



February 21, 2023

Mr. Ryan Edwards, P.E.
2928 Story Road West
Irving, TX 75038
Via e-mail

Re: Formal Response to Request for Policy Advisory Opinion Regarding Sealing Certain Tests That Private Associations Require Certification to Issue; (Policy Advisory Request No. 63)

Dear Mr. Edwards:

The Texas Board of Professional Engineers and Land Surveyors (Board) met in public session on February 16, 2023, and approved this response to your request, dated December 21, 2022.

Request:

You seek guidance on the following issues:

- Does an engineer who signs and seals a report which private trade associations require certification to approve, violate the Texas Engineering Practice Act or Board Rules, if the engineer is not certified by that organization?

Response:

The Board acknowledges that certain private trade associations may require certification through them to run certain tests.

However, Section 1001.401(e) of the Texas Engineering Practice Act states “a license holder shall not be required to provide or hold any additional certification, other than a license issued under this chapter, to seal an engineering plan, specification, plat or report.”

As such, as long as an engineer is competent in the area of engineering related to the report [see Board Rule 137.59(a)], he or she would not be in violation of the Act or Board rules by sealing a report without holding a separate certification through the private trade association. As part of sealing the report, it should be clear the extent of the engineer’s involvement in the preparation of the report (i.e.: if the engineer only reviewed the results or also ran the test).

As with all engineering work, you should ensure you follow the signing and sealing and direct supervision requirements (see Board Rule 137.33 related to Sealing Procedures and Policy Advisory Opinion No. 60 relating to Relying on Third Party Information in Forming Engineering Opinions).

However, please note that any conflict regarding the sealing of the test that may arise between the engineer and the private trade organization is outside the jurisdiction of the Board.

Conclusion:

No new Policy Advisory Opinion will be developed for this request as the question is addressed by the Act.

If you have any further questions, please contact Mr. Michael Sims, P.E., Director of Compliance & Enforcement at 512.440.7723.

Sincerely,

A handwritten signature in black ink, appearing to read "Lance Kinney". The signature is written in a cursive style with a large, stylized "L" and "K".

Lance Kinney, Ph.D., P.E.
Executive Director

LK:MZS