



NATIONAL SOCIETY OF
PROFESSIONAL ENGINEERS

BOARD *of* ETHICAL REVIEW



CASE REVIEW:

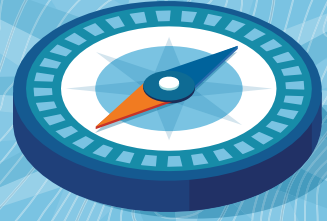
Good Samaritan Laws

CASE NO. 21-08
APPROVED MARCH 21, 2022

NSPE.ORG



BOARD of ETHICAL REVIEW



GOOD SAMARITAN LAWS

CASE NO. 21-08

APPROVED 3/21/22

FACTS:

Engineer A, a registered professional engineer in State Z, is discussing with colleague Engineer B a recently enacted law in their state that provides design professionals with immunity from liability when they volunteer during a natural or man-made disasters. Engineer B believes the new law significantly improves the ability of design professionals to assist communities in need during times of trouble; Engineer A feels that the new law does not change an engineer's ethical obligations.

QUESTIONS:

1. Is Engineer A correct?
2. Is Engineer B correct?

NSPE CODE OF ETHICS REFERENCES:

- Section I.6. 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.
- Section II.1. Engineers shall hold paramount the safety, health, and welfare of the public.
- Section II.2. Engineers shall perform services only in the areas of their competence.
- Section III.2.a. Engineers are encouraged to participate in civic affairs; career guidance for youths; and work for the advancement of the safety, health, and well-being of their community.
- Section III.6.b. Engineers in salaried positions shall accept part-time engineering work only to

the extent consistent with policies of the employer and in accordance with ethical considerations.

Section III.6.c. Engineers shall not, without consent, use equipment, supplies, laboratory, or office facilities of an employer to carry on outside private practice.

Section III.8. Engineers shall accept personal responsibility for their professional activities, provided, however, that engineers may seek indemnification for services arising out of their practice for other than gross negligence, where the engineer’s interests cannot otherwise be protected.

NSPE BER CASE REFERENCES:

[93-8](#), [96-12](#)

DISCUSSION:

Engineers, like other professionals, have a history of performing pro-bono work. As litigation has become more prevalent in our society, some engineers have become reluctant to lend their time and expertise to volunteer work. When a “Good Samaritan” Law¹ was proposed in Ohio’s 2015 legislative biennium, NSPE indicated that professional engineers who voluntarily assist their communities, states, and the nation in times of crisis, when requested by the appropriate public official, should be protected from liability exposure when performing these duties.

¹ Section 2305.2310 of the Revised Code of Ohio

In testimony to the Ohio Legislature regarding this bill, AIA Ohio’s immediate past president stated that architects are unable to volunteer in emergencies because of their status as licensed professionals - they risk losing their licenses if they offer opinions on damaged structures if contractual language is not in place.

Similarly, a February 2013 article about New York’s Volunteer Protection Act, the NYSPE stated:

We know that many of our members want to volunteer, but when doing so, please remember that volunteering is not without risk.

The Code of Ethics encourages engineers to contribute to their community; lending skills during a disaster is certainly work for the advancement of the safety, health, and well-being of their community. Note too that an engineer’s ethical obligations to their employer allow accepting outside work consistent with employer’s policies and prohibit use of the employer’s equipment for outside activities without the employer’s consent.

Professional obligation III.8 speaks directly to seeking indemnification for professional activities. BER Case [96-12](#) deals specifically with this section of the code of ethics (as does related BER Case [93-8](#)). Both cases have similar language regarding accepting responsibility for professional services. Quoting from BER Case [93-8](#):

A basic tenet of ethical conduct relates to the obligation of the engineer to accept responsibility for professional services that the engineer renders. This tenet is based upon the view that as a member of a learned profession, an engineer possesses skill, knowl-

edge and expertise and is expected to use those attributes for the betterment of mankind. Engineers, through the enactment of engineering licensing laws and other legal restrictions, are granted the authority to practice their profession to the exclusion of others. As a result of this grant of authority, the law expects licensed engineers as they do other professions to perform professional services in a non-negligent manner. In addition, as with other professions, engineers are also expected to be personally liable for their acts, errors, or omissions in the performance of their professional services.

BER Case [96-12](#) notes that “engineers typically address issues of liability through a variety of risk management techniques such as insurance, contract document language and other professional practice considerations.” NSPE’s website includes an informative section discussing liability of employed engineers, but note that an engineer, volunteering during a disaster is likely not “employed.” The Good Samaritan Laws provide a crucial risk management tool for practicing engineers when their normal risk management techniques do not apply.

With or without indemnification, an engineer’s primary obligation is to the public health, safety, and welfare. Further, although an engineer may be held harmless before the law when making decisions during public emergencies, they are committed to practice only in areas of competence and must conduct themselves honorably. Good Samaritan laws do nothing to change these obligations, and in fact, taken to the extreme, they might lead an engineer without sharp ethical presence of mind to attempt a task they would ordinarily conclude they are not qualified to undertake. In the end, the BER concludes that although these Good

Samaritan laws serve a tremendous practical benefit, they do not relieve engineers of ethical obligations.

CONCLUSIONS:

Both Engineer A and Engineer B are correct. Although Good Samaritan Laws may make it easier to volunteer during natural or man-made disasters, they do not change an engineer’s ethical obligations.

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