

Ethical Obligations as a Member of the U.S. Military

Case No. 06-8

Facts:

Engineer A is a professional engineer in private practice who is being mobilized as an Army Reserve engineer officer. Unlike previous roles as an Army officer (combat engineer, etc.), Engineer A is being mobilized as a design engineer and is expected to use his civilian skills and judgment as a professional engineer. Engineer A is advised that in the performance of his actions as a member of the military, Engineer A is subject to military law (Uniform Code of Military Justice, etc.), which would exempt Engineer A from civil liability associated with his work. However, Engineer A believes that he still has obligations as a professional engineer and that his professional and ethical obligations still apply.

Question:

Does Engineer A continue to have ethical obligations under the NSPE Code of Ethics as a member of the U.S. military?

References:

- Section I.1. - NSPE Code of Ethics: *Engineers, in the fulfillment of their professional duties, shall hold paramount the safety, health, and welfare of the public.*
- Section I.4. - NSPE Code of Ethics: *Engineers, in the fulfillment of their professional duties, shall act for each employer or client as faithful agents or trustees.*
- Section I.6. - NSPE Code of Ethics: *Engineers, in the fulfillment of their professional duties, shall conduct themselves honorably, responsibly, ethically, and lawfully so as to enhance the honor, reputation, and usefulness of the profession.*

Discussion:

The facts presented in this case raise issues of first impression for the NSPE Board of Ethical Review. Based upon an evaluation of previous board opinions, the board is unaware that this issue or a particularly similar issue has been raised before this board on an earlier occasion. Because of that fact, the board must look to the language of the NSPE Code of Ethics and earlier cases that may have raised issues and contained discussion that might provide some guidance.

One particular case in a different context may have some bearing of the board's analysis in this case. In BER Case No. 82-5, Engineer A was employed by a large industrial company that engaged in substantial work on defense projects. Engineer A's assigned duties related to the work of subcontractors, including review of the adequacy and acceptability of the plans for material provided by subcontractors. In the course of this work, Engineer A advised his superiors by memoranda of problems he found with certain submissions of one of the subcontractors and urged management to reject such work and require the subcontractors to correct the deficiencies he outlined.

Management rejected the comments of Engineer A, particularly his proposal that the work of a particular subcontractor be redesigned because of Engineer A's claim that the subcontractor's submission represented excessive cost and time delays. After the exchange of further memoranda between Engineer A and his management superiors, and continued disagreement between Engineer A and management on the issues he raised, management placed a critical memorandum in his personnel file, and subsequently placed him on three months of probation, with the further notation that if his job performance did not improve, he would be terminated. Engineer A continued to insist that his employer had an obligation to ensure that subcontractors deliver equipment according to the specifications, as he interpreted, and, thereby, save substantial defense expenditures. Engineer A requested an ethical review and determination of the propriety of his course of action and the degree of ethical responsibility of engineers in such circumstances. In determining that Engineer A did not have an ethical obligation to continue his effort to secure a change in the policy of his employer under these circumstances, or to report his concerns to a proper authority, but had an ethical right to do so as a matter of personal conscience, the board noted that if an engineer feels strongly that an employer's course of conduct is improper when related to public concerns, and if the engineer feels compelled to blow the whistle to expose the facts as he sees them, he may well have to pay the price of loss of employment. In some of the more notorious cases of recent years, engineers have gone through such experiences and even if they have ultimately prevailed on legal or political grounds, the experience is not one to be undertaken lightly. In this type of situation, the board noted that the ethical duty or right of the engineer becomes a matter of personal conscience. However, the board was not willing to make a blanket statement that there is an ethical duty in these kinds of situations for the engineer to continue a campaign within the company and make the issue one for public discussion. The NSPE Code of Ethics only requires that the engineer withdraw from a project and report to proper authorities when the circumstances involve endangerment of the public health, safety, and welfare.

Turning to the present case, the facts provide no details or specific information upon which to make an analysis, and, ultimately, the ethics of any particular situation will turn on the facts. The board recognizes that the ethics of military service is a broad and complex topic with roots not only in professional ethics but also common morality, philosophy, religion, and other ethical theories, traditions, and practices. It is beyond the scope of this case to explore all of these issues. However, it is appropriate to comment on Engineer A's responsibility as an engineer, in particular, situations or practices that might conflict with fundamental provisions of the NSPE Code of Ethics, such as the engineer's obligation to hold paramount the safety, health, and welfare of the public. It is the board's view that the right to follow one's own conscience is a fundamental human right that cannot be abrogated by civil or military authority. As related to engineering work, this includes, but is not limited to, one's conscience as informed by the NSPE Code of Ethics. In such a situation, the board believes Engineer A has a right to raise

issues of professional concern as appropriate within the context of the military chain of command. However, at the same time, Engineer A is legally restricted as a member of the military within the confines of Engineer A's enlistment or other commitment, and, therefore, generally does not have the option to resign or to report to an external entity. As such, the board is of the view that as a practical matter the Uniform Code of Military Justice and other applicable military or service rules effectively regulate Engineer A's behavior. This conclusion is not to suggest or imply that Engineer A should not be mindful and take into full account the intent and spirit of the Code when performing engineering services and adhere to such provisions consistent with Engineer A's military orders.

Conclusion:

While Engineer A continues to have ethical obligations under the NSPE Code of Ethics as a member of the U.S. military, as a practical matter, the Uniform Code of Military Justice and other applicable rules effectively regulate Engineer A's behavior, being mindful that a decision of conscience may have repercussions.

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Each opinion is intended as guidance to individual practicing engineers, students, and the public. In regard to the question of application of the NSPE Code to engineering organizations (e.g., corporations, partnerships, sole proprietorships, government agencies, and university engineering departments), the specific business form or type should not negate nor detract from the conformance of individuals to the NSPE Code. The NSPE Code deals with professional services, which must be performed by real persons. Real persons in turn establish and implement policies within business structures.

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