

# Would you be able to recognize a conflict of interest?

**A**lthough the expression “conflict of interest” has been widely used in conversation for quite some time, it can be tricky to define. This fairly vague concept can spawn questions: What is a conflict of interest and how do you recognize it? Are there several types of conflicts? What does the term “interest” refer to exactly?

First of all, we suggest that you read our definition of conflict of interest, which is based on various sources:<sup>1</sup>

A situation in which people in a position of authority have a real or potential interest that may influence or seem to influence the way they execute their tasks or responsibilities.

In other words, a conflict of interest begins when a physical or legal entity is directly or indirectly involved in multiple interests and one of these interests has undue influence over the others. For example, a conflict of interest occurs when an individual acting in a position of authority, a public office or the public interest has personal interests that compete with the mission of his or her function.

A conflict of interest is not necessarily illegal or criminal, but raises public doubts and suspicions about the integrity and impartiality of people in positions of authority. Although they may appear minor in the beginning, when these situations are repeated, they inevitably undermine the public’s trust in the people or groups of people who are in a position of authority.

## ENGINEERS AND CONFLICTS OF INTEREST IN ALL THEIR FORMS

Since public trust in the various professions in Québec is of vital concern to each of its professional orders, the Professional Code has set out in the code of ethics of each regulated profession that provisions should be adopted to prevent situations where a conflict of interest may arise.<sup>2</sup>

As for the Code of Ethics of Engineers, it contains several provisions requiring OIQ members to avoid any behaviour that puts their personal interests before the public interest. Therefore, all engineers must refrain from participating in decisions where their own financial interest is at stake. Likewise, they must not undeservedly favour one individual over another, accept gifts or other benefits that have more than nominal value, pay or agree to pay a benefit to anyone in exchange for a contract, etc.

In order to help you understand the various conflicts of interest that engineers could face, we have summarized the provisions in the Code which speak to these situations, either directly or indirectly.

First, an engineer must fulfill his professional obligations with integrity (section 3.02.01). Here the Code refers to the integrity that the public expects from an engineer placed in a given situation. Integrity, which means “a firm adherence to a code of especially moral or artistic values<sup>3</sup>”, must not vary from one individual to another.

The engineer shall not resort nor lend himself to nor tolerate dishonest or doubtful practices in the performance of his

*“The appearance of a conflict of interest is as detrimental to the profession’s honour, dignity and credibility as is a real conflict of interest.”*

professional activities (section 3.02.08). Dishonest or doubtful practices are strategies used by engineers acting with the intention to deceive. For example, let us think of an engineer participating in a call to tender, knowing that the tenderers conspired together (collusion), regarding their bids.

An engineer shall not pay or undertake to pay, directly or indirectly, any benefit, rebate or commission in order to obtain a contract or upon the carrying out of engineering work (section 3.02.09). For example, an engineer who promises the client a commission is in a conflict of interest.

An engineer must be impartial in his relations between his client and the contractors, suppliers and other persons doing business with his client (section ). It might be tempting to favour one’s own client over others, but engineers can never set aside their objectivity. They must make sure their actions never cause the public any damage.

## AN INDEPENDENT AND IMPARTIAL PROFESSIONAL

Independence and impartiality are paramount for engineers; an entire section of the Code is dedicated to these topics. In fact, sections 3.05.01 to 3.05.06 provide a framework for all situations relating to conflicts of interest. In that respect, section 3.05.01 prescribes that engineers must subordinate their personal interests to those of their clients.

Pursuant to section 3.05.02, an engineer must ignore any intervention by a third party which could influence the performance of his or her professional duties to the detriment of his or her client. It bears reminding that the “client” referred to in this section is not necessarily a “paying client” but one who benefits from the engineer’s professional services, namely the public who will use the fruits of the engineer’s labour.

Sections 3.05.03 and 3.05.04 deal directly with conflicts of interest. They indicate that engineers must safeguard their professional independence at all times and avoid any situation which would put them in a conflict of interest. If they find themselves in such a situation, they must advise their client at once and ask for permission to pursue the mandate.

For engineers, a conflict of interest arises when their professional judgment is influenced by considerations which have nothing to do with neither the public's nor the client's interest<sup>4</sup>. This notion refers to the real conflict of interest as well as the perceived or potential conflict. Consequently, an engineer who gives the impression of being in a conflict of interest violates section 3.05.03. "The appearance of a conflict of interest is as detrimental to the profession's honour, dignity and credibility as is a real conflict of interest<sup>5</sup>." (Unofficial translation.)

In summary, while it is sometimes difficult to clearly define a situation which could constitute a conflict of interest, engineers must have the reflex to analyse their behaviour from the public's point of view. By thinking objectively, engineers will be able to avoid violations to the Code more easily.

If you want to learn more about this topic, you are invited to attend the Ordre's seminar scheduled to take place May 12 and 13, 2011, during which participatory conferences will focus on questions relating to ethics and professional conduct. You can also contact the Office of the Syndic through the ethics phone line, at 1 877-ÉTHIQUE.

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1. Wikipedia et al.
  2. Section 87 of the Professional Code.
  3. Definition taken from the Antidote dictionary, 2010.
  4. VANDENBROEK, François, "L'ingénieur et son Code de déontologie", Les Éditions Juriméga, 1993, pp. 95 to 97
  5. Idem.