

**Conflict of Interest—**  
**Promotion and Tenure Process for Engineering Faculty**

**Case No. 10-12**

**Facts:**

The promotion and tenure (P&T) review process at a university typically involves a series of steps, with each subsequent review step occurring at a higher level within the university hierarchy. The process begins with the candidate for promotion or tenure preparing a draft dossier. The draft dossier is reviewed and edited by the candidate's Department Head. The level of this editing can vary from supportive guidance through numerous drafts to simple copyediting.

The final dossier thus prepared is then submitted for review outside the university by a combination of peers, including more senior faculty members from other institutions, and administrators from other institutions. The solicited letters from outside reviewers are added to the dossier, following which the Department Head submits the dossier to the Department P&T committee for evaluation. The Department Head does not participate in the evaluation of the candidate by the department committee. The Department's P&T Committee adds its evaluation to the dossier. Thereafter, the Department Head writes a letter of evaluation and recommendation that is added to the dossier. At each evaluation step, previous letters of evaluation that have been added to the dossier are considered by the reviewer(s).

In the next step, the dossier is forwarded to the College of Engineering P&T committee for "independent evaluation." Members of the departmental P&T committees and Department Heads can and do serve on the College and University P&T committees with exceptions. University guidelines require Department Heads and department committee members to recuse themselves from decisions and recommendations on candidates for P&T for which they have submitted signed letters of evaluation. The College P&T committee then prepares a letter of evaluation and recommendation that is added to the dossier before it is forwarded to the Dean of Engineering.

There are instances where Department Heads and department committee members serving on the P&T committee participate in discussions and review of promotion and review candidates for whom they have previously submitted a signed letter of evaluation.

The Dean of Engineering prepares a letter of evaluation and forwards the dossier to the university-wide P&T committee and then to the central university administration for final action by the appropriate administrator.

**Question:**

Is it ethical for a Department Head and a department committee member to write a letter of evaluation of a candidate for promotion and tenure, and then participate in the discussion and review of candidates by the College of Engineering P&T committee?

**References:**

- Section I.5. - NSPE Code of Ethics: *Engineers, in the fulfillment of their professional duties, shall: Avoid deceptive acts.*
- Section II.4.a. - NSPE Code of Ethics: *Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.*
- Section III.1. - NSPE Code of Ethics: *Engineers shall be guided in all their relations by the highest standards of honesty and integrity.*
- Section III.5. - NSPE Code of Ethics: *Engineers shall not be influenced in their professional duties by conflicting interests.*

**Discussion:**

Engineering faculty and administrators face important and substantive ethical issues in their professional practice. While some of the ethical issues are similar to those faced by engineers in industry, construction, private practice, and government, other ethical issues are quite different.

Over the years, the NSPE Board of Ethical Review has considered a variety of ethical issues face by engineers in education, including academic qualifications (BER Case No. 79-5), affirmative action programs in academia (BER Case No. 95-8), authorship of scholarly articles and misleading references (BER Case No. 95-7), credit for engineering work and research data (BER Case No. 92-7), information gained during an ABET visitation (BER Case No. 01-12), and many other issues. Each of these cases relate to critical issues involving the protection of the public health and welfare, competency, objectivity, truthfulness and related matters. Most of these cases involved somewhat unique and specialized situations for the Board's consideration.

In contrast, it is the Board's view that the present case involves a situation that may be most analogous to a more typical engineering ethics dilemma often found among engineers in private practice. A good example of this ethical quandary may be found in the line of BER Case Nos. 82-4 and 85-2 relating to the question of conflict of interest, where an engineer is involved in preparation of a set of drawings, plans, specifications, and reports for a private client that is then submitted for review and approval by a public authority. At the same time, the engineer also serves in the capacity as the public

authority's consulting engineer with the responsibility to advise and make recommendations regarding the drawings, plans specifications, reports, and so on, submitted by the private client for review by the public authority.

As noted by the NSPE Code of Ethics and the earlier cited BER cases, this type of situation raises a basic and fundamental conflict of interest, where the engineer as servant to both the private and public clients is being asked to simultaneously serve two masters.

At one time, the NSPE Code required engineers to avoid all conflicts of interest. However, over time, in recognition of the fact that engineers in their professional practice are frequently faced with conflicts between and among public and private clients, the NSPE Code was revised to require the engineer to provide disclosure of the conflict of interest to all interested parties and to leave it to the parties to determine whether the engineer should continue to be involved in providing the professional service in question or whether to remove him or herself from the activity. This is the current manner in which these types of ethical dilemmas are addressed in today's professional practice.

At the same time, all parties involved in these situations must also recognize that regardless of whether the issue is addressed through disclosure, there are often questions of appearances of impropriety to which all parties must be sensitive.

Turning to the facts in the present case and based upon earlier Board of Ethical Review opinions relating to conflicts of interest, it is the Board's belief that there appears to be an inherent conflict of interest that exists between the Department Head and the committee member's active roles as supporting and endorsing candidates for promotion and tenure and their subsequent role in shaping the outcome of the P&T decision-making process.

While it appears that there are procedural "checks and balances" that may mitigate the likelihood of bias or prejudice during the process, because of the active participation by the Department Head and committee members during the earlier stages of the process, there is a greater likelihood that those parties will be less objective, open-minded, or neutral than is required under a promotion and tenure determination process. While the process described under the facts is generally an open one and there appears to be an atmosphere of full disclosure, there is a danger that the process could be tainted by favoritism or disapproval during the discussion and informal reviews.

For that reason, it is the Board's view that it would not be appropriate for a Department Head or department committee member, who writes a letter evaluating a candidate, to participate in the discussion and review of department candidates for College of Engineering P&T committee.

**Conclusion:**

Under the circumstances described in the facts section, it would be unethical for a Department Head and department P&T committee member who writes a letter evaluating a candidate to participate in the discussion of candidates by the College of Engineering P&T committee. The signatories of letters of evaluation should follow the university's P&T process guidelines and recuse themselves from discussions.

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