

ETHICS & THE RULES OF PROFESSIONAL CONDUCT

NORTH CAROLINA BOARD OF EXAMINERS FOR ENGINEERS AND SURVEYORS

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WWW.NCBELS.ORG

2025

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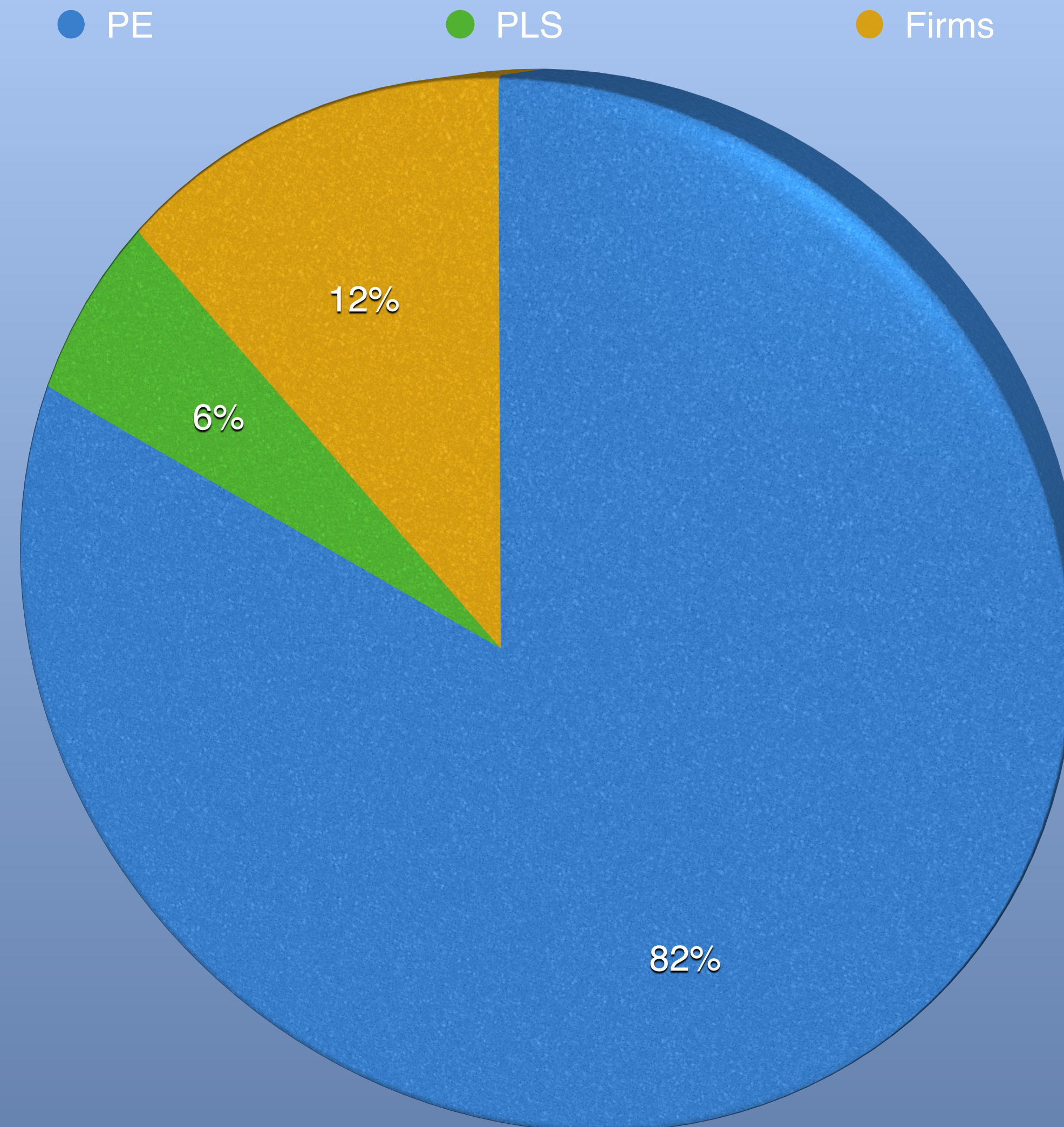
G.S. 89C - THE PRACTICE ACT

- ✱ *In order to safeguard life, health, and property, and to promote the public welfare, the practice of engineering and the practice of land surveying in this State are hereby declared to be subject to regulation in the public interest. [G.S. 89C-2]*

REGULATING THE PROFESSIONS

- * Licensure
 - * Education
 - * Examinations
 - * Experience
- * Enforcement
 - * G.S. 89C
 - * Non-licensed practice
 - * Board Rules

LICENSEES (40,098) 12/2/2024



KEY REFERENCE SOURCES

- * www.ncbels.org
 - * Rules & Laws
 - * Policies & Guidelines
 - * Newsletters & Articles
 - * Continuing Education page
 - * Current Board News

BOARD RULES

- * Rules of Professional Conduct
 - * Minimum “ethical” requirements
- * Standard Certification Requirements
- * Standards of Practice for Land Surveying in North Carolina
- * Continuing Professional Competency requirements

CPC RULE .1702(7)

- * 1 PDH in ethics or Rules of Professional Conduct - content areas:
 - * Raise awareness of ethical concerns and conflicts;
 - * Enhance familiarity with codes of conduct;
 - * Understanding of standards of practice or care;
 - * Project management and risk-assessment management; or
 - * Other similar topics relevant to conducting the practice to protect the health, safety, and welfare of the public
- * You have some flexibility
- * Not sure, ask

RULES OF PROFESSIONAL CONDUCT

- * What is your primary obligation?
 - * Conduct practice to protect the public
- * Did you know that you are required to know the Rules?
- * What does practicing within your area of competence mean?
 - * Training, education and experience....

RULES OF PROFESSIONAL CONDUCT

- ✱ Be truthful and objective, and include all relevant and pertinent information, in professional statements, reports and testimony
- ✱ What is considered indiscriminate criticism of another licensee?
 - ✱ Criticism without valid basis or cause, not objective and truthful, and doesn't include all relevant and pertinent information

RULES OF PROFESSIONAL CONDUCT

- * Avoid conflicts of interest
 - * Notification....
- * Shall not accept compensation from more than one party for services on same project, without written agreement from both parties
- * Shall not solicit or accept financial or other considerations for specifying material or equipment suppliers
- * Shall not solicit or accept gratuities from contractors, or others, dealing with client or employer in connection with your work

RULES OF PROFESSIONAL CONDUCT

- * Avoid conflicts of interest
 - * In public service, shall not participate in consideration to services provided by you or your firm
 - * Shall not solicit a contract from a governmental body on which a principal or officer serves as a member
 - * Shall not supplant or attempt to supplant another licensee

RULES OF PROFESSIONAL CONDUCT

- * Solicit work based upon qualifications
 - * Shall not offer to pay, directly or indirectly, any commission, contribution, gift or other consideration to secure work
- * Compete for work based upon qualifications and competence
- * Don't falsify or misrepresent qualifications and past accomplishments

RULES OF PROFESSIONAL CONDUCT

“Shall, with regard to fee bidding on public projects, comply with the provisions...(of Federal and State Acts)...and shall not knowingly cooperate in a violation of any provision....”

NORTH CAROLINA'S MINI BROOKS ACT

- * Concerns procurement of professional services performed by architects, engineers, surveyors, and construction managers at risk
- * G.S. 143-64.31
- * Chapter 143 - State Departments, Institutions, and Commissions
- * Article 3D - Procurement of Architectural, Engineering, and Surveying Services

WHAT IS QBS?

- ✱ Mini-Brooks requires Qualifications Based Selection (QBS)
- ✱ Procurement process that focuses on the qualifications of potential firms rather than their fees or the price of the contract
- ✱ Often done by using a request for qualifications (RFQ) to solicit responses from interested firms and individuals
- ✱ QBS is not competitive bidding (i.e. lowest bidder)

DECLARATION OF PUBLIC POLICY

- * G.S. 143-64.31

- * “It is the public policy of this State and all public subdivisions and Local Government Units thereof...to announce all requirements for architectural, engineering, surveying, construction management at risk services, design-build services, and public private partnerships....”

DECLARATION OF PUBLIC POLICY

- * The Act applies to all units of government in North Carolina
 - * State
 - * Counties
 - * Municipalities

EXEMPTIONS [G.S. 143-64.32]

- * Authorizes units of local government and NCDOT to exempt themselves from projects where the professional fee is less than \$50,000 (anything over, the Act applies and QBS must be used)
- * QBS not required
- * Can use any method they choose to select

EXEMPTIONS [G.S. 143-64.34]

- * (1) State capital improvement projects under the jurisdiction of the State Building Commission;
- * (2) capital improvement projects at UNC System; and
- * (3) community college capital improvement projects
- * Less than \$500,000

HOW TO RESPOND?

- ✱ If you think the unit of local government or agency is violating the Mini-Brooks Act
 - ✱ Contact the agency or local government and ask for justification (may resolve)
 - ✱ You can contact the Board for guidance; however, the Board does not have authority over other agencies and units of local government
 - ✱ If you believe RFQ violates Act, don't respond

MINI-BROOKS ACT

- * Further information can be found on the Board's website
 - * Policies & Guidelines page
 - * Mini-Brooks Act, Qualifications Based Selection, G.S. 143-64.31 et seq. ([pdf slide presentation](#))

RULES OF PROFESSIONAL CONDUCT

- * Perform services in an ethical and lawful manner
 - * Don't associate with dishonest or non-licensed individuals/firms
 - * What should you do if you're aware of a violation?
- * Comply with other jurisdiction's requirements
 - * Committing violations elsewhere can subject you to discipline in North Carolina

RULES OF PROFESSIONAL CONDUCT

- * Exercise responsible charge over all professional work
 - * Have direct control and supervision over work certified
 - * Possess full professional knowledge of and control over work
 - * Exercise authority to review, change, reject or approve work in progress and final work, through examination, evaluation, communication and direction throughout development of work

RULES OF PROFESSIONAL CONDUCT

- * Responsible charge
 - * Be personally aware of scope of work, its needs, parameters, limitations and special requirements
 - * Be capable of answering questions relevant to surveying or engineering decisions made
 - * Accept full responsibility for the work

RULES OF PROFESSIONAL CONDUCT

- * Responsible charge
 - * Maintain records, calculations, drawings, surveys, specifications and other documents associated with work
 - * The burden for demonstrating responsible charge lies with you!

RULES OF CONDUCT OF ADVERTISING

- * *...shall not make exaggerated, misleading, deceptive or false statements or claims about professional qualifications, experience or performance....*
- * Includes:
 - * Omitting facts necessary to keep statements from being misleading
 - * Making statements intended or likely to create unjustified expectations
 - * Making statements containing a prediction of future success

STANDARD CERTIFICATION REQUIREMENTS

- * If certified as final, the public can rely upon it
- * Know the exceptions to required certification
- * Does it represent your work (or work prepared under your responsible charge)?
- * Are you competent in all areas certified?

STANDARD CERTIFICATION REQUIREMENTS

- ✱ Is the work properly delineated (if contains the work of more than one design professional)?
- ✱ Make sure your staff knows not to release engineering or surveying work product without your knowledge

STANDARD CERTIFICATION REQUIREMENTS

- * What else to consider?
 - * Is it properly certified (seal, signature, and date of signing)
 - * Complete address
 - * Firm license number

STANDARD CERTIFICATION REQUIREMENTS

- * If certified with digital signature, does it comply with Board Rule .1103(e)?
 - * Unique to the licensee using it
 - * Capable of verification
 - * Under the sole control of the licensee
 - * Linked to document in such a manner that the digital signature is invalidated if any data in the document is changed

REPORTING REQUIREMENTS

- * Change of address
- * Criminal conviction
- * Disciplinary action
- * Change in resident professional
- * Firm ownership changes
- * Name changes (requires Board approval)

Business Compliance

- * “Moonlighting”
- * Ownership requirements
- * Resident professional and responsible professional requirements

COMPLAINTS

- * In writing or submitted electronically
- * Provide evidence to corroborate allegations
- * Meet with investigator
- * Possibly testify at hearing

COMPLAINTS

- ✱ Per G. S. 89C-10(f), investigations are confidential until citation issued to licensee or action taken against non-licensee
- ✱ Per .0701(h)(2), professional obligation to file complaint if aware of violation of G.S. 89C or the Board Rules
- ✱ Per G.S. 89C-20, every licensee shall cooperate fully in the course of any investigation

DISCIPLINARY CONSIDERATIONS

- * The Board's authority to discipline - G.S. 89C-21
- * Disciplinary actions, charges and procedures
 - * G.S. 89C-22
 - * 21 NCAC 56.1301 - Licensees
 - * 21 NCAC 56.1302 - Non-licensees

DISCIPLINARY CONSIDERATIONS

- * Circumstances leading to violation
- * Economic benefit as a result of non-compliance
- * Nature, gravity and persistence of violation
- * Was the violation willful and malicious?

DISCIPLINARY CONSIDERATIONS

- * Did the licensee cooperate with investigation?
- * Severity of the violation
- * Was there harm, or what was the risk of harm to the public?

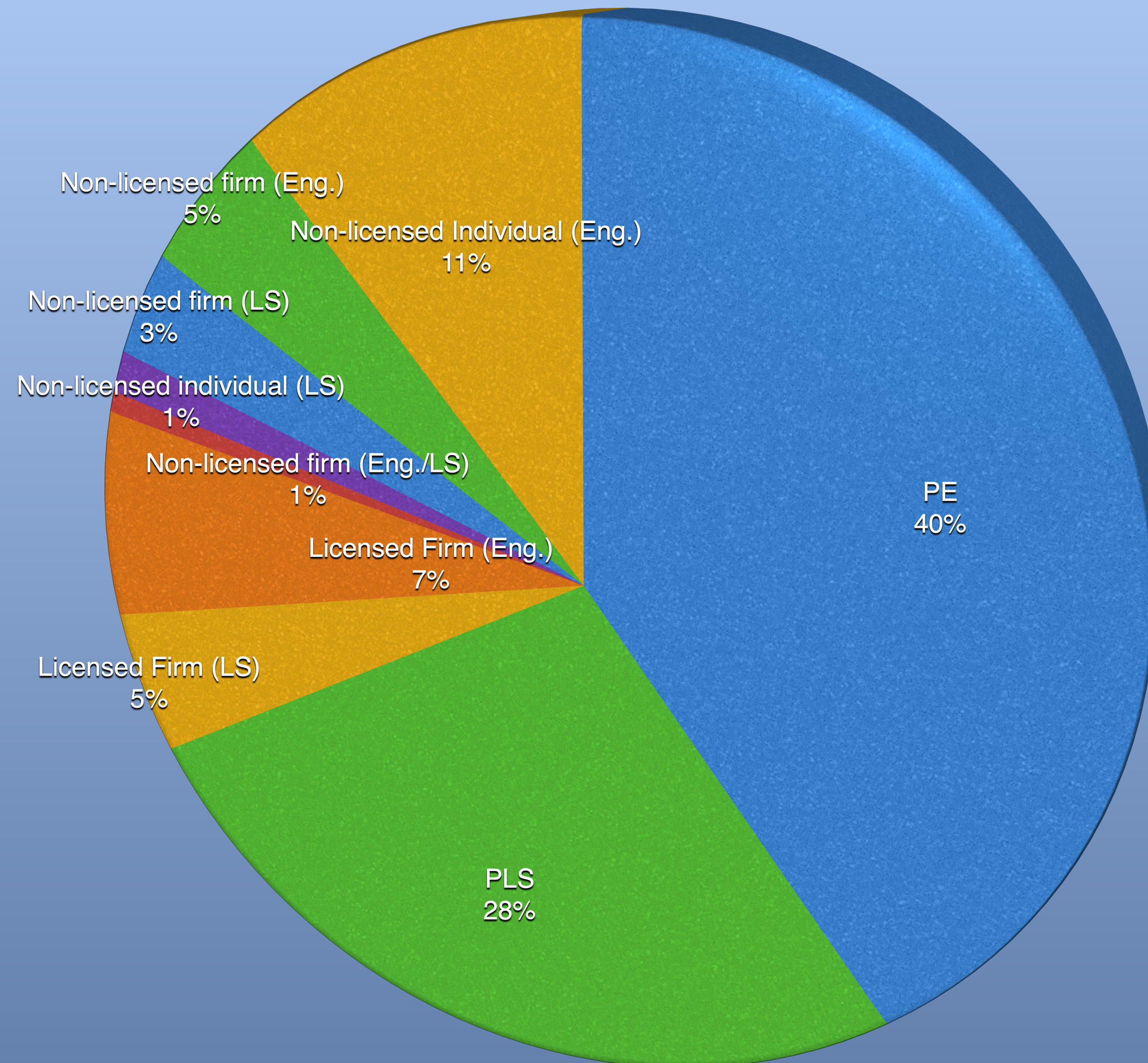
WHY DISCIPLINE?

- * Punishment
- * Deterrence
- * Education
- * Corrective action
- * Compliance

DISCIPLINARY ACTIONS

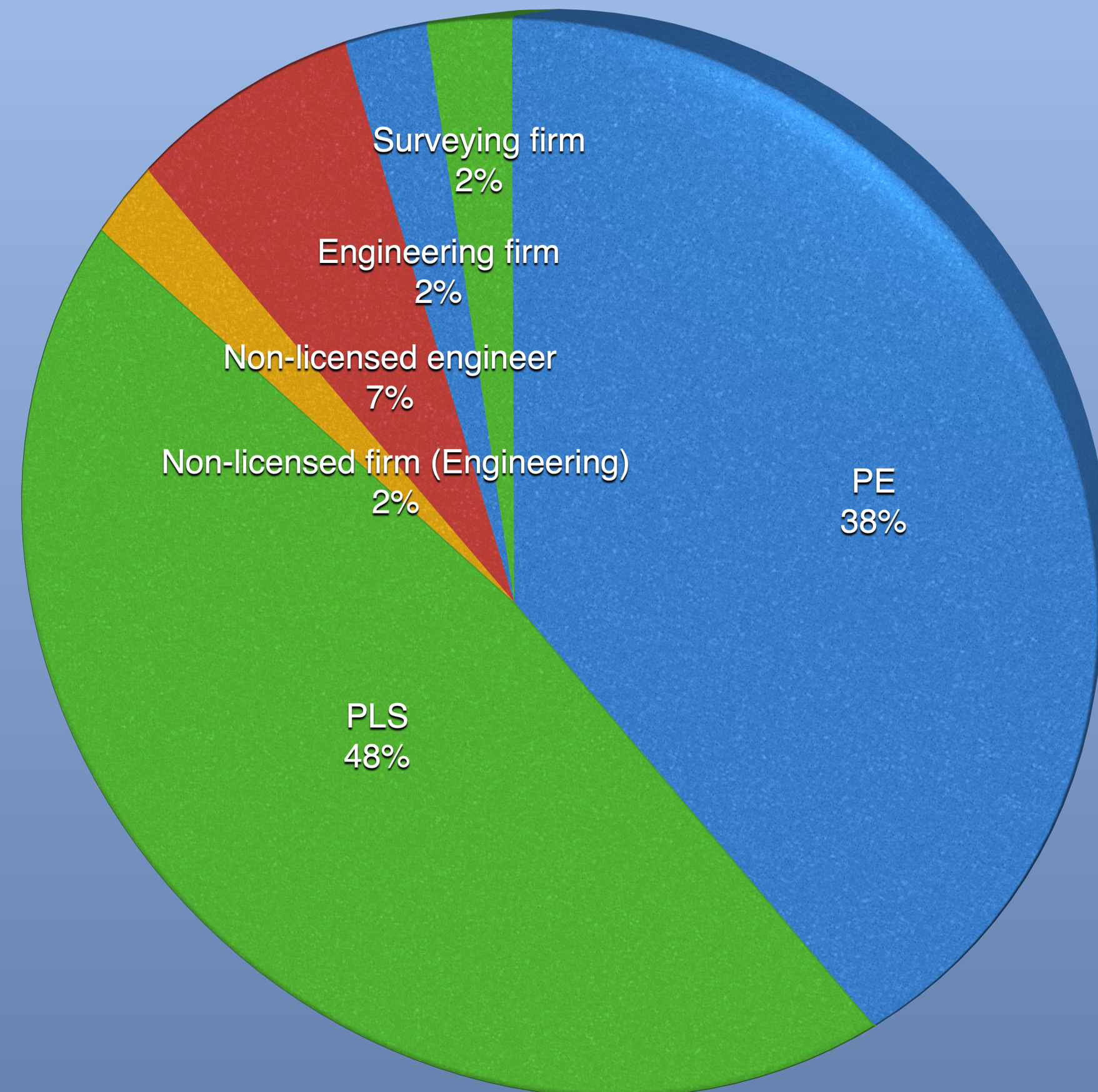
- * Public record (License Lookup, newsletter, NCEES Enforcement Exchange, agency notices)
- * Reporting requirements (other jurisdictions)
 - * Possibility of reciprocal action
- * Could adversely impact employment or prospects of employment

FY 2024 CASES (148)

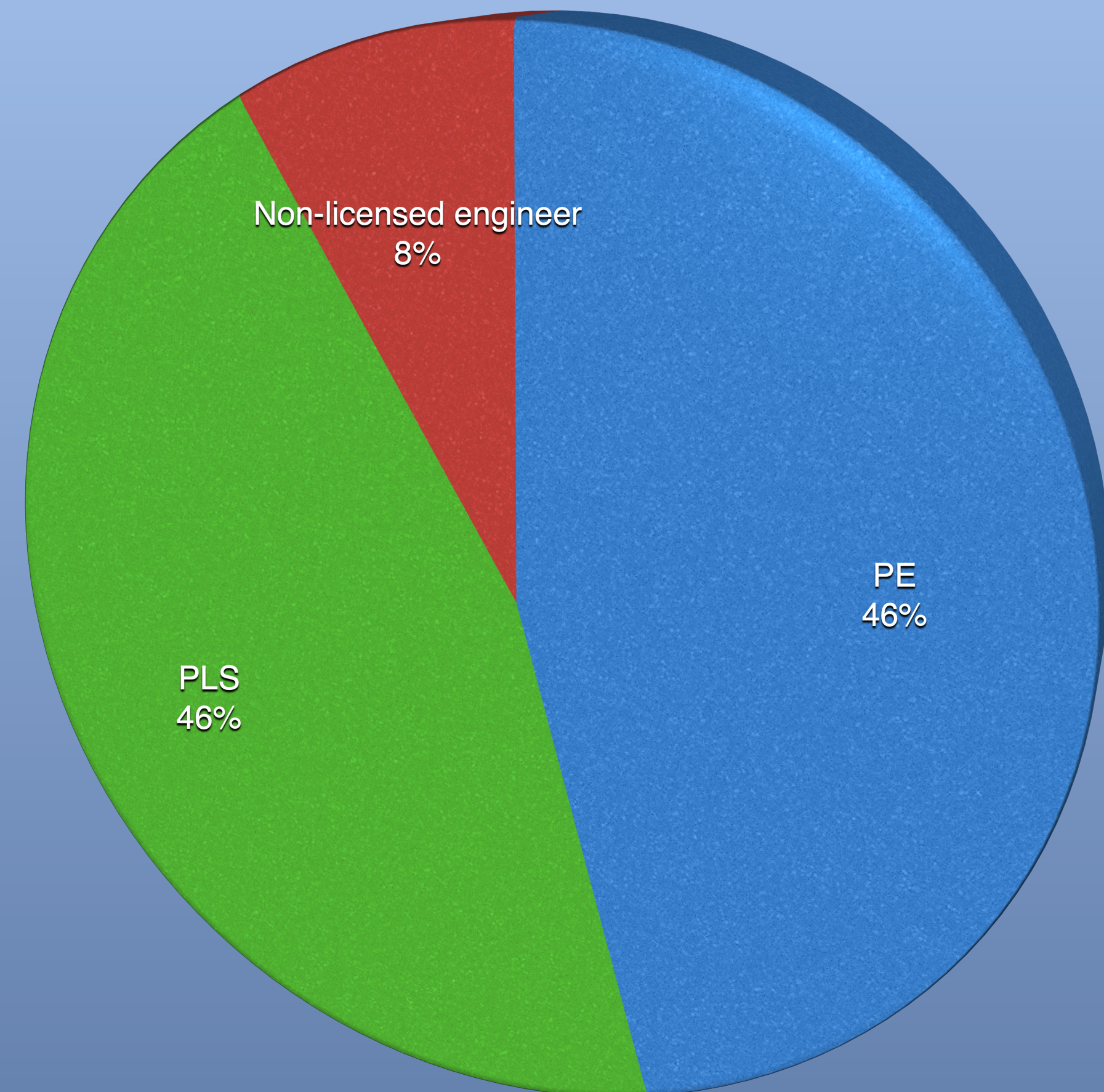


FY 2024 PRIORS....

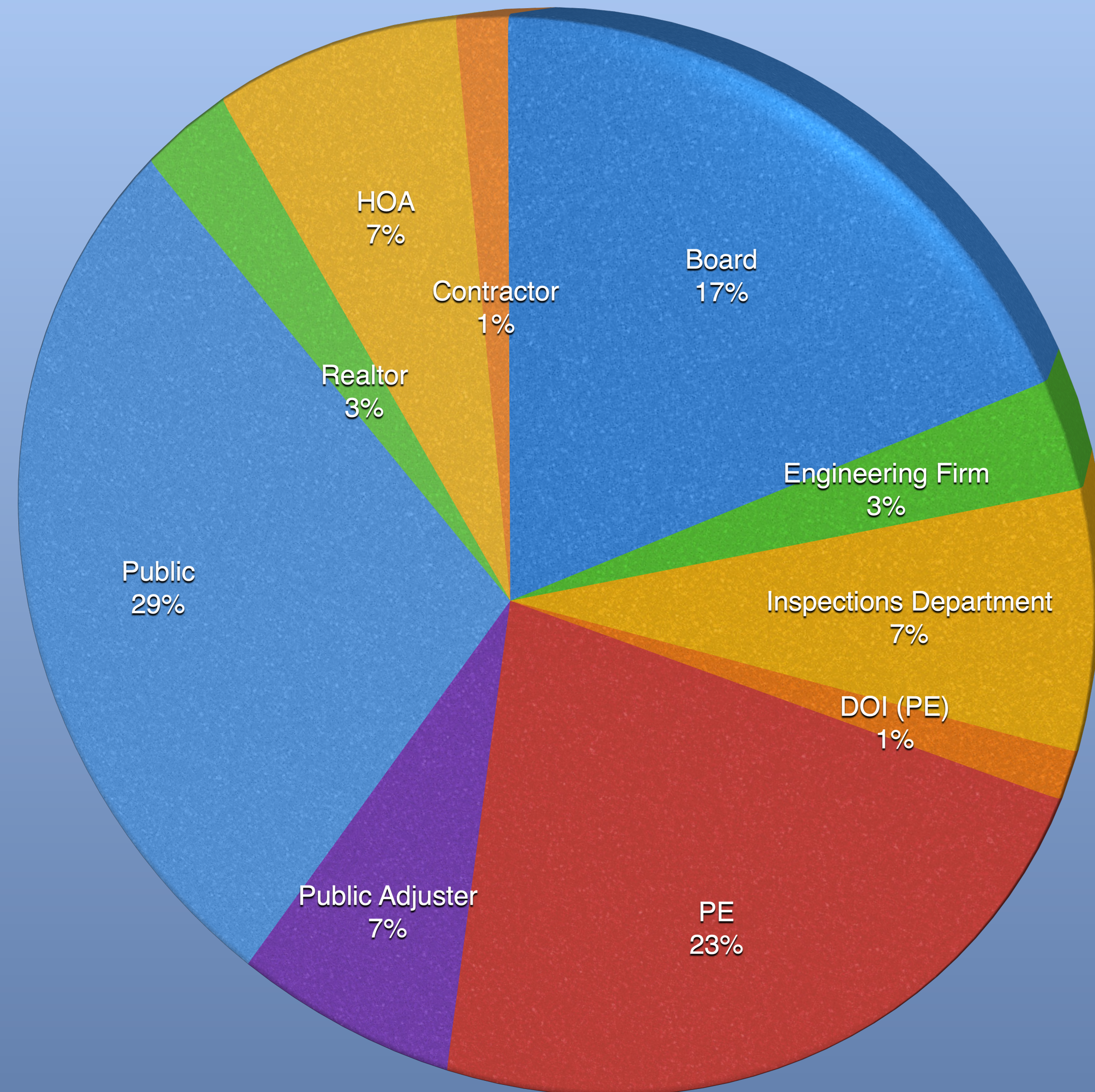
44 Respondents with 83 Prior Cases



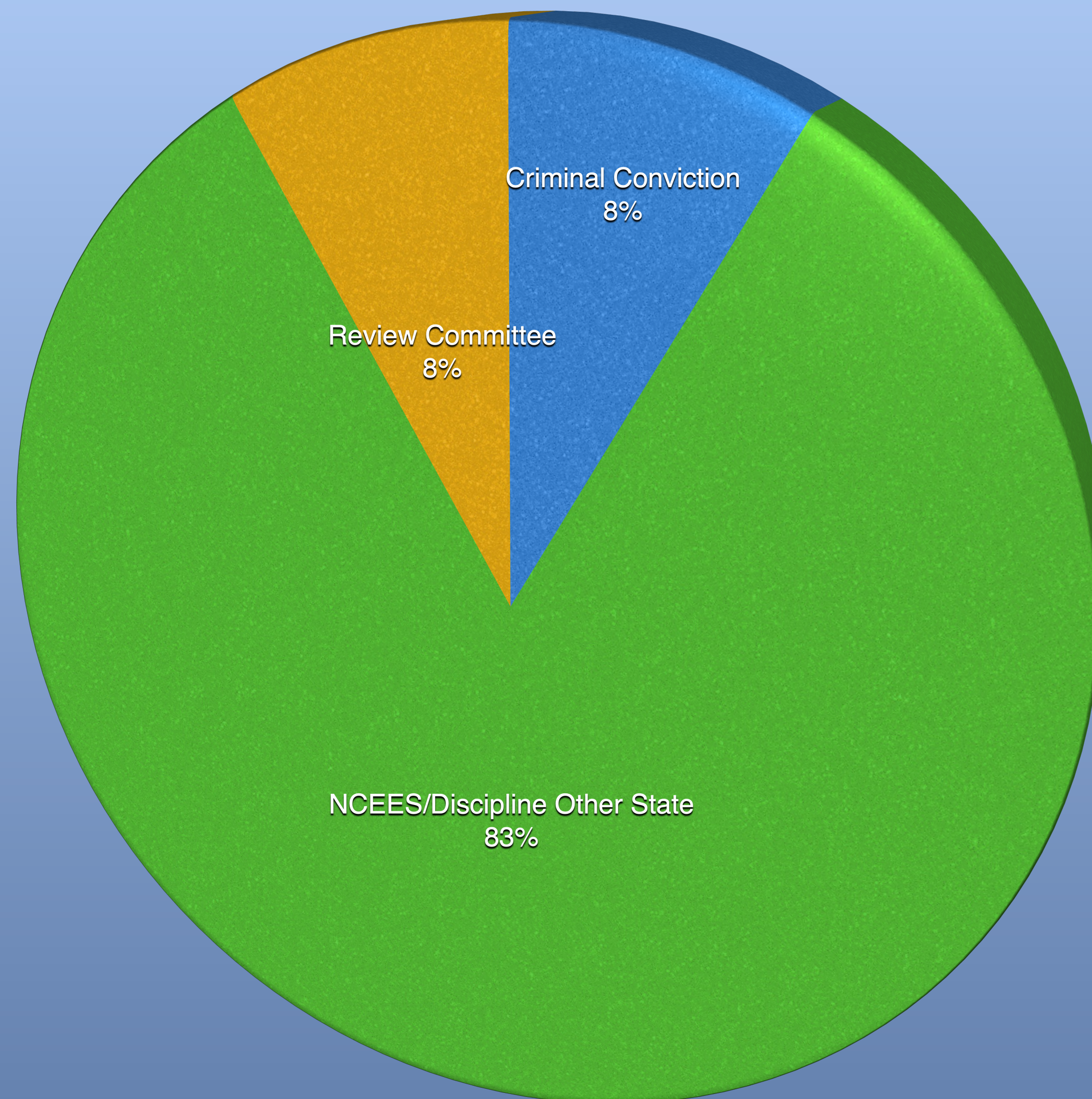
25 Respondents with 30 Prior Actions



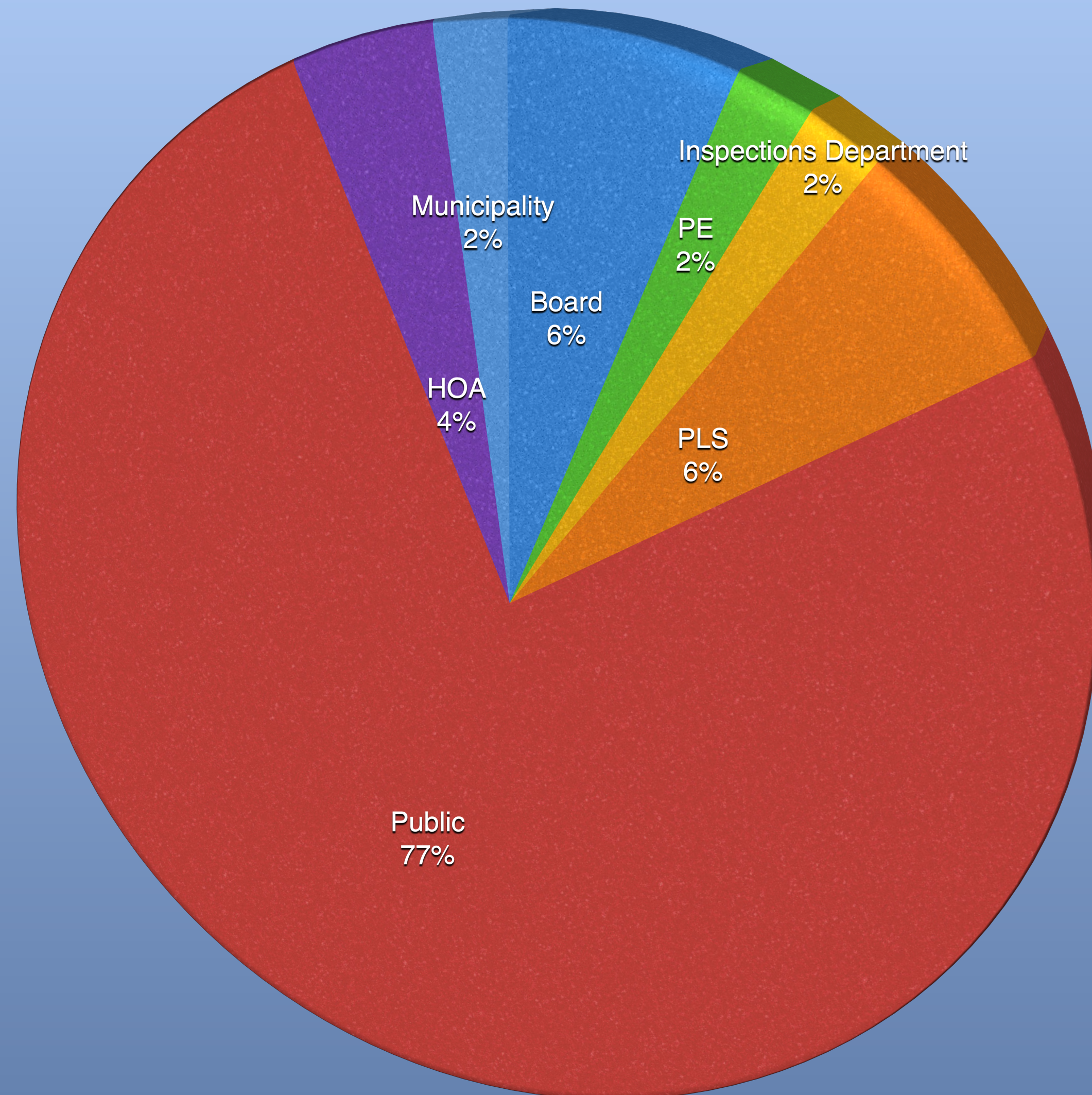
SOURCE OF ENGINEERING CASES



SOURCE OF BOARD CASES



SOURCE OF SURVEYING CASES



QUESTIONS

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