

Texas Board of Professional  
Engineers and Land Surveyors

Professional Practice  
Update / Ethics

# Presenter

- ▶ Michael Sims, P.E.
- ▶ Director of Compliance & Enforcement
- ▶ [Michael.Sims@pels.texas.gov](mailto:Michael.Sims@pels.texas.gov)



# Agenda

- ▶ About the Board
- ▶ Core Functions
- ▶ Professional Responsibility
- ▶ Scenarios
- ▶ Board Activities

# Website and Social Media

▶ <http://pels.texas.gov>

▶ Facebook: Texas Board of Professional Engineers and Land Surveyors

▶ Twitter: TBPELS\_Exec

▶ LinkedIn: Texas Board of Professional Engineers and Land Surveyors

▶ YouTube:  
<https://www.youtube.com/channel/UCm0YTnjR3StveBxWhCT4MiA>



# REGULATION OF SURVEYING AND ENGINEERING IN TEXAS

- ▶ 1919- Initial Land Surveying Board established for surveying of public lands.
- ▶ 1937 – Texas Board of Professional Engineers established in response to New London School Explosion.
- ▶ 1955 – Additional Land Surveying Board established for surveying of private land.

# REGULATION OF SURVEYING AND ENGINEERING IN TEXAS

- ▶ 1979 – Two surveying boards merged to form Texas Board of Professional Land Surveying.
- ▶ 2019 – Texas Board of Professional Engineers and Texas Board of Professional Land Surveying merged to form Texas Board of Professional Engineers and Land Surveyors.

# TEXAS BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS

Nine Members - Appointed by Governor

- ▶ 5 Licensed Professional Engineers
- ▶ 1 Registered Professional Land Surveyor
- ▶ 3 Public Members
- ▶ 1 Ex-Officio Representative from GLO
- ▶ Standard term is 6 years



PELS

# TBPELS BOARD

## **Dr. Sina Nejad, PE, PEng**

## **Beaumont – Chairman**

Rolando Rubiano, PE

Harlingen-Vice Chair

Coleen Johnson, RPLS

Leander-Secretary

Kiran Shah (public member)

Richmond – Treasurer

Ademola Adejokun, PE

Arlington

Albert Cheng (public member)

Houston

Karen Friese, PE

Austin

Catherine Norwood, PE

Midland

Dr. Marguerite “Margo” McClinton Stoglin (public member)

Grand Prairie

Mark Neugebauer, RPLS, LSLs

Austin



# TBPELS STAFF

37 Staff members, Austin

Lance Kinney, PhD, PE - Executive Director

Michael Sims, PE - Compliance & Enforcement

Rick Strong, PE - Licensing & Registration

Janet Sobieski - Operations

# TBPELS MISSION

## Public Safety & Welfare

Our mission is to protect the health, safety and welfare of the people of Texas through the licensure and registration of qualified individuals as professional engineers and land surveyors, compliance with applicable laws and rules, and education about engineering and land surveying.



PELS

# BY THE NUMBERS

(AS OF JULY 2022)

## ENGINEERING

- 146,000 Texas PE licenses granted since 1937
- Approximately 71,000 current PE licensees
- Approximately 11,400 engineering firms

## SURVEYING

- 6,800 RPLS registrations granted since 1955
- Approximately 2,800 current registrants
- 59 current licensed state land surveyors
- Approximately 1,300 surveying firms

# PROFESSIONAL LICENSING & REGISTRATION

## System to Protect the Public:

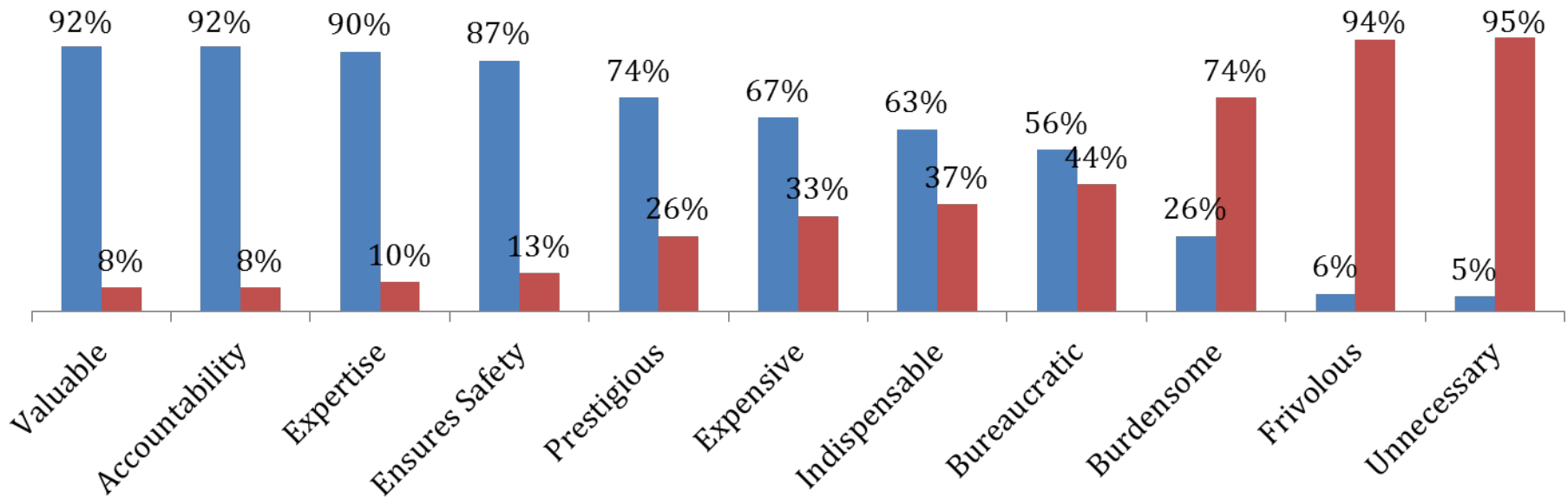
- ▶ Sets the minimum standards for licensure as a Professional Engineer and registration as a Professional Land Surveyor
- ▶ Sets continuing practice and competence standards
- ▶ Sets ethical and professional standards
- ▶ Compliance with these standards of professional practice
- ▶ Standards for indicating competence (titles, seals, etc.)
- ▶ Prevents unqualified individuals from offering or practicing where it could endanger the public

# PROFESSIONAL LICENSING

Fields that are regulated and licensed vary among individual states. Among regulated fields are health care professionals (medical doctors, nurses); psychologists; lawyers; teachers; engineers; ...- *Wikipedia*

- ▶ Most of these fields impact the public one person at a time.
- ▶ The work done by engineers and surveyors has the potential to affect **many**.

# Public Perception - Licensure



Please "click on" and "drag" each of these terms...based on whether you feel it describes professional licensure or not. (N=874)

■ Describes ■ Doesn't Describe

Protection of Public Health, Safety, Welfare

Professional Practice and  
Responsibility

Professional Licensure

Ethics

Education

Experience

Exams



PELS

# Professional Responsibility: Ethics

- ▶ Protection of Public Health, Safety, Welfare
- ▶ Ethical responsibilities and expectations
  - ▶ Avoid Conflicts of Interest
  - ▶ Be a Faithful Agent
  - ▶ Be prepared to have a dissenting opinion, if necessary
  - ▶ Obligation to be aware of violations of the Acts or Board rules.

How does this protect the public?

- ▶ You are expected to know the right thing to do and to do the right thing when engaged in professional practice.



# Professional Responsibility: Professionalism

- ▶ Protection of Public Health, Safety, Welfare
- ▶ Communication
  - ▶ Honesty
  - ▶ Clarity (not misleading)
  - ▶ Respectful of all parties
  - ▶ Maintain Public Trust
  - ▶ Timely communication with the TBPELS

How does this protect the public?

- ▶ You are expected to be complete and correct in your practice.

# Professional Responsibility: Competence

- ▶ Competence is gained by Education and Experience; Measured by examinations
- ▶ Texas uses nationally accepted standards, but considers each application independently.
- ▶ Texas does not license by discipline, but Professional Engineers and Land Surveyors must not practice outside of their competence.
  - ▶ See Board Rules §137.59(a) and §138.59(a) .

# The Texas Engineering Practice Act

- ▶ Chapter 1001 of Texas Occupations Code
  - ▶ Part of State of Texas laws. Any changes must be done by Legislature
  - ▶ Defines practice of engineering
  - ▶ Exemptions from licensure
  - ▶ Structure of the Board, including the establishment of a Surveying Advisory Committee
  - ▶ Powers of the Board
  - ▶ Disciplinary and enforcement authority
  - ▶ Policy Advisory Opinions

# Professional Land Surveying Practices Act

- ▶ Chapter 1071 of Texas Occupations Code
  - ▶ Part of State of Texas laws. Any changes must be done by Legislature
  - ▶ Defines professional surveying and state land surveying
  - ▶ Outlines the individual and firm registration processes
  - ▶ Overview of the practice of land surveying

# Board Rules

- ▶ 22 Texas Administrative Code Chapters 131-139
- ▶ Board rules are adopted and amended by vote of the Board after opportunity for public comment
- ▶ Expand upon provisions of The Texas Engineering Practice Act and Professional Land Surveying Practices Act
- ▶ Board rules must have foundation in statutory authority granted to the Board by the Legislature via the Acts

# Relevant Board Rules

## Engineering

- ▶ Ch 131 – Organization and Administration
- ▶ Ch. 133 – Licensing
- ▶ Ch 135 – Firm Registration
- ▶ Ch 137 – Compliance and Professionalism
- ▶ Ch 139 - Enforcement

## Surveying

- ▶ Ch. 131 – Organization and Administration
- ▶ Ch. 134 – Registration and Licensing
- ▶ Ch 136 – Firm Registration
- ▶ Ch 138 – Compliance and Professionalism
- ▶ Ch 139 – Enforcement

<https://pels.texas.gov/downloads/lawrules.pdf>

# Scenario- Communicating with the Board

Which of the following are you required to timely report to the Board?

- A. Change of email address and home phone number
- B. Change of Employer
- C. Disciplinary Actions taken in another state
- D. Civil lawsuits brought against you
- E. None of the Above

# Scenario- Communicating with the Board

Reporting Required:

A. Change of email address and home phone number

**B. Change of Employer**

**C. Disciplinary Actions taken in another state**

D. Civil lawsuits brought against you

E. None of the Above



# Notifications

- ▶ Within 30 days, licensees or registrants must notify the Board of changes to:
  - ▶ Legal Name Change
  - ▶ Mailing Address
  - ▶ Employer Information or Status
  - ▶ Disciplinary Actions Taken in Another State
  - ▶ Criminal Convictions (Felony or Misdemeanor)
- ▶ See Board Rules §137.5 or §138.5

# Professional Responsibility

- ▶ As a licensed or registered professional, you have:
  - ▶ A wide range of actions
  - ▶ A wide range of options
  - ▶ Legal Obligations
  - ▶ Ethical Obligations
  - ▶ To protect the health, safety, and welfare of the public
- ▶ **Professional Responsibility**

# Professional Responsibility

- ▶ **Board Rules, Ch 137, Subchapter C; Ch 138, Subchapter C**
  - ▶ Signing and Sealing
  - ▶ Direct Supervision / Responsible Charge
  - ▶ Objective and Truthful
  - ▶ Care and Diligence
  - ▶ Actions of Others
  - ▶ Aiding and Abetting
  - ▶ Codes and Ordinances
  - ▶ Continuing Education
  - ▶ Professional Services Procurement Act (PSPA)

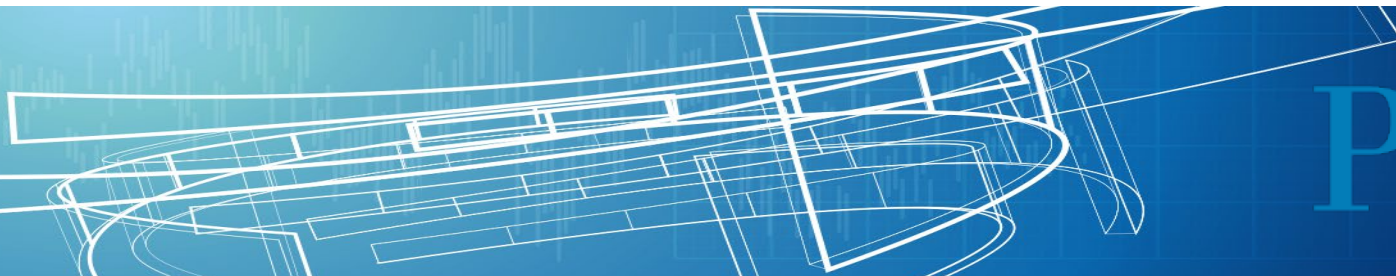
# Signing and Sealing

- ▶ **Signing and Sealing indicates:**
  - ▶ The work was done by the professional OR
  - ▶ Under the direct supervision of the professional
  - ▶ The work is complete and accurate
  - ▶ Preliminary work if properly notated (permit, bidding, etc.)
  - ▶ Responsible parties if more than one professional
  - ▶ Date issued
  - ▶ Revisions
- ▶ **Signing and Sealing indicates your professional responsibility for the work.**

# Scenario – Performing Engineering Work

A homeowner needs a signed and sealed floodplain certification to close on the sale of her home. She does the research on the floodplain to complete the form then asks her neighbor who is a P.E. if he can sign the form to help her out so the closing of the home does not get delayed.

In order to help his neighbor, the P.E. signs and seals the form for her thinking the overall risk associated with this project is minimal.



# Scenario- Performing Engineering Work

This was a violation of:

- A. §137.33(b)** - License holders shall only seal work done by them or performed under their direct supervision.
- B. §137.57(b)(3)** - The issuance of oral or written assertions in the practice of engineering shall not be: misleading or shall not in any manner whatsoever tend to create a misleading impression.
- C. §137.63(a)** - Engineers shall engage in professional and business activities in an honest and ethical manner...
- D. All of the above.**

# Scenario- Performing Engineering Work

## Answer: All of these

- A. **§137.33(b)** – It is not enough to review and seal the work of another person. A PE can only seal work that he or she has personally generated or work that was generated under his or her direct supervision.
- B. **§137.57(a)(3)** – By sealing work that is not his or hers, a PE is giving a misleading impression to the public
- C. **§137.63(a)** – Passing off another person's work as your own would be considered dishonest.

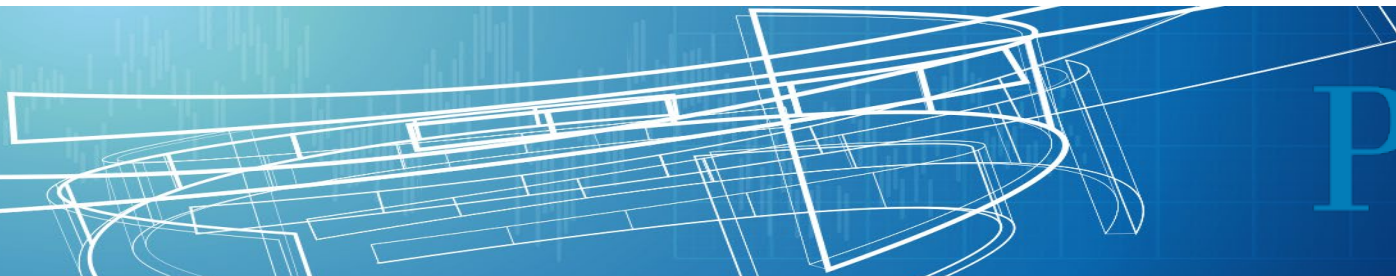
## ► “PLAN STAMPING”

# Scenario- Direct Supervision, Engineering

You are a licensed professional engineer and supervise others who perform engineering work on your projects under your direct supervision.

After you signed, sealed, dated and issued engineering plans for the design of a hotel, it was found that the design of the support columns holding up an awning over the hotel entry was inadequate and if not corrected could result in the collapse of the awning.

During the project, one of your engineers in training (EIT) performed the column analysis which you used to complete the design.





# Scenario- Direct Supervision, Engineering

If a complaint against you was filed with the Board what level of responsibility do you and your EIT bear for the apparent inadequate design of the columns with respect to Board rules?

- A. You - 100%; Your EIT – 0%
- B. You – 50%; Your EIT – 50%
- C. You – 0%; Your EIT – 0% - The deficiency was caught and corrected.
- D. You – 0%; Your EIT – 100%

# Scenario- Direct Supervision, Engineering

Answer:

- A. You - 100%; Your EIT – 0%**
- B. You – 50%; Your EIT – 50%
- C. You – 0%; Your EIT – 0% - The deficiency was caught and corrected.
- D. You – 0%; Your EIT – 100%

As the licensed professional overseeing the work, it is your professional responsibility that all work is done correctly.

**You are in responsible charge.**

# Scenario – Honesty and Objectiveness

You have been engaged to perform an engineering inspection by a business owner whose building was damaged by hail. His insurance claim has been denied and he wants to refute the claim.

The business owner informs you that a professional engineer for the insurance company described some of damage to the building roof may have been caused by the hail-storm, but most of the observed damage was old damage not caused by the storm event.

The owner also told you that he is hoping your engineering report can be used to prove to the insurance company that it should pay for a complete roof replacement.



# Scenario – Honesty and Objectiveness

You conduct your inspection and it seems some of the roof damage is not due to hail. What do you do?

- A. Provide select weather data and photographs of damage, and write a report indicating that all the damage was related to the storm event in order to support your client.
- B. Provide weather data, photographs, and write a report with your conclusion that some of the damage was caused by the storm event and some of the damage pre-dated the storm event with detailed information that supports that conclusion.
- C. Decline the engagement because you believe the client was not interested in an objective finding.
- D. Decline the engagement because you do not believe there is ever a winner in insurance related claims.

# Scenario – Honesty and Objectiveness

## Answer: B

- B. Provide weather data, photographs, and write a report with your conclusion that some of the damage was caused by the storm event and some of the damage pre-dated the storm event with detailed information that supports that conclusion.

**It is your professional responsibility to be honest, objective, and truthful regardless of your client.**

Support your conclusions with data and facts.

Do not exhibit bias or preferential treatment based on the client.



# Professional Services Procurement Act (PSPA)

- The PSPA (Texas Government Code Chapter 2254) prohibits governmental entities from selecting providers of certain professional services on the basis of competitive bidding.
- Includes cities, counties, school districts, state agencies and other public bodies.
- When selecting an architect, engineer, or land surveyor, the PSPA requires a governmental entity follow Qualifications Based Selection (QBS)
- QBS is a two-step process which requires the governmental entity to:
  - First - select the most highly qualified provider of services, and
  - Second - negotiate a price

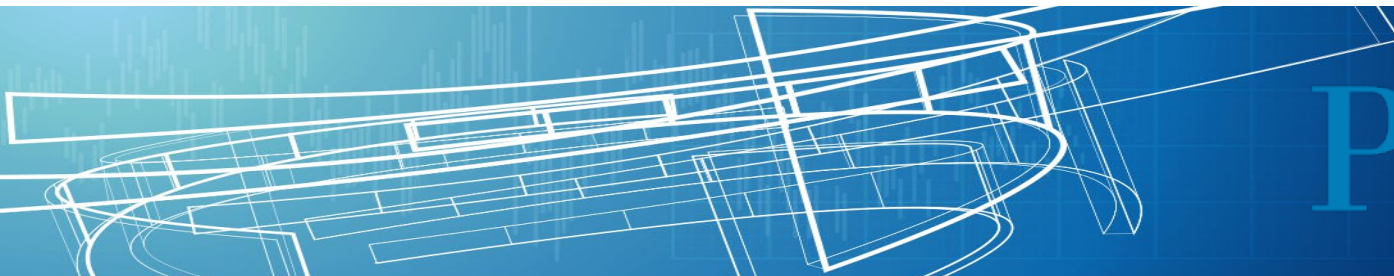
# Scenario- PSPA

A town in Texas is getting ready to proceed with a new project to construct a town library.

A prominent consulting engineering firm located in an adjoining city was awarded the engineering contract for this project.

However, this firm, after getting the project, decided that it would require additional engineering design and surveying work, so the firm sent a Request for Proposal (RFP) to your firm, asking if your firm would be interested in performing work for the project.

They requested a cost estimate from your firm to provide that work.



# Scenario- PSPA

As the responsible professional for your firm:

- A. You respond to the RFP with a cost estimate because you were not contacted directly by the town but rather by a private engineering company.
- B. You respond to the RFP providing general cost information that you normally charge for similar projects, but not costs specific to this project.
- C. You respond to the RFP by providing your firm's qualifications, but you do not provide any cost or pricing information.
- D. You respond to the RFP with your firm's qualifications listing the number of professional engineers/surveyors who would work on the project and their hourly billing rate, but you do not provide a total cost for the project.

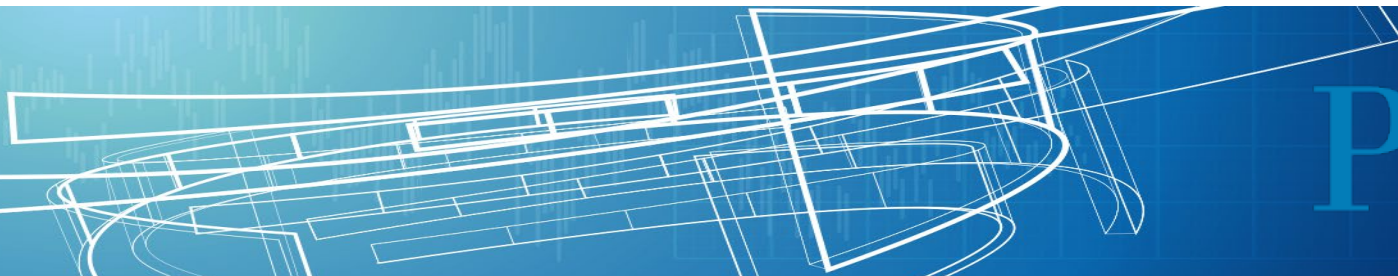


# Scenario- PSPA

Answer: C

C. You respond to the RFP by providing your firm's qualifications, but you do not provide any cost or pricing information.

PSPA applies at all levels of professional service for public projects.



# Continuing Education

- ▶ 15 hours for PE
- ▶ Must include 1 hour of Ethics for PE
- ▶ May include self-study (5 hours max – PE)
- ▶ Various other options to obtain continuing education. See Board Rules 137.17(f)
- ▶ You may carry forward hours for one renewal cycle. Must actively earn required ethics hours during the cycle
- ▶ Random audits ongoing; keep documentation for 3 years

# Continuing Education

NCEES system for Continuing Professional Competence (CPC) tracking and reporting

- ▶ No fee to register and create an account
  - ▶ Upload documentation
  - ▶ Report as needed for different Boards
- 
- ▶ <http://ncees.org/cpc/>

# COMPLIANCE & ENFORCEMENT

Technical / Ethical / Professionalism

Approximately 650-700 Cases opened annually

- ▶ 599 Engineering Complaints (FY 2022)
- ▶ 45 Surveying Complaints (FY 2022)
- About 60% resolved with Voluntary Compliance
- About 30% receive guidance for violations or formal sanction
- Less than 10% Dismissed

# Enforcement - Filing A Complaint

- ▶ Mail, email, phone, facsimile – all are acceptable for initial contact
  - ▶ Anonymous complaints are accepted
- ▶ A complaint form or detailed letter/email is needed to cover all the bases
  - ▶ Forms can be found Online
- ▶ Provide specific instances of violation
- ▶ Provide evidence to show probable cause

# Board Actions

- ▶ Reprimands (Formal and Informal)
- ▶ Suspension (possible probation)
- ▶ Refuse to Renew
- ▶ Revocation
- ▶ \$5,000 per violation per day (Eng) / \$1,500 (LS)
- ▶ Cease and Desist Orders
- ▶ Emergency Suspension

# Additional Enforcement Options

- ▶ Ethics Courses
  - ▶ Murdough Center for Engineering Professionalism (Texas Tech)
  - ▶ Researching possible surveying ethics courses
- ▶ Technical Courses
- ▶ Restitution
- ▶ Practice limitations
- ▶ Civil or Criminal cases
  - ▶ Assisting Jurisdictional Authorities

# Enforcement

By law, all violations, except informal reprimands, must be published

- ▶ On TBPELS website by Board Meeting Date
- ▶ Added to NCEES Enforcement Exchange (national database)
- ▶ Published in the quarterly E-newsletter



# Enforcement Limitations

The Legislature has **not** given the Board the authority to:

- ▶ Assess monetary damages
- ▶ Settle a disputed property boundary
- ▶ Insert itself into engineering or surveying decisions made by local governments or other state agencies
- ▶ Force a licensee or registrant to “remedy” a problem
- ▶ Investigate a registered firm’s business practices (billing, project timing, etc.)

# Preventing Enforcement Action

- ▶ CLEAR:
  - ▶ Communication (between all parties)
  - ▶ Contract (expectations and responsibilities)
  - ▶ Calculations and designs (be prepared to support)
- ▶ Keep your Documentation

*Most importantly – know the law and contact us if you have a question!*

# Engineering Policy Advisory Opinions

- ▶ Provision Added to TEPA in 2003
- ▶ Allows Board to develop formal written interpretations of law and rules for specific or hypothetical 'Gray Areas'
- ▶ ~60 interpretations for a variety of subjects
  - ▶ <http://pels.texas.gov/policy.htm>
- ▶ How to submit PAO Request / Forms at:
  - ▶ [http://pels.texas.gov/Policy\\_Advisory.htm](http://pels.texas.gov/Policy_Advisory.htm)

# Recent Board Activity

- ▶ Rule clarifications and clean-ups adopted by Board in May became effective July 3. Act and Rule document on website already updated.
- ▶ Continuing work on State Specific Surveying Exam.
- ▶ Update to LSLs sealing rules became effective in September.
- ▶ Next Legislative Session will start in January 2023. See TBPELS website for updates on bills effecting engineering or surveying once session begins.
- ▶ Three new members appointed to Surveyor Advisory Committee at August Board meeting.

# Engagement - Webinars

- ▶ Professional Practice and Board Updates
  - ▶ Available addressing both professions or tailored to P.E. or R.P.L.S.
  - ▶ Monthly, Multiple sessions during renewal months (general)
  - ▶ Sign up online
- ▶ FE Exam / Why become a PE? (Students)
- ▶ FS Exam / Why become an RPLS? (Students)
- ▶ How to Apply (EITs and SITs)

# Engagement – Newsletter

- ▶ E-Newsletter goes out quarterly.
- ▶ If you are not receiving it and want it, update your e-mail address in ECHO.
- ▶ Also available on Board's website:
  - ▶ <https://pels.texas.gov/e-newsletter.htm>



# Outreach

- ▶ Monthly and Quarterly Webinars
- ▶ Face to Face Outreach
  - ▶ Resumed in Spring 2022
- ▶ Includes K-12 / E-Week

Fiscal Year	Attendees	Presentations
2015	19,751	150
2016	19,554	138
2017	23,054	144
2018	23,104	168
2019	26,216	154
2020	25,216	91
2021	24,407	78
2022	24,908	82

# Thank You

- ▶ [pels.texas.gov](http://pels.texas.gov)
- ▶ [info@pels.texas.gov](mailto:info@pels.texas.gov)
- ▶ 1917 S Interstate 35, Austin, TX 78741
- ▶ Phone: 512-440-7723

