

ARTICLE XXXXX - PROFESSIONAL ETHICS

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Section 1. PURPOSE: This article is intended to describe:

(1) the ethical principles to which professionals and managers should adhere when carrying out or managing professional work, and (2) a mechanism to identify possible instances of ethical misconduct and refer issues for investigation and remediation.

Section 2. SCOPE: The American people must have complete confidence that EPA professionals and managers are carrying out their responsibilities with honesty and integrity. Decisions based on deliberately misinterpreted or falsified data can result in illness or death to humans and/or damage to the environment. The Union and the Agency agree that the Agency's business must be based on objective and dispassionate scientific and technical opinions which are consistent with the requirements of the law. The taxpayers resources must be used effectively and efficiently, and the results of these efforts must be honestly represented to Congress and the public.

Professionals must honestly represent the quality and uncertainty of their analysis so that management is aware of its limitations. EPA managers have an ethical responsibility to hire, promote, and reward those under their supervision solely on the basis of merit and the requirements of the law. They have additional ethical responsibilities in assigning and managing the work products of professionals, and in representing professional opinions in the decisionmaking process. Ethical considerations also apply to the relationship between employees in taking care to respect and acknowledge the intellectual property and achievement of others.

The goal of ethical behavior is not always easy to achieve; numerous temptations exist to modify the truth, to avoid difficult decisions or to attempt to influence others to do so. At times, desire for personal advancement, financial rewards, or just plain fear of standing out results in unethical behavior. Professionals and managers have a moral and legal obligation to understand where these pitfalls are, to avoid them, and to expose those who violate this public trust. Individuals should in no way be intimidated or persecuted for acting in concert with these obligations.

Section 3. CURRENTLY EXISTING LAWS: Congress has enacted and the President has signed into law: a code of ethics for Federal employees, and criminal and civil penalties for violations of the public trust (1,2). Congress has also enacted and the President has signed into law an Act creating and empowering the Office of the Inspector General to investigate alledged violations of these laws and recommend criminal, civil, or administrative remedies (P.L. 95-452). At EPA, professionals and supervisors have particular responsibilities which are not spelled out in these laws and which need to be stated in order to assist each individual in making clear distinctions when questions of ethics arise. These are described in the following section.

Section 4. CODE OF ETHICS GOVERNING PROFESSIONAL WORK:

1. Professionals and managers must honestly represent their credentials when applying for jobs, or accepting or undertaking work. Managers must hire, promote, and reward solely on the basis of merit and the requirements of the Civil Service Reform Act and Equal Opportunity Employment Act; this should be done without favoritism or the appearance of favoritism.
2. Professionals and managers should seek to understand the letter and spirit of the law(s) under which their program operates, and they must conduct every aspect of their work in conformance with Congressional intent.
3. Professionals must honestly represent the quality and uncertainty of their analysis given the constraints of the available resources, so that management is aware of its limitations. Managers must accurately represent these professional analyses and their limitations in the decisionmaking (choicemaking) process.
4. Professionals and managers must refuse to cover-up or suppress information germane to the protection of public health or the ecosphere (environment), and/or encourage others to do so.
5. Professionals must: (a) accurately present the data and opinion of others; (b) assure that work for which they were responsible does not involve dishonesty, fraud, or deceit; and (c) assure that there is adequate quality control of work done for them by contractors. Managers must not threaten or intimidate professionals to tailor professional judgement for political, social, economic or other reasons.
6. Professionals and managers must ensure that the content of professional work is only reviewed and/or evaluated by professionals knowledgeable in the specific field under consideration, and that the integrity of the review process is not violated.
7. Professionals and managers must respect and acknowledge the intellectual property of others. No report utilizing the results of professional work can be printed or disseminated unless it correctly attributes this work to the originator(s).
8. Professionals and managers must immediately expose: any misrepresentation of work they performed, that was performed under their direction, or for which they had contractual and/or management responsibility; plagiarism; and/or scientific or technical fraud.

Section 5. IMPLEMENTATION:

The following steps may be taken by the Union, or a professional. A professional may utilize this section personally or request the Union to act in his/her behalf, in which case their identity shall only be revealed to the Designated Agency Ethics Official (DAEO). If the professional has any questions with regards to the validity of a possible violation, he or she is encouraged to seek help from the Union, the DAEO, the Inspector General (IG), the Office of General Counsel or any other appropriate source. No disciplinary action or intimidation of any kind may be taken against any professional for seeking such guidance.

STEP 1. The Union, or a professional, who believes there has been a violation of this agreement, may attempt to resolve the issue informally, or he/she may send a memorandum entitled "Possible Violation(s) of Professional Ethics" to the Labor Management Committee (LMC).

The memorandum shall contain:

- a. the name, location, and phone number of the initiator,
- b. a clear statement of the ethical principle(s) violated,
- c. the rationale for this conclusion,
- d. documentation to support the contention, and
- e. the area of scientific or technical expertise that would most likely be needed by those investigating the allegation(s).

STEP 2. The LMC, in consultation with the DAEO and IG, shall review the memorandum to determine whether it belongs in the ethics grievance procedure (STEP 3a), or the procedure for resolving differences of professional opinion (STEP 3b).

STEP 3a. ETHICS GRIEVANCE PROCEDURE -

If the LMC determines that the memorandum belongs in STEP 3, the LMC shall forward the memorandum (now called the Ethics Grievance) to the DAEO. The DAEO will empanel a group of three persons (the Resolution Panel) to resolve the grievance and a group of three professionals (the Professional Panel) to determine if there has been a violation of the code of ethics and recommend resolution if a violation have occurred. The Resolution Panel will consist of one division director from the chain of command of the grievant, and two from outside the chain. (S 4)

The Professional Panel will consist of three qualified professionals employed by the Agency. They shall be selected in a non-prejudicial manner by the Agency to insure objectivity in the process. The professional panel will review the grievance, and determine if there has been a violation of the code of ethics, and recommend resolution if violations have occurred. This review shall be forwarded in writing to the DAEO and the Resolution Panel. A copy of their determination shall be

forwarded to the I.G. for review to determine if there are any violations within the jurisdiction of the I.G.

If a violation^{of § 4} has occurred, the Resolution Panel will initiate the appropriate remedy within twenty one (21) days. Failure to do so without obtaining an extension of time limits will enable the Union or the Agency to move the matter to arbitration as described in the Grievance Procedure.

STEP 3B. PROCEDURE FOR RESOLVING DIFFERENT PROFESSIONAL OPINIONS- If the LMC determines that the allegations belong in the Procedure for Resolving Different Professional Opinions, the LMC shall forward the allegation to the Risk Assessment Council (RAC). The chairperson of the RAC will empanel three professionals to review the allegations and recommend a solution if they believe the allegations to have merit. This review shall be forwarded in writing to the Office Director in the chain of command of the professional making the allegation.

Section 6. TRAINING: The Agency agrees to provide training sessions for new employees during their orientation and for other employees within two months of the signing of this agreement. This training must include actual case examples, subject to applicable limitations of law, as experience is gained.

Section 7. RECORDS: The DAEO shall be responsible for maintaining all records of the implementation of this article. These records shall include, but not be limited to, audio or video tape recordings of all peer panel meetings, as well as copies of formal accusations and their resolution. The Union and professionals will have complete access to these records subject to the requirements of law and regulation.