

New Business 6. The Board will revisit the prior opinion on gratuities
Question submitted to the Board:

I have been invited by a sales representative and will be attending a manufacturers seminar at the manufacturers headquarters out of state. The trip includes the airfare, lodging, meals, factory tour, systems presentations, and an NHL hockey game. I would like to know what part(s), if any, of the trip I would need to reimburse the manufacturer's representative for to comply with IDAPA 10.01.02, 008., 04. Gratuities. This trip is not in connection with a specific project, but it is a boiler manufacturer that I have specified on projects in the past.

A similar question was submitted to the Board on May 19, 1999:

I am writing to ask for a written interpretation of the laws and regulations pertaining to the practice of the professions of engineering and land surveying in accordance with IDAPA 10, Title 01, Chapter 2 10.01.02003.

I am a licensed professional engineer employed by Engineering Incorporated, which is a Boise-based consulting firm specializing in the design of HVAC, plumbing and fire protection systems within commercial buildings. As a design firm, we specify equipment and materials used in the construction of HVAC, plumbing and fire protection systems.

Equipment suppliers have invited company employees to attend factory tours. These tours are designed to familiarize engineers and contractors with the current product or equipment being manufactured. Normally included in the tour is a review of the manufacturing facility, quality control procedures, safety features of the equipment, testing procedures, etc. Also included is airfare, meals and lodging paid by the equipment manufacturer.

The Board at the time responded as follows:

At its June 18, 1999, meeting, the Board discussed your letter dated May 19, 1999 relative to the Rules of Professional Responsibility. The Board concluded, after considering the situation you related, that it would not be a violation of the Rules of Professional Responsibility for an engineer to accept a factory-sponsored tour of a manufacturing facility, so long as the tour was for background education and not "an effort to improperly influence the Registrant's or Certificate Holder's professional judgement."

Upon further research and reflection, this Board feels that the Boards 6/18/99 deliberation and subsequent opinion concerning the 5/19/99 request for interpretation did not fully address the issue. Primarily, the previous opinion did not address the possibility of a third party or the public's perception of receiving the gift of travel, entertainment and accommodations may have had on the Licensee or Certificate Holder. The attendance and receipt of related training materials has been well established as a normal and ethical or even a necessary activity for a professional to participate in. The acceptance of travel, entertainment, and lodging however could be perceived by others as a way to influence the Licensee or Certificate Holder favorably towards the provider, and thus should be avoided.

Conclusion and Opinion of the Board (August 1, 2018):

Per IDAPA 10.02.008.04, the attendance of the seminar, related materials, advertising trinkets, and meals during the seminar or immediately before or thereafter are de minimis and ethical to accept. The travel, lodging and hockey tickets however are not minor expenditures, and should not be accepted or offered because they could be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Further, if the training is worth the time investment of the professional, then the Licensee, Certificate Holder or their employer should cover the expense of travel, lodging and entertainment to avoid any possible perception of undue influence.