ASCE ETHICS: EDICT, ENFORCEMENT AND EDUCATION

By

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The American Society of Civil Engineers ("ASCE" or the "Society") continuously strives to build a better quality of life for its membership, the engineering profession, and society at large. Implicit in every Society undertaking is the paramount importance of maintaining the highest standards of ethical conduct. Like other professional societies, an important means by which ASCE promotes high ethical standards is by maintaining and enforcing a Code of Ethics, and educating engineers and the public on ethics issues.

EDICT - WHO NEEDS A CODE OF ETHICS?

Everyone has their own personal code of ethics, developed through education and experience. With the basic fundamentals identified in kindergarten and even earlier, we have each developed personal ethical codes, with input and guidance from numerous people, including family members, friends, teachers, mentors, co-workers, community and church leaders, coaches and role models. Recognizing the personal element of ethics, and expressly noting that ethics is a matter of an engineer's individual responsibility and honor, ASCE's Board of Direction resolved in the late 1800's not to adopt a code of ethics, explaining "[t]hat it is inexpedient for the Society to instruct its members as to their duties in private professional matters." So why do engineers need a professional code of ethics?

Ethical codes vary among individuals and also among corporations, governments and professions. History is filled with examples of the impact on society of varied ethical codes. From the corporate perspective, one can hardly pick up the newspaper anymore without reading about another corporate scandal. Through a long list of companies that most Americans can readily recite, including Enron, Arthur Andersen, Tyco, Worldcom and Health South, we have learned that ethical standards have a profound impact on corporate America. As Allen Greenspan noted testifying before Congress in 2002, "[t]rust and reputation can vanish overnight," and we have seen repeated examples of such occurrences, demonstrating why good ethics is good business. Recognizing the importance of sound corporate ethics and governance, Congress adopted the Sarbanes-Oxley legislation in July 2002 in an effort to restore public confidence in corporate America with a legislated code of fiscal ethical responsibility. But Congress does not legislate every facet of corporate ethics.

In addition to corporations, sound ethics is critical to the success of local, state and federal governments. Few people would have difficulty naming local and national government leaders whose power and credibility have been diminished or eradicated due to unethical conduct. Ethics issues can impede development and advance poverty in small communities and countries alike, examples of which include Bangladesh and Nigeria, which rank at the bottom of Transparency International's Corruption Perception Index list. (www.transparency.org). With new infrastructure construction likely to occur largely in developing countries, many of which have widely varying

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ethical standards, government ethics on a global scale remains a paramount concern.

Ethics also impacts professions. Many of the recent corporate scandals referenced above adversely impacted the credibility and public perception of the accounting profession. The legal profession has likewise suffered a longstanding struggle with credibility and public perception problems, and lawyer jokes remain a common favorite at most any gathering, ranging from parties to business meetings. While it is difficult to quantify the impacts of such public sentiment, I would note that the Virginia State Bar spends significant resources processing over 3,000 professional conduct complaints each year regarding Virginia’s approximately 23,000 licensed attorneys. While many of these claims are proven to be unfounded, it causes one to wonder if the filing of unfounded claims is influenced by general public perception regarding the ethical standards and credibility of attorneys.

History demonstrates that trust, integrity, honesty and credibility remain important to the success of individuals, corporations, governments and professions. The engineering profession is no exception. Engineers are entrusted with the highest level of responsibility - protecting the public health, safety and welfare. Recognizing this responsibility, ASCE’s Board of Direction defined the profession as a “calling in which special knowledge and skill are used in a distinctly intellectual plane in the service of humanity [in which] there is implied the application of the highest standards of excellence . . . in the ethical conduct of its members.” Describing the engineering profession, President Herbert Hoover noted:

It is a great profession. There is the fascination of watching a figment of the imagination emerge through the aid of science to a plan on paper. Then it moves to realization in stone or metal or energy. Then it brings jobs and homes to men. Then it elevates the standards of living and adds to the comforts of life. That is the engineer’s high privilege.

With the engineers’ high privilege comes a concomitant high responsibility - protecting the public health, safety and welfare. Entrusted with the highest level of responsibility, the engineers’ credibility, trust, reputation, and high ethical standards remain paramount. But do engineers need a professional code of ethics?

I believe the answer is a resounding “yes”. While surveys have shown that engineers enjoy a high level of trust among the public, the engineering profession has suffered from ethics breakdowns, notable examples of which include the Challenger space shuttle disaster, the Kansas City Hyatt Regency walkway collapse, and the improprieties leading to the resignation of Spiro Agnew from the Vice Presidency of the United States. Engineers today work in a competitive business environment. Competition is global and sophisticated. Engineers are consistently pressured to reduce costs and increase productivity, to do more with fewer resources. Engineers must be well-rounded, with management expertise and familiarity with complex project requirements, responsibilities and risks. Sophisticated contracts, laws and regulations, and complex litigation are commonplace, and successful practice requires that engineers participate in these arenas. Engineers confront environmental and sustainable development concerns, tasked with meeting current needs while ensuring that future generations can meet their needs. Construction site safety considerations are
prevalent, presenting liability concerns that must be balanced with professional, moral and ethical responsibilities to hold paramount the safety of the public. The electronic age, intellectual property, and infrastructure security also present new challenges and responsibilities. As a consequence, a written professional Code of Ethics proves a useful tool to assist the engineer in the frequently complex ethical decision-making process.

ASCE’s Code of Ethics was adopted in 1914. Despite earlier concerns and delays, the Code of Ethics was approved by letter ballot of the membership. Although a significant first step, the original ASCE Code of Ethics contained six principles and addressed business issues, as opposed to addressing the personal professional ethics of the membership. The Society’s Code of Ethics has been amended very substantially over the years, most notably to delete a provision which made it unethical “[t]o invite or submit priced proposals under conditions that constitute price competition for professional services.” This provision came under Department of Justice antitrust scrutiny in the 1970’s. A subsequent Department of Justice investigation in 1992 led to voluntary revisions to the Code to eliminate language that prohibited “self-laudatory” advertising and to clarify prohibitions on unlawful consideration and contingency fees. In 1996, the Society amended the Code to incorporate the principles of sustainable development.

To address concerns regarding disparate international ethical standards, ASCE’s Board of Direction voted in 1963 to add the following footnote to the Code of Ethics:

On foreign engineering work, for which only United States engineering firms are to be considered, a member shall order his practice in accordance with the ASCE Code of Ethics. On other engineering works in a foreign country he may adapt his conduct according to the professional standards and customs of that country, but shall adhere as closely as practicable to the principles of this Code.

In his book, The American Civil Engineer, William Wisely noted that this was a controversial footnote, described as the “When in Rome Clause.” The footnote was no longer included in the Code of Ethics starting in 1977, which was the year Congress passed the Foreign Corrupt Practices Act to prohibit bribery of foreign officials by American corporations. The topic of global ethics remains of paramount concern today, and ASCE created this year a Task Committee on Global Principles of Professional Conduct to work with engineering societies around the world to develop principles of practice for engineers that will define their professional behavior in securing and performing engineering assignments.

ASCE’s Code of Ethics remains an evolving document, benefiting from the input and experience of thousands of engineers over almost ninety years. While many ethics issues are gray and not black and white, the Code of Ethics provides a foundation for the engineer’s ethical analysis and decision-making process. Likewise, discussing ethics issues with one’s peers, calling ASCE’s ethics hotline at 703-295-6061, and analyzing decisions under the assumption of public review and scrutiny, provide a good basis for sound ethical decision-making. While the Code of Ethics does not provide all the answers, it remains an effective foundation for ethical analysis and an important means by which ASCE advances the engineering profession.
ENFORCEMENT – HOW CAN ASCE PROMOTE COMPLIANCE?

The Code of Ethics is not a stagnant document. To preserve the high ethical standards of the civil engineering profession, ASCE maintains and enforces its Code of Ethics. All Society members must subscribe to the Society’s Code of Ethics, and it is the duty of every Society member to report promptly to ASCE’s Committee on Professional Conduct (“CPC”) any observed violation of the Code. Charges of unethical conduct may be brought by Society members and non-members and are referred to the CPC for investigation.

Established in 1923, CPC is charged with investigating charges of member misconduct. CPC comprises at least four past members of ASCE’s Board of Direction. During the confidential investigation phase, CPC acts like a grand jury. If CPC finds sufficient evidence to warrant disciplinary action, the case is scheduled for hearing before ASCE’s Executive Committee. In conducting professional conduct investigations, CPC may solicit assistance from local Society members or Sections.

The Executive Committee considers proceedings for the discipline of a Society member upon the recommendation of CPC or upon written request of ten or more Society members. Hearings are conducted in accordance with written procedures for professional conduct cases. Due process is afforded to the member, including reasonable notice of the charges and the hearing, fair opportunity to hear the evidence, question witnesses and refute the evidence, and a hearing before an unbiased panel. The Executive Committee acts as a Judge or Jury. At this point, a CPC member serves a function similar to a prosecutor.

Upon finding a violation of the Code, the Executive Committee may take disciplinary action, other than expulsion, by a majority vote. Such action typically includes a letter of admonition or a suspension from membership. The most severe penalty is expulsion from the Society. The Executive Committee cannot expel a member, but can make a recommendation to the Board of Direction that the member be expelled. If the Executive Committee votes to recommend expulsion, the case is scheduled for hearing before the Board of Direction, with the same due process protections afforded at the Executive Committee hearing. A decision to expel a member requires a seventy-five percent vote of the Board; however the Board may impose lesser disciplinary actions upon a majority vote. The Executive Committee and Board of Direction have discretionary authority to publish the action, with or without the name of the member. Such notice is typically published in ASCE News. The Executive Committee and Board of Direction also have discretionary authority to notify other professional organizations or registration boards of the action.

ASCE enforces the provisions of its Code of Ethics to preserve the high ethical standards of the Society and the profession. While taking care to ensure that such enforcement is not anticompetitive and that due process is afforded, with reasonable notice and a fair hearing, ASCE endeavors to advance the profession and the public interest by the fair enforcement of reasonable ethical standards.
EDUCATION – AN OUNCE OF PREVENTION IS WORTH A POUND OF CURE

As referenced above, the Code of Ethics is not a stagnant document, and all engineers should continue to familiarize themselves with the Code of Ethics and with responsibilities under applicable laws and licensing regulations. Recognizing the complexity of civil engineering projects and practice, and the critical responsibilities and wide-ranging considerations that civil engineers confront, ASCE’s Board of Direction voted in 2001 to adopt Policy Statement 465, which “supports the concept of the master’s degree or equivalent as a prerequisite for licensure and the practice of civil engineering at the professional level.” In early 2004, ASCE published a report on the Body of Knowledge (BOK) needed to enter the practice of engineering at the professional level. Among the fifteen outcomes recommended in the BOK is that civil engineers in the 21st century must demonstrate “an understanding of professional and ethical responsibility.” From personal experience, I can attest that civil engineering students appreciate and actively participate in ethics education and discussions, and such education and training is important both during the formal education process and throughout an engineer’s professional career.

ASCE endeavors to educate engineers on ethics issues. The Society has case studies to provide guidance on ethical problems. The Society sponsors ethics seminars, and has adopted multiple policies on ethics issues, including Policy Statement Number 376 encouraging state boards of engineering registration to institute take-home examinations on professional ethics for professional registration; Policy Statement Number 130 supporting the establishment of rules of professional conduct for engineers and land surveyors consistent with the Society’s Code of Ethics to guide licensees in their practice; Policy Statement Number 418 supporting implementation strategies to promote sustainable development; and Policy Statement Number 502, adopted in July 2003 to confirm the importance of the engineer’s independence and duty to avoid conflicts of interest.

The Society makes available ethics videos, including a video tape of a mock Board of Direction hearing, the video and workbook entitled “Testing Water...and Ethics”, and the National Institute for Engineering Ethics’ video entitled “Incident at Morales.” The Society publishes the Code of Ethics on the Society’s web site and in the Official Register, and the Society has published Standards of Professional Conduct for Civil Engineers and Guidance for Civil Engineering Students. The Society also publishes papers on engineering ethics, including numerous articles in the Journal of Professional Issues in Engineering Education and Practice. The Society promotes the Order of the Engineer program and ring ceremonies, which focus attention on the obligation of the engineer to protect the public health, safety and welfare, and which help to “foster a spirit of pride and responsibility in the engineering profession, to bridge the gap between training and experience, and to present to the public a visible symbol identifying the engineer.” The Society also awards annually the Daniel W. Mead prize for younger members and students on the basis of papers on professional ethics.

Recognizing the increasing complexity of the profession and the profound importance of engineering ethics, ethics education remains an important means by which ASCE and other professional societies can increase awareness of ethics issues, advance the science and profession of engineering to enhance the welfare of humanity, and enable engineers to be global leaders building a
better quality of life.

CONCLUSION

Engineering ethics involves complex issues that are global in scale and critical to the Society, the profession and to the public at large. I believe engineers enjoy a positive public image, with a reputation for providing public value by honest and ethical means. By adopting and enforcing a Code of Ethics, and continuously educating engineers on the complex and evolving field of engineering ethics, ASCE and other professional societies can continue to advance the profession and improve the quality of life worldwide.

References

2. Speech by Claudia Cositore, ASCE Professional Services Counsel, April 18, 1983.