

ethics and professional conduct

By Philippe-André Ménard, Eng., Assistant Syndic

in collaboration with M^e Martine Gervais, lawyer, head of the Inquiry Request Management team of the Office of the Syndic

WORKING RELATIONSHIPS: THE SCOPE OF THE CODE OF ETHICS OF ENGINEERS

In Quebec, several laws and regulations regulate working relationships (Labour Code, Act respecting Labour Standards, etc.), but how does the Code of Ethics of Engineers apply to working relationships?

The Code of Ethics of Engineers is a public regulation, which means that it takes precedence over employment contracts and company bylaws and policies, regardless of whether you are an employee (unionized or not), manager or employer.

In some situations, there are overlapping jurisdictions: The OIQ's Disciplinary Council does sanction engineers for specific derogatory acts, even if they have already received administrative penalties from their employers for the same actions, which can even include being fired.¹

The Code of Ethics regulates certain aspects of working relationships between engineers and their employers, because it explicitly refers to employers as engineers' clients.² This means that engineers have ethical and professional obligations to their employers, such as confidentiality, competence and integrity.

The Code of Ethics also addresses cases where engineer executives or employers manage one or more engineers:

"An engineer shall not [...] take advantage of his capacity of employer or executive to limit in any way the professional independence of an engineer employed by him or under his responsibility [...]."³



However, on that note, it is important not to confuse everything: Professional independence does not grant any more decision-making authority than conferred by the employment status.

Yes, engineers can and must independently and impartially provide technical opinions, based on their knowledge and convictions. However, employers are still in charge of making their own decisions and may therefore consult other engineers for assistance in their decision-making process and even decide not to take the advice of an engineer employee.⁴ They can also comment on an opinion, a report or any other deliverable produced by an engineer employee, such as by asking for more details or clarifications, since these activities are implicit in managing and organizing work.

Of course, the Office of the Syndic has no authority over the managerial rights inherent in working relationships. Hiring, setting objectives, determining

priorities, assigning tasks, evaluating performance, monitoring activities, issuing administrative penalties and even firing are some of the managerial activities that do not generally fall within the purview of the Code of Ethics.

Indeed, certain inappropriate, misplaced or abusive behaviours in the workplace must be reported. When these behaviours are committed in connection with engineering practice⁵ and their nature and gravity are such that they are derogatory to the honour or dignity of the profession, then yes, they are subject to disciplinary sanctions⁶.

However, the victims of such behaviors should at the same time report them to their human resource managers, supervisors, union or the bodies and tribunals with authority over such matters,⁷ because neither the Disciplinary Council nor the Office of the Syndic has the authority to order compensation measures (compensation, reintegration, etc.). ■

1. For more on this topic, see the decision issued by the Disciplinary Council of the Ordre des ingénieurs du Québec in the matter of *Ingénieurs (Ordre professionnel des) v. Beaumier*, 2020 QCCDING 12 (CanLII).
2. Section 1.02: "In this regulation, unless the context indicates otherwise, the word "client" means a person to whom an engineer provides professional services, including an employer."
3. Section 4.02.03.
4. Section 3.01.04: "An engineer must at all times acknowledge his client's right to consult another engineer and, in such cases, he must offer his cooperation to the latter."
5. Engineering practice is a broad concept that is not limited to only those acts that are reserved and defined in the *Engineers Act*. Therefore, in cases without any connection to engineering practice, recent case law has begun to consider the concept of "connections to essential qualities for practicing this profession." (See decision issued by the Professions Tribunal in the matter of *Avocats (Ordre professionnel des) v. Thivierge*, 2018 QCTP 23 [CanLII]).
6. For more on this topic, see the decision issued by the Disciplinary Council of the Ordre des ingénieurs du Québec in the matter of *Ingénieurs (Ordre professionnel des) v. Semerjian*, 2018 CanLII 9936 (QC CDOIQ).
7. For example, the Commission des normes du travail is the appropriate forum for harassment cases.