

# Ethics and the Right-of-Way Professional

The Code, Rules, and Standards,  
and their Administration by the International Ethics Committee

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International Ethics Committee

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*This is the first in a series of articles about IRWA's commitment to promoting ethical conduct in the right-of-way profession and to familiarize members with the functions and duties of the International Ethics Committee.*

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**WHY ETHICS?**  
I pose this question to you as a member of the International Right of Way Association because it is often asked when I am teaching the Association's two courses on the subject, Course 103, *Ethics and the Right of Way Professional*, and Course 104, *Standards of Practice for the Right of Way Professional*. Keeping the above quotation in mind, it is not always an easy question to answer because we all have differing ideas of what ethics means let alone whether the Association should be teaching such courses. However, we all are concerned with our personal and professional reputation. The objectives of the IRWA's ethics programs are directed to enhancing that reputation.

One difficulty of the ethics course itself is that most persons are there because they have to take the class to obtain their SR/WA or for recertification. Employers are far more supportive of courses which involve technical training, and have obvious and immediate payoffs to the organization when the employee returns and applies what he or she learned in the class. With ethics, employers may be thinking, "Why should I pay for employees to take this course, which is about what they should already know?"

So, why are we involved with ethics, anyway?

*The reputation  
you develop for  
intellectual and ethical  
integrity will be your  
greatest asset  
or worst enemy.*

—*Vincent Foster, addressing graduates  
of the University of Arkansas  
School of Law, May 8, 1993*

First, a little background. Obviously the Association is committed to promoting ethical conduct and education for our profession. In the ethics course itself, I ask students the "Why Ethics" question in different way. As we consider ourselves professionals, and since ethical obligations are considered a requirement of a "professional," we discuss the characteristics of professionals. When we finish, we have a concise list of the characteristics of a professional.

These include:

- A body of formal educational courses and topical seminars
- A continuing education requirement
- Standards of conduct
- Enforcement of the standards of conduct

Many would point out that advanced degrees, licenses and certifications and a professional designation are evidence that a person is a professional. That may be so, but what about the MBA (or

SR/WA for that matter) who is pumping gas? The answer may be irrelevant if a person is perceived to have a positive ethical reputation.

Ethics, which mean different things to different people, are based on a Universal Standard. What is that standard? Let's go back to the Golden Rule. It is part of the Association's Code

of Ethics, which has been in existence ever since I can remember as a 32-year member of the Association. The Code of Ethics of the Association is the basis of our standards of conduct and performance. It is sometimes printed in *Right of Way* magazine and is included in many of our course materials. Like so many other things which we take for granted, this is probably another one. For purposes of refreshing your memory, it follows:

#### CODE OF ETHICS OF THE INTERNATIONAL RIGHT OF WAY ASSOCIATION

Recognizing the responsibility of our profession to the people and business of our country, and believing that we should encourage and foster high ethical standards in our profession, we do hereby adopt the following Code of Ethics for our constant guidance and inspiration predicated upon the basic principles of truth, justice and fair play.

1. To show faith in the worthiness of our profession by industry, honesty and courtesy, in order to merit a reputation for high quality of service and fair dealing
2. To add to the knowledge of our profession by constant study and to share the lessons of our experience with our fellow members.
3. To build an ever increasing confidence and good will with the public and our employers by poise, self-restraint and constructive cooperation.
4. To ascertain and weigh all of the facts relative to real properties in making an appraisal thereof, using the best and most approved methods of determining the just and fair market value.
5. To conduct ourselves in the most ethical and competent manner when testifying as an expert witness in court as to the market value of the real properties, thus meriting confidence in our knowledge and integrity.
6. To accept our full share of responsibility in constructive public service to community, state and nation.
7. To strive to attain and to express a sincerity of character that shall enrich our human contacts, ever aiming toward that ideal, "The Practice of the Golden Rule."

While the Code served the Association well over the years, it became

evident to the leadership of the Association that a more specific set of standards was needed as was an effort to educate our members. Established in 1990, the International Ethics Committee had, as its charge, the development of standards of ethical behavior (called Ethical Rules) and also courses to make the Association's membership aware of the standards. The committee was also charged with establishing disciplinary procedures under which the Code and Rules are administered. The mission and function of the Ethics Committee are set forth in the Bylaws of the Association:

#### ETHICS COMMITTEE

- A. The mission of the Ethics Committee is to promote and enforce the highest ethical and professional standards of members of the Association and to provide such other related services to the Association and the International Executive Committee as may be requested from time to time.
- B. The functions of said Committee shall be as follows:
  1. It shall periodically review and recommend updates or modifications to the Code of Ethics, Rules of Professional Conduct and Procedural Rule 18.
  2. In cooperation with the International Professional Resources Committee (IPRC), it shall develop and periodically revise ethics courses and presentations as well as a suitable examination for each course. It shall also, in conjunction with the IPRC, provide for ethics instruction in other Association educational courses.
  3. It shall from time to time publish opinions based upon actual cases, member questions, and other inquiries to educate the members of the Association regarding the Code of Ethics, Rules of Professional Conduct and Procedural Rule 18.
  4. It shall liaise with any Foundation, Professional Association, or licensing agency on ethical matters related to any of the various disciplines of our members.
  5. It shall enforce through the Chapters the disposition of disciplinary matters as provided in Procedural Rule 18.
  6. It shall provide the International Executive Committee, through the

International President-Elect, with regular confidential reports on disciplinary complaints.

- C. The membership of this Committee shall represent the diversity of the Association and shall include both Senior and non-Senior members and shall have at least one of its members an Attorney at Law.

#### ACTIONS OF THE ETHICS COMMITTEE 1990 -1996

From the above charge, the Ethics Committee developed the Ethical Rules, Standards of Practice, Procedural Rule 18 and most important of all, Ethics Courses 103 and 104. These tools are intended to help members establish the minimum level of acceptable conduct. The purpose of these Ethical Rules and Standards of Practice is to establish and define a definite set of parameters with which to guide and direct all members of the IRWA as each pursues his or her right-of-way-related profession. It is incumbent on all members to provide their services in a manner which instills a strong sense of trust and confidence between themselves and their employers, clients, peers and all members of the general public. Professional competence, character, integrity, fairness, commitment and truthfulness provide the foundation for establishing and maintaining of all professional relationships. Therefore, all members should dedicate themselves to a course of conduct which manifests respect, confidence and trust on the part of the general public and all users of right-of-way services. The Rules and Standards, and Courses 103 and 104, are the vehicles to these goals.

The committee also developed Procedural Rule 18, the purpose of which is to outline the disciplinary procedures which are followed when an ethics complaint is filed. Very strict, and I stress, *confidential* procedures are followed before and during a disciplinary action. This process will be the subject of a future article by the International Ethics Committee.

Most importantly, the two courses, Course 103, *Ethics and the Right of Way Professional*, and Course 104, *Standards of Professional Practice for the Right of Way Professional*, were developed by the International Ethics Committee to provide the members with an overview of the Ethical Rules, Standards of

Practice, the disciplinary procedures set forth in Procedural Rule 18 and current ethical issues which we as right-of-way professionals face on a daily basis. As I stated earlier, many students do not relish having to take these courses; once taken, however, most of them say to me that they now see things differently and can appreciate how ethical questions occur in our everyday activities.

#### ETHICAL CONDUCT AND THE REAL WORLD

Although we have the Rules and Standards, it is often asked, "How do we know if we are acting ethically?"

Webster's Dictionary defines ethics: 1. the study of standards of conduct and moral judgement; moral philosophy. 2. A treatise on this study; book about morals. 3. The system or code of morals of a particular philosopher, religion, group, profession, etc.

I would like to use some questions that I saw in 1992 in the Chapter 77 newsletter in an article written by Susan Day, an Administrator with the Florida Department of Transportation.

- How would I like someone else to treat me in this situation? *Then, act accordingly, as you would have others do unto you.*

If that sounds familiar, it is just a restatement of the Golden Rule. There is that Universal Standard again.

- Would It matter to me if, after taking a particular action, it became common knowledge? *If the answer to this question is "yes," there is a good chance that you shouldn't take that path.*

This reminds me of two tests I use to determine if the action I plan to take is ethical. The first is a quotation used by Joe Neighbors, the co-developer of Ethics Course 103. Joe boils ethics down to the phrase "Do your momma proud." If you keep that test in mind, and do your momma proud, you have nothing to worry about. Another test I use is to ask myself if my actions will meet the "60 Minutes Test." If your actions will stand up to the scrutiny of Mike Wallace, again, you have nothing to worry about.

- Am I acting in the best interest of ( fill in the blank ) or am I acting only in my own best interest? *If you are conducting an activity on the job, put "my*

*company" in the blank, and that is whose best interest you should be considering.* Selfishness and greed are often the major reasons we have ethical problems. If we put our personal interest first the client, company, the general public suffers. Ethical behavior goes beyond "you" or "I."

- Am I being honest? *This applies not only to being honest with others, but to yourself as well. If we are not honest with ourselves, then the answers to the other questions no longer have any meaning.*

Again, it's very basic, but true. If you can't trust in yourself how can others or the general public. Ethical behavior is based on trust.

The written rules and standards for many professions, including those for the IRWA, attempt to establish a framework for how to answer these questions. Often there is no simple answer. That is why the International Ethics Committee was formed and continues to function. Every professional needs to conform to the standards expected in his or her profession. Education about and discussions of what these rules and standards mean are the only ways to progress toward "the answer."

#### CURRENT COMMITTEE ACTIVITIES AND MEMBERSHIP

The International Ethics Committee currently consists of five members representing a cross section of Association membership and geographical areas, including Canada. The current members are:

William F. Rottschaefter, Jr., Chair  
D. Glenn Stacey, SR/WA, Vice Chair  
James H. Finnegan, SR/WA  
Robert Alstrom, SR/WA  
Alicia Worthley, SR/WA

The committee, during most of its existence, has concentrated on developing the basic framework of the Association's ethics program, that is, the Ethical Rules, the Standards of Practice, and Courses 103 and 104. (It is appropriate to note that all these accomplishments have been made by the committee itself without the use of outside consultants, course developers, or the like). Now that those major tasks have been accomplished, the committee is shifting its focus toward publicizing the role of ethics in the Association and in

the members' daily lives. We will be continuing to revise and improve Courses 103 and 104, of course. However, we want to reach all members (and others reading this magazine) to stimulate some thought about the role ethics play. This article is a visible accomplishment and more articles will follow. We are also working behind the scenes in preparing and presenting materials to chapter leaders (who may have to deal with an ethical complaint) and other Association committees, particularly with presentations at the International Education Seminar. The committee also has the primary responsibility for assuring that ethics complaints are dealt with properly, both from a procedural and substantive standpoint. Other routine activities of the committee involve reviewing the qualifications of prospective ethics course instructors, responding to inquiries from IRWA Headquarters and others about ethics course materials, and the like.

As the committee moves toward the general publicizing of ethical issues and the further education of members about these issues, we want to point out that all committee members are available to the general membership for assistance in answering inquiries members might have. It should be noted that, while committee members are well prepared to deal with questions about the procedural elements of the Association's ethical program, we are not judges of whether a particular action was ethical. That determination is made as part of the disciplinary process, which will be the subject of our next article. As long as members understand that we will not pass judgement on particular behavior, committee members will gladly respond to inquiries.

#### FUTURE ARTICLES, INCLUDING QUESTIONS AND ANSWERS

In a future issue of *Right of Way*, the committee plans to include an article explaining the process of how an ethics complaint is filed and, once filed, how it is processed. The procedures are not complicated, once they are understood. Nevertheless, dealing with ethical matters is an area which makes many people uncomfortable and we hope to alleviate some concern

about the disciplinary process. The area of confidentiality was touched upon earlier in this article, but the next article will emphasize how important that concept is throughout the disciplinary process.

The committee also wishes to establish an ongoing "question and answer" column in *Right of Way*. As noted above, committee members cannot pass judgement (other than through the formal disciplinary process) on whether or not conduct was improper, but we suspect we can develop a lively debate on some issues through a "question and answer" format. To get the Q & A column going, we solicit members' questions and comments and we emphasize that anonymity will be the rule; members raising questions do not need to identify themselves and they *should not* identify any other members involved in the question.

Think again about the quote at the beginning of this article. Furthering your reputation, and that of the Association, for intellectual and ethical integrity is the goal of the International Ethics Committee. □

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