



May 24, 2012

RE: EAOR 33 Policy Advisory Request Regarding Direct Supervision and Engineering Discipline Related to Court Testimony

Dear Anonymous:

The Texas Board of Engineers met in public session on May 24, 2012 and approved this response to an anonymous policy advisory opinion request, received March 16, 2012.

**Background:** The request is made in the context of reports or documents offered to an administrative or judicial tribunal per § 1001.003 (c)(1) and § 1001.004(e)(2) of the Texas Engineering Practice Act (Act):

§ 1001.003 (c) The practice of engineering includes:

(1) consultation, investigation, evaluation, analysis, planning, engineering for program management, providing an expert engineering opinion or testimony, engineering for testing or evaluating materials for construction or other engineering use, and mapping;

§ 1001.004 (e) This chapter does not:

(2) prohibit or otherwise restrict a person from giving testimony or preparing an exhibit or document for the sole purpose of being placed in evidence before an administrative or judicial tribunal, subject to the board's disciplinary powers under Subchapter J regarding negligence, incompetency, or misconduct in the practice of engineering;

In short, the Act allows any individual to provide testimony or exhibits to a court regarding engineering, but if a licensed engineer provides these services, they shall do so in compliance with the Act. If a non-licensed person is accepted by the court, then any engineering documents presented are restricted to the court and not for public release.

**Question 1:** Can a licensed firm issue an engineering report by a Graduate Engineer (practicing in his/her discipline) when the licensed firm has no P.E.s licensed in the discipline of the Graduate Engineer?

**Answer:** Strictly in the context of providing exhibits and reports to a court, the Graduate Engineer would be allowed by the Act to author the report and submit it to the court regardless of the status or discipline of the firm's licensed engineer(s). It should be noted here that the Texas Board does not license engineers by discipline, but does require them to practice within their areas of competency according to Board Rule 137.59(a).

**Question 2:** Should the signature block of the report issued by an engineering firm indicate an engineering firm number?

**Answer:** Again, in the context of question 1, a licensed engineer is required to place the firm registration number on documents released by that engineer. Unlicensed

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individuals (The Graduate Engineer) are not subject to the firm number requirements of the Act:

§137.33 Sealing Procedures

(n) All engineering documents released, issued, or submitted by a licensee, including preliminary documents, shall clearly indicate the firm name and registration number of the engineering firm by which the engineer is employed.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Kinney', with a stylized flourish at the end.

Lance Kinney, P.E.  
Executive Director

LK:CBP:dpt