

# Mining Engineering Ethics

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# Indemnification

The following presentation is intended to discuss and introduce sections of Kentucky Statutes and Regulations regarding the practice of Engineering and Land Surveying in Kentucky. The material presented has been compressed and summarized for presentation during the time period allotted and can be referred to in locating the specific sections of the Kentucky Revised Statutes (KRS) and the Kentucky Administrative Regulations (KAR). The full wording and intent published in the KRS and KAR should be read and investigated prior to reaching any interpretation and/or conclusion regarding any individual or corporate issue.

# Who am I to tell you about Ethics?

We are experiencing a dangerous time in our country with a political environment where basic facts are disputed, fundamental truth is questioned, lying is normalized, and unethical behavior is ignored, excused, or rewarded...

Although I am no expert, I have studied, read, and thought about ethical leadership [ETHICS]...and struggled for decades with how to practice it. No perfect leader is available to offer these lessons, so it falls to the rest of us who care about such things [ETHICS] to drive the conversation and challenge ourselves and our leaders to do better.

-James Comey, *A Higher Loyalty*

# What does Ethics mean?

- More than 2300 years Plato and Aristotle identified Ethics to be the attributes of **honor, honesty, friendship and courage** in developing knowledge in a practical craft or industry.
- Since the 1500's Engineering has developed into many branches with rules to determine if an action is right or wrong.
- Ethics are rules that were adopted to perform tasks the right way.
- **Ethical s** have nothing to do with individual rights or beliefs.
- Governments combine these rules into an Ethical Code to assure **competency, honesty, and fairness** in providing services in an industry.

# Why do we need a Code of Ethics?

- History and persistent errors in practice has demonstrated that members of any trade group or organization need rules to **stay out of trouble** and act in a way that **brings credit to the group**.
- Questions of right or wrong regarding technology, procedures, reliance on computer programs, and legal interpretations require decisions in the practice of Engineering and Land Surveying.
- A Code of Professional Practice and Conduct, an “Ethical Code”, is needed to guide the professional in such decisions.

# Who Established the Code of Ethics for Engineers?

- The United States Constitution gives the power to individual states for the regulation and control of the professions of engineers and land surveyors. The State legislation in turn charge state professional licensing boards with the responsibility of regulating the practice of Engineering and land surveying **to promote the welfare of the public in safeguarding life, liberty, and property.** (NCEES, 2004).
- The **Kentucky State Board of Licensure for Professional Engineers and Land Surveyors** (KYBLPS) was established by an Act of the Kentucky General Assembly in 1938,
- KBPLS protects public health, safety and welfare through the licensing and regulation of individuals and firms to practice Engineering and Land Surveying.

# What is the authority of the Kentucky State Board?

The Board was given authority by the Legislature to promulgate a Code of Professional Practice and Conduct under KRS 322. The Code is intended to

- **Regulate professional conduct** of Professional Engineers and Land Surveyors.
- **Establish and maintain a high standard of integrity, skills, and practice** in the professions of engineering and land surveying.
- Be **binding upon every person holding a certification of registration** as a Professional Engineer or Land Surveyor.
- Vest the Board with **police powers to establish and maintain conduct, policy, and practice.**

Statute	Description
010	Definitions for chapter.
020	Practice of engineering or land surveying without license prohibited.
030	Exceptions to KRS 322.020
040	Requirements for Licensure as a Professional Engineer
050	Requirements for all Applicants
060	Prerequisites for practice of engineering by a business entity -- Permit -- Responsibility for conduct -- Disciplinary Action --
070	Application for Licensure
080	Time, Place and Scope of Examination
090	Reexamination
100	License Fees
110	Rights associated with License
120	Licensure by Endorsement
160	Renewal of License or Permit -Exemption for Armed Forces
170	Replacement and Reissuance of certain licenses and Permits
180	Grounds for Denial of License and for Disciplinary Action
190	Investigation and Resolution of Complaints- Appeals
220	Petition for Reissuance of License after Revocation
230 -330	Function, Duties and Membership of Board
340	License to obtain and Use of a Seal or Stamp of
360	Public work required under Professional Engineer or Licensed Architect.
380	Seeking Business through Another
400-470	Specific to Land Surveyors
550	Buildings or Additions to Existing Buildings requires services of an Architect or of an Architect and an Engineer
560	Maximum Voltage exception for Licensed Electrical Engineer
990	Penalties

# Kentucky Revised Statutes Chapter 322 Engineers and Surveyors

Since 1938, KRS 322 has been revised and amended with the repeal of some statutes and the passage of others. Currently there are 52 Statutes in KRS 322. Three that are of primary interest in this presentation are:

**KRS322:020** - Practice of Engineering or Land Surveying without License Prohibited

**KRS322:060** - Prerequisites for Practice of Engineering by a Business Entity -- Permit -- Responsibility for Conduct -- Disciplinary Action --

**KRS322:180** - Grounds for Denial of License and for Disciplinary Action



## KRS 322.180

# Grounds for Denial of Licensure and for Disciplinary Action

1. Engaged in any **practice of fraud or deceit** in obtaining a license
2. Engaged in **gross negligence, incompetence, or misconduct** in the practice of engineering or land surveying;
3. **Violated any provision of this chapter**, [including] the administrative regulations promulgated by the board, or the **code of professional practice and conduct** in the administrative regulations;
4. **Employed, procured, or induced a person not licensed to practice engineering** or land surveying in this state;
5. **Aided or abetted a person not licensed to practice engineering** or land surveying in this state;
6. **Been granted a license upon a mistake of material fact**;
7. Been convicted by a court of law of a **felony**, if in accordance with KRS Chapter 335B;
8. Become a **chronic or persistent alcoholic or has become drug-addicted** so that continued practice is dangerous to clients or to the public safety;
9. **Developed a physical or mental disability** or other condition so that continued practice is dangerous to clients or to the public safety;
10. Violated any order of suspension or the terms or conditions of **any order of probation** issued by the Board;

## KRS 322.180

# Grounds for Denial of Licensure and for Disciplinary Action

11. Had a license or registration certificate to practice as an engineer or land surveyor **denied, limited, suspended, probated, or revoked** in another jurisdiction...;
12. Engaged in conduct likely **to deceive or defraud the public**;
- 13. Presented or attempted** to use... the license, seal, or stamp of another (engineer);
14. Falsely impersonated any other licensee;
15. Attempted to use an **expired, suspended, or revoked license**;
16. Provided certification for any plan, specification, plat, report, or physical description **not prepared by him or her or under his or her direct supervision**; or\
17. Applied the certification (seal, stamp, signature, or title block) of another professional engineer to any work that was not prepared by that individual.

# 201 KAR 18: Board of Professional Engineers and Land Surveyors

201 KAR 18:	Description
010	Classes of Applicants
020	Application Forms
030	In-training Certificates
040	Fees
060	Rejections
072	Experience
080	Display of License
092	Surveying Core Curriculum
104	Seals & Signature
115	License Restatement
120	Reissuance of License
142	Code of Professional Practice and Conduct
150	Standards of Practice [Surveying]
170	Compensation of Board Members
180	Business Entity Permits
192	Continuing Professional Development LS
196	Continuing Professional Development PE
200	Minimum Standards of Practice for Mortgage Inspection
210	Retired and Inactive Status
220	Administrative Hearing

Affirmed 12/15/2021

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**150 Standard of Practice (Surveying)**

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# 201 Kentucky Administrative Regulation Chapter 18 Board of Professional Engineers and Land Surveyors

201 KAR 18:**140** Code of Professional Practice and Conduct – was:

- Adopted by the KY Legislature on September 8, 1982
- **Repealed on December 15, 2021**

201 KAR 18:**142** Code of Professional Practice and Conduct – was:

- Adopted by the KY Legislature on June 8, 2001, was
- Modified on 7-31-2009, 4-4-2011 and December 4, 2015,
- **Approved as Current on December 15, 2021.**

# 201 KAR 18:142 Code of Professional Practice & Conduct

Affirmed by the Legislature 12/15/2021

Section	Title
1	Definitions
2	The engineer or land surveyor shall conduct his or her practice in order to <b><u>protect the public health, safety, and welfare.</u></b>
3	A licensee shall issue all professional communications and <b><u>work products in an objective and truthful manner.</u></b>
4	A licensee shall <b><u>avoid conflicts of interest...</u></b> and shall <b><u>act objectively and independently.</u></b>
5	A licensee shall <b><u>solicit or accept work only on the basis of his or her, or the licensee's firm's or associates' qualifications</u></b> for the work offered.
6	A licensee shall <b><u>not knowingly associate with any person engaging in fraudulent, illegal, or dishonest activities.</u></b>
7	A licensee shall perform his or her <b><u>services only in the areas of his or her competence.</u></b>
8	A <b><u>licensee shall not certify any work product</u></b> in which <b><u>he or she lacks competence</u></b> by virtue of education or experience, or <b><u>any work product not under his or her direct supervisory control.</u></b>
9	A Licensee shall <b><u>avoid conduct likely to discredit or reflect unfavorably upon the dignity or honor of his or her profession.</u></b>
10	Submitting Violation of KRS Chapter 322 or 201 KAR Chapter 18
11	Communication with Board Members
12	A licensee who is <b><u>in doubt about the ethical propriety of any act or omission may request an informal opinion from the executive director of the board.</u></b>

# How Many Engineers are Licensed in KY?

There are currently **17,883** individuals licensed by the KYBLPS to practice,

Approximately 1,000 individuals are licensed Land Surveyors

The licensed Professional Engineers do not live in Kentucky.

**Kentucky does not license by engineering discipline**, so the exact number of Professional Engineers licensed to practice Mining Engineering in Kentucky is unknown.

In the period **June 2021 to May 2022:**

- only one individual with a mining degree received an initial PE license, and
- three endorsement applications for licensure were received from individuals with mining degrees and passed the NCEES mining engineering examination.



# KYBLPS Enforcement Statistics April 2022

Open Investigative Files as January 1, 2021 -	53
Investigative Files Opened in 2021 -	73
(49 engineering, 20 land surveying, 4 both)	
Investigative Files Closed in 2021 -	65
Open Investigative Files as of December 31, 2021 -	61

<b>Total Number of Case Resolutions – through April 2022</b>	<b>68</b>
Closed with no Disciplinary Actions -	22
Written Admonishments (Warnings, no Disciplinary Action)	31
Educational Letters (Unlicensed Practice) -	2
Suspensions	1
Revocations (Injunction)	1
Agreed Injunctions/Orders (Unlicensed Practice)	1
Reprimands, Fines, Probation, Other Penalties	10

# KYBLPS 13 Consent Decrees or Injunctions through April 2022

Primary Violation of Ethical Standards	Incidents	Consent Decree	Injunction	Letter of Reprimand	2 Year Probation	Other	Fine
Companies Practicing Engineering without a COA	4	3	1	1	0	3	3
Individuals Offering and Practicing Engineering without a License	6	5	1	4	3	4	3
Engaged in Dishonorable, Unethical and Unprofessional Conduct	2	2		2	2	1	2
Providing Misinformation to the Board	1	1		1	0	1	1
<b>TOTAL</b>	<b>13</b>	<b>11</b>	<b>2</b>	<b>8</b>	<b>5</b>	<b>9</b>	<b>9</b>

# Facts regarding Continuing Education in Kentucky

Kentucky requires submittal of 30 hours of Continuing Education (Professional Development Hours) every two calendar years.

If a **Notice of Audit** is received :

- **You must respond within 30 days** from the date of the Notice.
- **You must submit a log with documents** verifying your attendance and/or completion of claimed hours.
- Failure to do so may result in disciplinary action.

If some of your **pdh hours are disallowed**:

- **You will be granted up to 180 days** to either substantiate your original claim or earn other PDH units.
- This applies only to PDH units submitted but disallowed. PDH's submitted is a violation

# Facts regarding Other Issues in Kentucky

Documents with an electronic signature in place of an original seal, signature and date can be electronically transmitted provided the electronic signature:

- 1) is a unique identification of the licensee;
- 2) is verifiable;
- 3) is under the licensee's direct and exclusive control;

The certification of a Spill Prevention, Control and Countermeasure (SPCC) Plan in Kentucky is considered the practice of engineering and therefore requires a PE licensed.