A Question of Ethics

ASCE Adopts New Code of Ethics: Part 2

In October 2020, the Board of Direction adopted its first comprehensive rewrite of the ASCE Code of Ethics in more than 45 years. The previous column, which appeared in the December 2020 issue, outlined significant structural changes to the code — most notably, its organization of ethical duties into a hierarchy of five “stakeholders” — and reviewed the similarities and differences between the new code and its predecessor with respect to the engineer’s first and highest stakeholder: Society. This second of two columns on the new code continues this comparison by reviewing the duties owed to the remaining four stakeholders.

**QUESTION** How does the new Code of Ethics compare with its predecessor?

**DISCUSSION** The second of five stakeholders in the new Code of Ethics is Natural and Built Environment, a category that corresponds to the sustainability provisions under the prior code’s Canon 1. But whereas the previous canon asked only that engineers “strive” to incorporate sustainability into their engineering practices, the new Code of Ethics is much more prescriptive. Section 2a requires that engineers “adhere to the principles of sustainable development,” while the remaining provisions expand on the nature of this adherence; engineers must “consider and balance societal, environmental, and economic impacts” of their work, “mitigate adverse societal, environmental, and economic effects,” and “use resources wisely while minimizing resource depletion.”

Also notable is section 2b’s directive for engineers to seek “opportunities for improvement” when considering the impacts of their work. While sustainability is often expressed in terms of the engineer’s role in reducing negative impacts, this language is a crucial reminder that engineers should use their knowledge and judgment to create positive impacts as well, either by remediating harms caused by past development or by introducing technological solutions to problems arising from the natural environment.

Third in the new code’s hierarchy of stakeholders is Profession, and the provisions in this section focus on the role of individual engineers in maintaining the reputation of the engineering profession as a whole. Much like the first stakeholder category, Society, this section represents an amalgam of ethical concepts from throughout the previous Code of Ethics. Included in this section is language on unfair competition (much like the prior code’s Canon 5), continuing education (mirroring the old Canon 7), and the duty to “uphold the honor, integrity, and dignity of the profession” (a near-exact replication of the old Canon 6).

A new addition to this code is section 3b’s requirement that engineers “practice engineering in compliance with all legal requirements in the jurisdiction of practice.” While financial crimes such as bribery and fraud were highlighted in the prior code, and certainly most unlawful acts would run afoul of at least one of the past code’s canons, it is interesting that none of the past iterations of ASCE’s Code of Ethics contained an overall requirement for engineers to comply with the law. This new language could be broadly interpreted to make ethical imperatives of everything from licensure requirements to tax reporting, and its inclusion in the code’s third section reflects a belief that legal compliance is essential to preserve the public trust in engineering professionals.

One noteworthy absence in the new Code of Ethics is the previous code’s extensive treatment of advertising conduct. In what some might consider the stuffiest section of the previous code, guideline f under the old Canon 5 devoted some 200 words to what it deemed as “permissible” ways for engineers to advertise their professional services; engineers could place listings “in rosters or directories published by responsible organizations” or display ads in “recognized dignified business and professional publications” but could not use their names in “public endorsement(s) of proprietary products.” While the new code’s language on truthfulness, proper credit, and fair competition would apply to advertising conduct, the new code makes no express reference to advertising. This is perhaps the clearest example of the new code reflecting a change in ethical philosophy, with today’s engineers placing greater value on commercial speech and autonomy than on advertising decorum.

Fourth among the stakeholders is Clients and Employers. Though the placement of clients and employers near the bottom of the ethical hierarchy may seem startling, this should not be read to suggest that an engineer’s duty to clients and employers is unimportant. Rather, this structure is an illustration of how strong the engineer’s commitment is to professional integrity and the public good; in cases of ethical conflict, those values take precedence over even the engineer’s basic duty of service to clients and employers.

Unlike other sections of the new code, this stakeholder category derives most of its content from a single canon of the prior code. Section 4a instructs engineers to “act as faithful agents of their clients and employers,” in a close corollary to the previous code’s Canon 4, while other provisions mirror the old Canon 4’s guidelines on conflicts of interest, confidentiality, and communication with clients and employers.

The fourth stakeholder section also includes two provisions originating...
from the prior code’s Canon 2, namely, the requirements for engineers to “perform services only in areas of their competence” and to “approve, sign, or seal only work products that have been prepared or reviewed by them or under their responsible charge.” Given how closely these two requirements are linked to public safety, one might question whether these two provisions should have been elevated to the top stakeholder category. While the best placement for this language was debated extensively by the drafters of the new code, ultimately it was felt that safety considerations were covered in the Society section’s language on protecting the public health, safety, and welfare, and that it was important also to recognize competence as an ethical obligation owed to clients and employers.

The final stakeholder in the new Code of Ethics is designated as Peers, although the provisions that follow make it clear that this section defines an engineer’s ethical obligations not only to engineering peers but also to subordinates, colleagues from other technical or nontechnical disciplines, and others in the engineer’s professional sphere. As might be expected in a section on engineering peers, several provisions echo guidance from the old Canon 5 on unfair competition; sections 5a and 5b note that engineers must “only take credit for professional work they have personally completed” and “provide attribution for the work of others,” while 5h warns engineers to “comment only in a professional manner on the work, professional reputation, and personal character of other engineers.”

While elements of Canon 8’s stricture to “treat all persons fairly” may be found in nearly all sections of the new code, inclusivity is a resounding theme in this category. Section 5d directs engineers to “promote and exhibit inclusive, equitable, and ethical behavior in all engagements with colleagues,” and 5g instructs engineers to “supervise equitably and respectfully.” This section also includes a unique focus on the engineer’s role in building a safe and constructive work environment; engineers are expected, for example, to “foster health and safety in the workplace,” “act with honesty and fairness on collaborative work efforts,” and “encourage and enable the education and development of other engineers.”

Last in order among the provisions of the new code is another new mandate; section 5i requires engineers to “report violations of the Code of Ethics to the American Society of Civil Engineers.” While ASCE’s bylaws have long included a requirement for members to report observed unethical conduct to the Committee on Professional Conduct, the inclusion of this language in the code puts a new spotlight on the obligation to share knowledge of members whose conduct does not embody the ethical values of the Society and the civil engineering community.

While the new Code of Ethics features dramatic structural changes and a new hierarchy of ethical obligations, a review of the text of this new code reveals more similarities than differences with its predecessor. While the history of ASCE’s codes is one of slow but regular generational shifts in ethical values, it is clear that moral precepts such as competence, diligence, and integrity remain at the heart of today’s engineering practice. CE

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