

Table of Contents

10.01.02 – Rules of Professional Responsibility

000. Legal Authority.	2
001. Title And Scope.	2
002. Administrative Appeals.	2
003. Written Interpretations.	2
004. Definitions.	2
005. Responsibility To The Public.	3
006. Competency For Assignments.	3
007. Public Statements.	4
008. Conflict Of Interest.	4
009. Solicitation Of Work.	5
010. Improper Conduct.	5
011. Rule And Statute Violations.	6
012. -- 999. (Reserved)	6

**IDAPA 10
TITLE 01
CHAPTER 02**

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 are titled IDAPA 10.01.02, “Rules of Professional Responsibility.” (5-8-09)

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, these rules are binding in the state of Idaho upon every person holding a license as a Professional Engineer or Professional Land Surveyor, on all entities authorized to offer or perform engineering or land surveying services through a business entity or other legal entity and on every person holding a certificate as an engineer intern or a certificate as a land surveyor intern. Each Licensee 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 must include the recognition that the practice of engineering or the practice of land surveying is a privilege and the Licensee or Certificate Holder must be forthright, candid, and timely in statements or written responses to the Board, or its representatives, on matters pertaining to these Rules. All Licensees or Certificate Holders in their original application, and for renewals thereof, must certify that they have read and agree to abide by the Rules which are in force at the time of application or renewal. These Rules will not be a basis for action involving civil liability, however, failure to obey these Rules may subject a Licensee or Certificate Holder to Board action pursuant to Chapter 12, Title 54, Idaho Code. (4-7-11)

002. ADMINISTRATIVE APPEALS.

Persons desiring to contest the actions taken in accordance with these rules may seek administrative relief under the Attorney General’s Rules, IDAPA 04, Title 11, Chapter 01, “Idaho Rules of Administrative Procedure of the Attorney General.” (7-1-98)

003. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(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 Licensure of Professional Engineers and Professional Land Surveyors. (5-8-09)

02. Certificate Holder. Any person holding a current certificate as an Engineer Intern or a Land Surveyor Intern or a business entity (which is also herein referred to as a “person”) holding a current certificate of authorization, which has been duly issued by the Board. (5-8-09)

03. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. (3-29-10)

04. Incompetence. Failure to meet the standard of care. (3-29-10)

05. Licensee. Any person holding a current license as a Professional Engineer, a Professional Land Surveyor, or a combination thereof, which has been duly issued by the Board. (5-8-09)

06. Misconduct. A violation or attempt to violate these rules of professional responsibility or to knowingly assist or induce another to do so, or do so through the acts of another; a finding of guilt of commitment of

a felony or a plea of guilty to a felony; commit fraud or deceit; failure to respond within twenty (20) days of an inquiry from the Board or its representative, unless such time is extended by the Board for justifiable cause; state or imply an ability to influence improperly a government agency or official. (4-7-11)

005. RESPONSIBILITY TO THE PUBLIC.

01. Primary Obligation. All Licensees and Certificate Holders must 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. (5-8-09)

02. Standard of Care. Each Licensee and Certificate Holder must exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (3-29-10)

03. Professional Judgment. If any Licensee's or Certificate Holder's professional judgment is overruled under circumstances where the safety, health and welfare of the public are endangered, the Licensee or Certificate Holder must inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (5-8-09)

04. Obligation to Communicate Discovery of Discrepancy. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer must make a reasonable effort to inform the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication must reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy must respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer must notify the Licensee or Certificate Holder in writing, who has another twenty (20) days to respond. Failure to respond (with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy is considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer must notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. A Licensee or Certificate Holder is exempt from this requirement if their client is an attorney and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure apply. (4-11-19)

05. Obligation to Comply with Rules of Continuing Professional Development. All Licensees must comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development." (5-8-09)

06. Obligation to Affected Landowners. Land surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227, Idaho Code. Per Subsection 005.04 above, land surveyors also have a duty to notify other licensees of a material discrepancy prior to setting monuments that represent a material discrepancy with a prior survey. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. (4-11-19)

006. COMPETENCY FOR ASSIGNMENTS.

01. Assignments in Field of Competence. A Licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, 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 Licensee is qualified. All other phases of such project must be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the Licensee's competence, a Licensee may sign and seal the cover sheet for the total project only when the Licensee has first determined that all elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services. (5-8-09)

02. Aiding and Abetting an Unlicensed Person. A Licensee or Certificate Holder must avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying. (5-8-09)

03. Use of Seal on Documents. A Licensee must affix his signature and seal only to plans or documents prepared under his responsible charge. (5-8-09)

007. PUBLIC STATEMENTS.

01. Reports, Statements or Testimony. A Licensee or certificate holder must not commit fraud, violate the standard of care, or engage in deceit or misconduct in professional reports, statements or testimony. Each licensee or certificate holder must include all relevant and pertinent information in such reports, statements or testimony and will express opinions in such reports, statements or testimony in accordance with the standard of care. (3-29-17)

02. Opinions Based on Adequate Knowledge. A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, may 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. (5-8-09)

03. Statements Regarding Public Policy. On matters connected with establishing public policy a Licensee or Certificate Holder may issue no statements, criticisms or arguments that 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. (5-8-09)

04. Actions in Regard to Other Licensees or Certificate Holders. A Licensee or Certificate Holder may not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Licensee or Certificate Holder, nor may he indiscriminately criticize another Licensee's or Certificate Holder's work in public. If he believes that another Licensee 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. (5-8-09)

008. CONFLICT OF INTEREST.

01. Conflict of Interest to Be Avoided. Each Licensee or Certificate Holder must conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, must forthwith disclose the circumstances in writing to the employer or client. In addition, the Licensee or Certificate Holder must promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Licensee's or Certificate Holder's judgment or quality of service, or jeopardize the clients' interests. (5-8-09)

02. Compensations From Multiple Parties on the Same Project. A Licensee or Certificate Holder may accept compensation, financial or otherwise, from more than one (1) 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. (5-8-09)

03. Solicitation From Material or Equipment Suppliers. A Licensee or Certificate Holder may 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. (5-8-09)

04. Gratuities. A Licensee or Certificate Holder may 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 Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither may a Licensee or Certificate Holder make any such improper offer. (5-8-09)

05. Solicitation From Agencies. A Licensee, a Certificate Holder or a representative thereof may not solicit or accept a contract from a governmental authority on which an existing officer, director, employee, member, partner, or sole proprietor of his organization serves as a member of the elected or appointed 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 or recommend a contract for the services of a Licensee or a Certificate Holder. (3-20-14)

06. Professional Services Decisions of Agencies. A Licensee, Certificate Holder or representative thereof serving as a member of the governing body of a governmental authority, whether elected or appointed, or an advisor or consultant to a governmental board, commission or department may at all times be subject to the statutory provisions concerning ethics in government, Section 74-401, Idaho Code, et seq. A violation of the "Ethics in Government Act of 2015" will be considered a violation of these rules. (3-20-14)

07. Unfair Advantage of Position and Work Outside Regular Employment. When a Licensee or an individual Certificate Holder is employed in a full time position, the person may not use the advantages of the position to compete unfairly with other professionals and may not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. (5-8-09)

009. SOLICITATION OF WORK.

01. Commissions. A Licensee or Certificate Holder may 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 Licensee or Certificate Holder for the purpose of securing business or employment. (5-8-09)

02. Representation of Qualifications. A Licensee or Certificate Holder may not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and may 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 may 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 Licensee or Certificate Holder may not indulge in publicity that is misleading. (5-8-09)

03. Assignment on Which Others Are Employed. A Licensee or Certificate Holder may not knowingly seek or accept employment for professional services for an assignment that another Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. (5-8-09)

04. Contingency Fee Contracts. A Licensee or Certificate Holder may not accept an agreement, contract, or commission for professional services on a "contingency basis" that may compromise his professional judgment and may not accept an agreement, contract or commission for professional services that includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment. (5-8-09)

05. Selection on the Basis of Qualifications. A Licensee 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. On selections for professional engineering and land surveying services that are required pursuant to Section 67-2320, Idaho Code, a licensee or certificate holder, in response to solicitations described in Section 67-2320, Idaho Code, may not submit information that constitutes a bid for services requested either as a consultant or subconsultant. (3-28-18)

010. IMPROPER CONDUCT.

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

dishonest nature. (5-8-09)

02. Confidentiality. Licensees or Certificate Holders may not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. (5-8-09)

03. Actions by Other Jurisdictions. The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, 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, is sufficient cause after a hearing for disciplinary action as provided in Title 54 Chapter 12, Idaho Code. (5-8-09)

011. RULE AND STATUTE VIOLATIONS.

The Board may, at its own discretion, initiate investigation of alleged or possible statute or rule violations that have come to its attention. (5-3-03)

012. -- 999. (RESERVED)

Subject Index

- A**
Administrative Appeals 2
- C**
Competency For Assignments 3
Aiding & Abetting An
Unregistered Person 4
Assignments in Field of
Competence 3
Use of Seal on Documents 4
Conflict Of Interest 4
Compensations From Multiple
Parties on the Same Project 4
Conflict of Interest to be
Avoided 4
Gratuities 4
Professional Services Decisions of
Agencies 5
Solicitation From Agencies 5
Solicitation From Material or
Equipment Suppliers 4
Unfair Advantage of Position &
Work Outside Regular
Employment 5
- D**
Definitions, IDAPA 10.01.02 2
Board 2
Certificate Holder 2
Deceit 2
Incompetence 2
Licensee 2
Misconduct 2
- I**
Improper Conduct 5
Actions by Other Jurisdictions 6
Confidentiality 6
Fraudulent or Dishonest
Enterprises 5
- L**
Legal Authority 2
- P**
Public Statements 4
Actions in Regard to Other
Registrants or Certificate
Holders 4
Opinions Based on Adequate
Knowledge 4
Reports, Statements or
Testimony 4
Statements Regarding Public
Policy 4
- R**
Responsibility To The Public 3
Obligation to Affected
Landowners 3
Obligation to Communicate
Discovery of Discrepancy 3
Obligation to Comply With Rules
of Continuing Professional
Development 3
Primary Obligation 3
Professional Judgment 3
Standard of Care 3
Rule & Statute Violations 6
- S**
Solicitation Of Work 5
Assignment on Which Others are
Employed 5
Commissions 5
Contingency Fee Contracts 5
Representation of
Qualifications 5
Selection on the Basis of
Qualifications 5
- T**
Title & Scope 2
- W**
Written Interpretations 2