge in publicity that is misleading. (7-1-93)

03. Assignment on Which Others Are Employed. A Registrant or Certificate Holder shall not knowingly accept employment for professional services for an assignment which another Registrant or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed.

(7-1-93)

04. Contingency Fee Contracts. A Registrant or Certificate Holder shall not accept an agreement, contract, or commission for professional services on a "contingency basis" which may compromise his professional judgement and shall avoid provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgement.

(7-1-93)

05. Selection on the Basis of Qualifications. A Registrant or Certificate Holder should seek professional employment or professional service work on the basis of qualifications and competence for proper accomplishment of the work assignment.

(7-1-93)

010. IMPROPER CONDUCT.

01. Fraudulent or Dishonest Enterprises. A Registrant or Certificate Holder shall not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm which it is known, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature.

(7-1-93)

02. Confidentiality. Registrants or Certificate Holders shall not reveal confidential facts, data or information obtained in a professional capacity without prior consent of the client or employer except as authorized or required by law.

(7-1-93)

03. Actions by Other Jurisdictions. The revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a corporation, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, shall be sufficient cause after a hearing for the denial, suspension or revocation of a certificate of registration or certificate of authorization to practice engineering or land surveying in this state.

(7-1-93)

011. RULE INFRACTIONS.

01. Affidavits For Rule Infractions. Any person who believes that a Registrant or Certificate Holder by his actions, or failure to properly act, is guilty of fraud, deceit, negligence, incompetency, misconduct, or violation of these Rules may file a written affidavit with the Executive Secretary of the Board which shall be signed and in which the alleged rule infractions shall be clearly set forth and that the applicable Registrant or Certificate Holder, or both, should be considered for the appropriate disciplinary action by the Board. Following the receipt of such affidavit, the Board shall investigate, hold hearings and adjudicate the charges, in accordance with the provisions of the statutes.

(7-1-93)

02. Investigation of Rule Infractions. The Board may, at its own discretion, initiate investigation of alleged or possible rule infractions that have come to its attention.

(7-1-93)

012. -- 994. (RESERVED).

995. ADMINISTRATIVE APPEALS.

Persons desiring to contest the actions taken in accordance with these rules shall seek administrative relief under the Attorney General's Rules, IDAPA 04, TITLE 11, Chapter 01, "Idaho Rules of Administrative Procedure." (4-22-94)

996. (RESERVED).

997. PUBLIC RECORDS ACT COMPLIANCE.

The records associated with the Board are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 1, Idaho Code.

(7-1-93)

998. INCLUSIVE GENDER.

For the purpose of this chapter, words used in the masculine gender include the feminine, or vice versa, where appropriate. (7-1-93)

999. SEVERABILITY.

The rules governing this chapter are severable. If any rule, or part thereof, or the application of such rule to any person or circumstance is declared invalid, that invalidity does not affect the validity of any remaining portion of this chapter. (7-1-93)