Codes of Ethics as Living Documents

The Case of the American Society for Public Administration

MONTGOMERY VANWART

Abstract

This article provides a framework for creating or revising a code of ethics. It discusses the classical notions of codes of ethics, conduct, and regulations, primarily based on level of abstraction. It also examines the two major issues in constructing codes as well as a series of technical challenges. This is a case study of the formal review process of ASPA’s 1994 code of ethics in 2001–2003. The history of this process is discussed, using an analytical framework. The conclusion emphasizes the virtues of having such a debate and the types of parameters necessary to maximize the value of dialogue.

Writing a code of ethics for a professional society is a difficult task (Chandler 1983; Cooper 1990; Plant 2001). Revising one in order to keep it up-to-date and relevant is not much easier (Van Wart 1996). Not only is it necessary to review minor temporal issues related to refinements and changing language, but one must also revisit the perennial debates about what a code is and what it is supposed to achieve. The current revision of the American Society for Public Administration (ASPA) code of ethics is a case in point. The primary purpose of this article is to lay out a formal protocol for examining codes, illustrate its use in a specific case, and chronicle the evolution of ASPA’s code.

The discussion about what a code stands for, what should be in it, and how it should be implemented is a healthy aspect of the democratic process codes embody in public service settings. Discussions about codes serve not only to promote self-determination and transparency, which are vital to building the trust and stability necessary for a healthy ethical system (Cooper and Yoder 2002), but also to highlight a code’s substance and tease out its meanings. Periodic debate keeps a code vital and useful, so that it does not turn into something like a decree that is little used or regarded—debate ensures that the code remains a “living” document.
The Classical Difference Between Codes of Ethics, Codes of Conduct, and Codes of Regulations

In order to get at the differences between types of codes, it is useful to examine the connotations of ethics and legality as "ideal" concepts. Ideal types are a useful heuristic that can clarify issues and arguments. These two concepts can be seen as two ends of a continuum. Ethics and legality are about the proper relations of individuals with their societies.

"Ethics" is derived from the Greek term ethos, which refers to character and conduct. Ethics was generally defined as the study of moral judgment and the practice of high standards of conduct, but it is important to note that the term implied that this was based on ideals and abstract principles. It also implies analysis, and its strongest roots lie in philosophy. A similar concept is "morality," derived from the Latin term moralis, which refers to manners or customs (Thompson 1985). Morality had to do with making, or being capable of making, distinctions between right and wrong conduct at the individual level. It is anchored in notions of conformity with generally accepted standards of goodness and rightness in conduct and character. In other words, although ethics tends to examine and construct first principles in relation to society as a whole or some specified part of it, morality tends to interpret them at a middle level of abstraction and from an individually oriented perspective. Because the emphasis is on consistency with custom, its strongest roots lie in tradition and religion.

At the other end of the continuum is "legality." It is derived from the Greek term legein, which means to collect, and the Old English term lag, which refers to something laid down or settled. Thus, legality refers to collecting on (or enforcing) things laid down and settled. Literally, it refers to conformity with statutes or common law. It almost completely assumes first principles, and generally acknowledges broadly accepted social norms, but quickly moves beyond them in order to address specific strictures. Because of its emphasis on authority and preciseness, its strongest roots are with politics (as rule-making) and jurisprudence (as appropriately interpreting the law).

In practice, there is often an important middle level between the most abstract ethical principles and technical legal prohibitions. Such conceptualizations are concrete norms that elaborate the principles in further detail, without spelling out exact rules or proscriptions. For example, the principle "to serve the public interest" can be elaborated as a number of specific mid-level norms, such as "exercise discretionary authority to promote the public interest" and "assist citizens in their dealings with government." Aspects of these norms are in statute, such as concrete limitations on the use of discretion and administrative requirements for responsiveness to citizens, but the norms imply far more than can ever be placed in statute.

This trifurcation of levels is evident in both ancient and contemporary religious-political schema. For example, in the Christian tradition, which has both antecedents and parallels in many other religions, Jesus Christ extrapolated ideal principles when he enunciated the Golden Rule (Matthew 7:12). The rule toward man was to treat others as you would have them treat you; the rule toward God was to love God absolutely and as your only God. The Decalogue, or Ten Commandments, of Moses (Exodus 20:2-17, Deuteronomy 5:6-21) enunciates mid-level normative values having to do with parents, murder, theft, adultery, false accusations, and so on. The
third, or legal, level specifies exactly what counts in each case (killing in war or in self-defense not being equivalent, say, to killing an unarmed civilian) as well as the (range of) penalties. Although Exodus 21–23 begins this process by generally ascribing the death penalty to any breach of these cardinal transgressions, it is largely left to civil leaders in their respective national settings to articulate these definitions and proscriptions as enforced laws.

The political system in the United States also reflects this tripartite schema. The Declaration of Independence and the Constitution jointly articulate the very loftiest ideals and principles. The Declaration enunciates the principle that the people should rule themselves, and the Constitution elaborates the structure by which that self-governance is to take place. Mid-level values on the more abstract level are found in the Bill of Rights (e.g., freedom of religion, assembly, and speech, freedom from quartering militia, search and seizure, cruel and unusual punishment, and the rights to bear arms, due process, speedy trial, and jury trial). Mid-level values on a more concrete level are generally found in state constitutions, the preambles to laws, and, often, executive orders. Examples of the most concrete level are the statutes, ordinances, and regulations that themselves define illegality and accompanying penalties.

An overlapping system—going from intellectual abstractness to concrete enforcement—is seen in systems of professional ethics as well (Bowman 2001). Such a system of the “right” ideals, the “right” norms, and the “right” actions can generally be identified as (a) codes of ethics, (b) codes of conduct, and (c) bylaws and rules. In its purest form, a code of ethics generally articulates aspirational principles, such as forthrightness (of course, purity of form may or may not be a virtue, depending on the contextual needs). A code of conduct, in its purest form, generally asserts aspirational values or sets minimum expectation values. For example, the abstract (ethical) principle of forthrightness (proactively providing all the accurate information that is appropriate) might be specified as a mid-level value as truth-telling (i.e., not providing incorrect information). Alternatively, the abstract principle might be further narrowed to truth-telling in an official capacity to separate out one’s official and personal roles. Although codes of conduct often outline the sanctions for violations, the detailed regulations and rules—which specify exactly when the moral applies (e.g., in writing only or also in speech) and disciplinary consequences, such as written reprimands, suspension, and dismissal—are generally placed elsewhere. Table 1 displays these ideal types of codes based on level of abstractness.

In the ASPA case there were fundamental differences about the nature of purpose, which is to say, about the type of code desired as the product. Was it to be mainly a series of succinct inspirational statements of principle? Was it to be a practical working document for practitioners that was specific enough to be helpful, but user-friendly enough to avoid excessive length, legalisms, or exceptions? On the other hand, should the document add an enforcement codicil to put teeth into the ethics proclamations? Ultimately, at least some members of the society supported each of these relatively mutually exclusive goals. However, the more agreement that can be achieved about the purpose at the beginning of the process, the more likely the technical product will achieve high acceptance rates at the end.
TABLE I
Abstractness and Types of Codes

<table>
<thead>
<tr>
<th>Level of abstractness</th>
<th>Ethical element</th>
<th>Customary vehicle</th>
</tr>
</thead>
<tbody>
<tr>
<td>Highly abstract</td>
<td>Principles</td>
<td>Code of ethics</td>
</tr>
<tr>
<td>Moderately abstract to</td>
<td>Values (mid-level norms)</td>
<td>Code of conduct</td>
</tr>
<tr>
<td>moderately concrete</td>
<td>Aspirational values</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Expectation values</td>
<td></td>
</tr>
<tr>
<td>Highly concrete</td>
<td>Behavioral expectations</td>
<td></td>
</tr>
<tr>
<td></td>
<td>and consequences</td>
<td></td>
</tr>
</tbody>
</table>

Of course, the conceptual and semantic tidiness of the above schema is primarily a heuristic device much violated in practice. This is because there are many substantive and technical problems in constructing codes and linking them effectively.

Two Substantive Challenges in Constructing Codes of Ethics

The distinctions outlined above have substantial challenges that have been glossed over in the discussion thus far.

First, the blurring of the systems of ideals, norms, and actions is inevitable. When does an abstract principle become a mid-level norm? At what point is a narrow directive a lower-level norm rather than a guideline for enforcement? This vagueness has also led to a confusion of language. For example, so-called ethics legislation typically refers to legislation that prevents elected officials or administrators from self-dealing practices (e.g., conflict of interest, nepotism, gifts and favors, and private use of public resources). Even when dealing within the specific level, ethics legislation is notorious for being convoluted and contradictory, resulting in many “gray areas” (Kleeman 1989). Yet other types of legislation also involve administrative ethics, such as statutes and regulations related to privacy and privileged information, whistleblowing, and the rules of finance. Similarly, many organizational codes of ethics are simply proscriptions against select types of wrongdoing (often gleaned from existing legislation or ordinances) that typically forbid personal gain at the expense of the organization or system, with or without identifying the penalties. Although such “ethics codes” serve critical functions, the stretching of the term (from aspirational to operational elements of rightness) introduces confusion.

A second problem is the linkage among the levels from enunciation of principles to enforcement. Completely self-contained statements or documents for each level of analysis (e.g., a code of ethics, a code of conduct, and a code of rules) are useful for intellectual clarity, but may result in major inconsistencies because of the independence of those drafting each code. Or conversely, integrated statements or documents have the virtue of trying to be more coherent as a system, but are very difficult to construct and may become too long and too confusing at an operational level to be effective. The best-known example of the proliferation of ethics issues was the federal personnel rules of the Clinton administration. They encompassed more than 10,000 pages, much of which was related to ethical concerns (Gore 1993). However, because of their detail, the rules were even beyond the mastery of specialists.
Another problem is that multiple abstract principles may apply to a single case. For example, providing information about employees or clients is subject both to the principle of freedom of information and to privacy concerns, which in turn can occasionally be overturned for public safety needs. With these distinctions and challenges in mind, let us turn now to a discussion of the technical challenges in constructing and maintaining codes of ethics for professional organizations.

**Technical Dimensions of Constructing a Code**

Professional societies have a long and venerable tradition of ethical codes (Bayles 1989), beginning with the famous Hippocratic oath: “to help the sick according to my ability and judgment, but never with a view to injury and wrongdoing. . . . And whatsoever I shall see or hear in the course of my profession in my intercourse with men, if it be what should not be published abroad, I will never divulge, holding such things to be holy secrets” (Bartlett 1980, 79). Codes have become increasingly important as means to inspire members, as a sign of professional discipline, and as a way to garner public trust. Yet they have also become difficult to construct, given the complexity of professional demands and the conflicting expectations of members and the public. Some of the more important challenges are:

- How abstract and aspirational versus how specific?
- How much accountability, in concrete terms, should a code contain, if any?
- What length should the code be?
- Who is the proper audience?
- What is the best structure?
- What is the proper type of language to use?

Generally, codes lean toward being relatively abstract and tend to use aspirational language. This allows them to encourage ideal, or “high-road,” behavior without having to focus on the division between minimal behavior and unacceptable behavior or outright wrongdoing (Rohr 1989). Most people distinguish between lawful, average, or acceptable behavior, on one hand, and ethical, exemplary, or virtuous behavior, on the other. In this sense, abstract, aspirational codes of ethics try to foster the latter, although codes of conduct (no matter what the actual naming of the code) and rules tend to focus on the former. In 1981, ASPA formulated a code that embodied only nine principles and was thus relatively abstract. In 1984, ASPA approved a set of complementary “guidelines” that were integrated into the text of the code, making it more specific (like a code of conduct), and also added three principles. Although the 1994 code significantly restructured the language and consolidated the principles from twelve to five, the increase in the level of abstraction was very modest, since all the principles were retained but merely subsumed under broader ideals. The guidelines were likewise organized more coherently, and only a few were added.

How accountable should a code hold its members in concrete terms? Should interpretation and enforcement be purely a private matter of introspection, self-
discipline, and self-compliance? Alternatively, should interpretation and enforcement be a public matter, with others deciding the propriety of actions and the sanctions necessary for improper actions? Because of the difficulty and expense of investigating improper actions by members, most professional societies that have an enforcement code rely very heavily on the legal system to sanction behaviors (e.g., member expulsion). That is, those convicted of legal offenses (e.g., fraud or embezzlement) may have their offenses reviewed by their professional peers. Other organizations find such enforcement schemes too difficult to execute and elect not to operationalize such actions, regardless of whether such actions are possible under the terms spelled out in the code. ASPA can potentially take action based on its code of ethics and bylaws, but has never elected to do so. A particular challenge for an organization is the breadth of its membership and the variation of norms and prescriptions of different disciplines. The ethical violations defined for police supervisors and full professors are likely to differ substantially, and trying to use the abstract code principles in an enforcement mode entails considerable flexibility and discretion.

Codes can be of very different lengths. All things equal, codes of ethics are the shortest and most succinct, and codes of rules are the longest. Indeed, a code of ethics can sometimes be easily memorized as an affirmative pledge (e.g., the Boy Scout Oath), and codes of rules can consume many volumes. ASPA’s code began as a half-page in 1981, jumped to two pages in 1984 with the implementation guidelines, and was cut back to one page in 1994.

The narrower the audience, the easier it is to move in the direction of codes of conduct and rules because of the ability to be specific about the values to hold and the enforcement practices. ASPA’s code of ethics is often compared to that of the International City/County Management Association (ICMA), which has a narrower clientele and a strong enforcement policy. However, ICMA only needs to concern itself with a single job classification, whereas ASPA has numerous distinctly divergent professions to cover. For example, academics make up a substantial portion of the organization’s membership (approximately 20 percent), but the code poorly reflects the types of ethical concerns they have because of its focus on public administrators in traditional settings. For instance, practitioners are urged to “allocate time to meet with students and provide a bridge between the classroom studies and the realities of public service” (IV:4). However, the code has never directly broached the ethics of teaching, research, and public service for academics. The point is not the oversight—there are simply too many professions to elaborate specific principles. Rather, the point is to be conscious of the nature of the audience addressed by the code and the subsequent ramifications (i.e., greater abstraction generally).

One element of document structure has to do with organization of the content. For example, there was a major reorganization in the 1994 code when the principles were organized around major themes in the ethics literature: serving the public interest, respecting the Constitution and the law, demonstrating personal integrity, promoting ethical organizations, striving for professional excellence. Another structural element is the degree of comprehensiveness that the code will embody. In the case of ASPA, there is the possibility of separating a code of ethics into two separate
TABLE 2
General Trends of ASPA Codes of Ethics

<table>
<thead>
<tr>
<th></th>
<th>1981 (Guidelines)</th>
<th>1994</th>
<th>2003 (proposed)</th>
</tr>
</thead>
<tbody>
<tr>
<td>How abstract/aspirational?</td>
<td>More abstract</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>More concrete</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>How accountable?</td>
<td>Self-imposed</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Technically</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>accountable</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What length?</td>
<td>Shorter</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Longer</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>What audience?</td>
<td>Broader</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Narrower</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>What structure?</td>
<td>Principles only</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td></td>
<td>Principles with guidelines</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Principles with guidelines</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Separate principles with guidelines</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

documents: a brief code and an implementation guideline (which is, in operation, a code of conduct). ASPA has historically vacillated on this issue and continues to be torn about the best format to use.

Finally, there are the issues related to language. On the surface, the task is one of finding elegant phrasing and the right word—in itself by no means easy. Depending on the level, of abstractness, the language may be more lofty and inspirational, or at a mid-level, more common-sense and down to earth, or at a concrete and prescriptive level more technical and legalistic. However, language also reflects content, and content is rarely unanimously agreed to in all cases. Because committees and groups are almost incapable of creating a coherent draft, normally a single volunteer acts as a ghost author. However, committees and groups provide the indispensable service of framing issues beforehand and commenting on the draft after it is written. All of the codes that ASPA has approved have been the result of extensive committee work and frequently heated debate, taking at least a year to culminate in an authorized product. These general trends are portrayed in Table 2, in which the various issues are contrasted in the 1981, 1984, 1994, and 2003 (proposed) codes.

Case Study: Suggestions Related to Changing ASPA's 1994 Code of Ethics

As one of his major initiatives, ASPA president Dan Ahern established a task force in 2001 to examine the code. Indeed, such an examination is consistent with the code, which states that members are committed to “encourage organizations to adopt, distribute, and periodically review a code of ethics as a living document” (IV:7). At the midyear meeting (December 2001), Ahern enjoined the task-force chair and com-
Exhibit 1: ASPA’s 1994 Code of Ethics

I. Serve the Public Interest

Serve the public, beyond serving oneself. ASPA members are committed to:
1. Exercise discretionary authority to promote the public interest.
2. Oppose all forms of discrimination and harassment, and promote affirmative action.
3. Recognize and support the public’s right to know the public’s business.
4. Involve citizens in policy decision-making.
5. Exercise compassion, benevolence, fairness, and optimism.
6. Respond to the public in ways that are complete, clear, and easy to understand.
7. Assist citizens in their dealings with government.
8. Be prepared to make decisions that may not be popular.

II. Respect the Constitution and the Law

Respect, support, and study government constitutions and laws that define responsibilities of public agencies, employees, and all citizens. ASPA members are committed to:
1. Understand and apply legislation and regulations relevant to their professional role.
2. Work to improve and change laws and policies that are counterproductive or obsolete.
3. Eliminate unlawful discrimination.
4. Prevent all forms of mismanagement of public funds by establishing and maintaining strong fiscal and management controls, and by supporting audits and investigative activities.
5. Respect and protect privileged information.
6. Encourage and facilitate legitimate dissent activities in government and protect the whistleblowing rights of public employees.
7. Promote constitutional principles of equality, fairness, representativeness, responsiveness, and due process in protecting citizens’ rights.

III. Demonstrate Personal Integrity

Demonstrate the highest standards in all activities to inspire public confidence and trust in public service. ASPA members are committed to:
1. Maintain truthfulness and honesty and not compromise them for advancement, honor, or personal gain.
2. Ensure that others receive credit for their work and contributions.
3. Zealously guard against conflict of interest or its appearance: e.g., nepotism, improper outside employment, misuse of public resources, or the acceptance of gifts.
4. Respect superiors, subordinates, colleagues, and the public.
5. Take responsibility for their own errors.
6. Conduct official acts without partisanship.

IV. Promote Ethical Organizations

Strengthen organizational capabilities to apply ethics, efficiency, and effectiveness in serving the public. ASPA members are committed to:
1. Enhance organizational capacity for open communication, creativity, and dedication.
2. Subordinate institutional loyalties to the public good.
3. Establish procedures that promote ethical behavior and hold individuals and organizations accountable for their conduct.
4. Provide organization members with an administrative means for dissent, assurance of due process, and safeguards against reprisal.
5. Promote merit principles that protect against arbitrary and capricious actions.
6. Promote organizational accountability through appropriate controls and procedures.
7. Encourage organizations to adopt, distribute, and periodically review a code of ethics as a living document.

(continues)
V. Strive for Professional Excellence

Strengthen individual capabilities and encourage the professional development of others. ASPA members are committed to:

1. Provide support and encouragement to upgrade competence.
2. Accept as a personal duty the responsibility to keep up to date on emerging issues and potential problems.
3. Encourage others, throughout their careers, to participate in professional activities and associations.
4. Allocate time to meet with students and provide a bridge between classroom studies and the realities of public service.

Enforcement of the Code of Ethics shall be conducted in accordance with Article II, Section 5 of the 1981 Bylaws. In 1981 the American Society for Public Administration’s National Council adopted a set of moral principles. Three years later in 1984, the Council approved a Code of Ethics for ASPA members. In 1994 the code was revised.

committee to be sure to open a dialogue that would cast a net as wide as possible in gathering input. He requested that the process be marked by inclusiveness and collegiality. See Exhibit 1 for the language associated with the 1994 code.

In addition to detailing the history of the single most important artifact of the organization, the case is a useful example, for all organizations of the types of questions that arise, of a means of framing questions and of the types of processes that tend to facilitate robust ethical dialogue.5

The ASPA Code of Ethics Review Committee solicited ideas through PA Times and Ethics Today.6 At the 2002 national conference in Phoenix, the committee articulated a list of concerns and possible suggestions. The time was used to identify and clarify suggestions, with the full understanding that (1) the committee would be divided on some of the issues, and (2) these suggestions would require a review by the membership before the national council could act on them. Ten items emerged of substantially different levels of significance and debate. Although the tentative levels of support and debate are indicated, additional discussion might have teased out an even greater range of opinions. In particular, the chair limited discussion of the more technical items in the interest of time. Because the committee was ultimately deadlocked on a number of issues (as anticipated), the chair presented the final recommendations to the 2002–2003 leadership team (President Glen Cope) under his own name, rather than under the name of the full committee. However, detailed notes regarding the ten recommendations were also forwarded to all members of the leadership team, so that they could revisit all of the recommendations in deliberations and preparations for their recommendations to the council at the annual meeting (see Table 3). Because of the broad input sought by the leadership team, the final recommendations may vary significantly from those of the chair, as indicated below. The chair elected to use parsimony and criticality as criteria in making recommendations, and only three of the ten were supported.

1. How abstract? What length?

Should the code of ethics be separated into two documents, that is, a code of ethics with only the five overarching principles and a code of conduct with the thirty-two current guidelines? The arguments for separation were that (1) the code would
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<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>X</td>
<td>X</td>
<td>X</td>
<td></td>
<td></td>
<td>Overall Format: separate guidelines from principles</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Add advisory council (codicil of code)</td>
</tr>
<tr>
<td>3</td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Include training (sec. IV)</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td></td>
<td>Expand professional development (sec. V)</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>Indicate differential application of code (code preamble)</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>X</td>
<td>X</td>
<td></td>
<td>X</td>
<td>Reconcile I:3 and II:5 regarding transparency and privileged information</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>Separate dissent and whistleblowing; clarify language (sec. II:6)</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>X</td>
<td></td>
<td></td>
<td>X</td>
<td>Affirmative action versus diversity (sec. I:2)</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>Substitute “equity” for “ethics” (section IV preamble)</td>
</tr>
<tr>
<td>10</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>X</td>
<td>Add citizen participation to ethical organizations (section IV)</td>
</tr>
</tbody>
</table>
have a greater immediate effect because of greater simplicity and elegance, and (2) it would be more amenable as a wallet card or for wall mounting. The arguments against were that (1) the code was not so extensive that the principles and guidelines could not appear simultaneously, and (2) the guidelines might be more easily overlooked. Although the members had strong feelings about this issue, the committee itself was nearly evenly divided. A number of others not at the annual meeting had also expressed opinions on each side of this point, leaning toward dividing the code into two separate documents. The recommendation that went to the council (from the chair of the committee) was to separate the document into a code with five principles and a second document that would include both the principles and subordinate guidelines.

2. How accountable?

Should there be an ethics advisory council to advise the national council and the president, essentially an enforcement vehicle for the code of ethics? Such a council could provide ethics guidance, investigate serious accusations regarding members, and make proposals to encourage ethical behavior by society members (the proposal recommends a five-person council, with staggered five-year terms, and a four-vote majority for a determination). This would affect the code’s codicils regarding enforcement (which currently refers members to Article II:5 of the 1999 Bylaws). It was before the national council and had been redirected to the committee for consideration (the written proposal was not provided to the committee in time for its meeting). Several of those in attendance were strongly in favor, whereas others seemed substantially less interested, but not necessarily opposed to it in the absence of a formal proposal for this change in ASPA structure. The chair did not formally recommend it until the council acted on the advisory board.

3. What length?

Should Section IV, “Promote Ethical Organizations,” include training, either in guideline 7 (regarding the organizational codes of ethics) or as a separate item altogether? Some members advocated stronger language (in terms of training) than “adopt, distribute, and periodically review.” Alternatively, since training is an essential organizational responsibility, should it be a separate item in which ethics training is only one element? No dissent was immediately expressed, and so the chair limited discussion at the meeting. Possible language for a new guideline (as number 8) to address ethics training in Section IV could read: “Strongly promote ethics training for all members of the organization.” Because the chair’s recommendations were limited to those of substantial clarification or substantial import, this suggestion was not recommended.

4. What length?

Should Section V, “Strive for Professional Excellence,” include more regarding professional development? A committee member commented that this was the weakest of the five sections. The current preamble for the section and the first three guidelines of the code read:

- Strengthen individual capabilities and encourage the professional development of others.
- Provide support and encouragement to upgrade competence.
- Accept as a personal duty the responsibility to keep up to date on emerging issues and potential problems.
3. Encourage others, throughout their careers, to participate in professional activities and associations.

Specific suggestions were not provided in the context of the meeting and died for lack of concrete language.

5. What audience?

Should the code, in its preamble, indicate differential applications for those in merit administrative positions versus those in elected capacities? The prime example was the guideline stipulating, “Conduct official acts without partisanship” (III:6). Numerous elected and appointed officials have always belonged to ASPA. Although many of their role expectations are similar, their roles in the political system differ in some significant ways. First, political figures are often expected to be partisan, whether in having an explicit party affiliation or simply in having ideological positions (without official partisan affiliation) at the level, say, of the city council or the school board. Second, their neutrality is not expected in policy debates and in the discretionary aspects of policy implementation. A problem noted regarding advising differential application is that of how it is known when it applies. Perhaps the language of III:6 could be changed to “conduct administrative responsibilities without partisanship” in order to discriminate between administrative and political functions. The committee chair recommended this important distinction to the leadership team.

6. What structure? What language?

A question was raised about I:3 (“Recognize and support the public’s right to know the public’s business”) and II:5 (“Respect and protect privileged information”). As indicated earlier, the concepts of transparency and right to know public information are supported by the Administrative Procedure Act (1946) and the Freedom of Information Act (1966) and must be balanced with a narrower right to privacy, as expressed in the Privacy Act (1974) and the Government in the Sunshine Act (1977), and as an indirect constitutional right via the Fourth and Fourteenth Amendments’ prohibition against unreasonable search and seizure (e.g., U.S. Supreme Court, Griswold v. Connecticut, 1965). In different situations, different principles will apply. The question was raised: Do these two passages sufficiently distinguish between these sometimes competing principles, and should they be dealt with in a single guideline? Some members granted that greater articulation might be useful. One suggestion was an expansion of each point (keeping in mind the pithy style appropriate for codes):

I.3. Recognize and support the public’s right to know the public’s business, and to actively promote transparency in government, where not in conflict with lawful privacy and confidentiality considerations.
II.5. Respect and protect lawful confidential and privileged information.

Keeping the number of recommendations to a minimum, the chair did not endorse this recommendation.

7. What structure? What language?

Questions were raised about II:6, which reads: “Encourage and facilitate legitimate dissent activities in government and protect the whistleblowing rights of pub-
lic employees." Is the language insufficiently detailed and should it be enhanced, or should the comments on dissent and whistleblowing be included in separate passages? It should be noted that IV:4 covers similar ground, but with the intent to replicate the primarily legal concept (in II) as an ideal management practice (in IV) as well: "Provide organization members with an administrative means for dissent, assurance of due process, and safeguards against reprisal." Language for separating or reconfiguring the two guidelines was not suggested, and the chair did not support the recommendation.

8. What specific language?

Clearly one of the three thorniest issues in the revision debates (along with a simplified format and the addition of an advisory council) is the issue of changing language around affirmative action. Should the language "affirmative action" in the code be changed to reflect the more common contemporary language of "diversity"? Currently the code reads: "Oppose all forms of discrimination and harassment, and promote affirmative action" (I:2). As the Supreme Court, appeals courts, and state legislatures define affirmative action more and more narrowly as either an infrequent technical remedy (involuntary affirmative action) or as an additional safeguard against discrimination (in which case it is little more than equal opportunity), many have moved to the notion of diversity. Rather than promoting active efforts in recruiting and promotion (but without quotas), the emphasis has shifted to creating an affirmative environment in which diversity is appreciated and fostered. Some stated that "Eliminate unlawful discrimination" (II:3) touches on the legal aspect in the legal section, and therefore the broader language of diversity in the public interest section made sense. However, others strongly disagreed, believing that it is the society's responsibility to be proactive on this point, and to maintain the language of affirmative action no matter what its legal status. One member suggested that both concepts could be used with qualifiers. Such a suggestion might read:

I:2. Promote diversity, representativeness, and lawful affirmative action.
II:3. Eliminate all forms of harassment and unlawful discrimination.

The chair recommended this suggestion.

9. What specific language?

An issue was raised about the preamble to Section IV regarding promoting ethical organizations, which reads: "Strengthen organizational capabilities to apply ethics, efficiency, and effectiveness in serving the public." Should the term "equity" be substituted for "ethics"? It was suggested that "ethics" was too broad, and that "equity" (which has representativeness and internal fairness as its implicit goal) does a better job at balancing the managerial goal of efficiency and the policy goal of effectiveness. However, one committee member commented critically: "How do you apply equity?" The suggestion was not recommended.

10. What specific language?

A final suggestion related to adding the notion of citizen participation to the section on promoting ethical organizations. Many aspects of citizen participation
are already discussed in I:3 (“Recognize and support the public’s right to know the public’s business”), I:4 (“Involve citizens in policy-making”), I:6 (“Respond to the public in ways that are complete, clear, and easy to understand”), and I:7 (“Assist citizens in their dealings with government”). Because a principle in code construction is nonduplication unless significantly different aspects are highlighted (so that simplicity can be maintained to the greatest degree necessary), some members of the committee argued against an additional guideline. The chair did not endorse this suggestion. Table 3 summarizes these ten recommendations and arrays them in terms of the types of issues they raise.

Conclusion

The process of suggestions, recommendations by the chair, leadership-team recommendations, and final action by the national council is ongoing. The outcome, however, is much less important than the fact of the debate, the ability to structure it with clarity, and a process characterized by inclusion, openness, and transparency— despite the substantial disagreement that real discussions generate.

A primary contribution of this article is to specify the means for analyzing the various parameters of the types of issues that arise. How abstract or concrete should the code be? How accountable should it hold the organization’s members, and through what means? What is an appropriate length for the document? How broad is the audience, and what ramifications does that have for structure and language? What should the structure be in terms of linking the functions of the code of ethics with a code of conduct, and with codes of regulations? Finally, what language should actually be used in terms of both style and content?

As this process goes on, it is useful to recall the virtues of having an ethics debate about the code. First, such a debate helps educate us about what is in the code and what it means. Many commentators have noted the need for more moral reflection in public administration (e.g., Fox 2001; Frederickson 1990; Lewis 1991). Some people may not have read the code for a long time, and a rigorous discussion requires them to review it in detail and think about what it really means. Dense, symbolic documents like codes of ethics need frequent reexamination if they are to play an important role. Second, a debate requires communication of thoughts and feelings on issues of great import to colleagues in practice and academia, and to be articulate in doing so. From such discussions come a renewed connectedness, a sense of importance, and even a revitalized sense of inspiration. Third, by updating the code, an ethics debate enables members to live up to their implicit pledge as professionals to ensure that it is a living document.

To get the most from such a debate—no matter whether it is about the revision of an organization’s code or even the evolution of ethical government itself (Glor and Greene 2003)—certain parameters must be maintained. The first is collegiality. Without collegiality (sincerely listening to others, not judging ideas prematurely, being tactful in disagreement), debates can lead to factions and unnecessary ideological wars. With collegiality, organizations emerge from robust discussions stronger, and professional bonds are stronger. The next important parameter is self-disciplined reflection. Ethics, beyond simple cases of obvious right and wrong, generally requires significant awareness and reflection. Self-disciplined reflection is especially necessary in reworking a carefully crafted document such as a code. The third parameter
necessary for a successful debate on a series of possible revisions is patience. It takes patience to tease out the concerns, to get coherent alternative suggestions, to hear from those who favor and oppose, and to come to a final resolution of each issue raised.

Given ASPA's past success in substantially improving its code in successive iterations over the last twenty years and the balanced executive direction that initiated the revision, it is likely that the current process will both refine and reaffirm the society's code of ethics as the inspirational heart of the organization.

NOTES

1. Thompson states that although the connotations of ethics and morality are slightly different, the concepts are essentially equivalent in all important aspects. This paper adopts his perspective, but acknowledges that some make a greater distinction between the concepts.

2. These examples come from I:1 and I:7 of the 1994 ASPA Code of Ethics.

3. This example is cited for its quality, not its religious significance per se.

4. This was not true for the case study presented here. Because of the unexpected range of opinion about the best purpose, and therefore the best format, for the code of ethics, the process remained somewhat contentious and the result was more uncertain.

5. Tom Lynch, in a critique of the ASPA code delivered at the Conference of Minority Public Administrators in Jackson, Mississippi (February 2002), suggests that the five principles in the code are still not broad enough. Using a global ethics perspective, he recommends: "(1) Have a receptive inquiring mind that remains open to ethical growth and has a passion for the very process of never ending learning and growth. (2) Renounce for themselves the guiding passions and desires of wealth, fame, and power by striving always to serve the public beyond serving oneself. (3) Manifest, with their daily actions, complete and sincere truthfulness" (unpublished manuscript).

6. The committee is composed of Walter Broadnax, Willa Bruce, Terry Cooper, Stuart Gilman, Rosslyn Kleeman, Anita Maltbia, Montgomery Van Wart (chair), Vera Vogelsang-Coombs, Douglas Watson, and Mylon Winn. Although not committee members, others who were very active included Glen Cope, Tom and Cynthia Lynch, and Don Menzel.

7. Don Menzel suggested that the five principles could be placed first with new supplemental statements. Currently, the supplemental statements immediately following the principles also serve as a preamble. The guidelines could follow the principles as supplemental text or notes. His suggestions for the new auxiliary statements are as follows: "I. Serve the Public Interest. ASPA members are committed to promoting the public interest, not one's self interest. II. Respect the Constitution and the law. ASPA members are committed to respect and support the U.S. Constitution and laws that define responsibilities of public agencies, employees, and all citizens. III. Demonstrate Personal Integrity. ASPA members are committed to the highest standards in all professional activities to inspire public confidence and trust in public service. IV. Promote Ethical Organizations. ASPA members are committed to strengthening organizational capabilities to foster equity, efficiency, and effectiveness in serving the public. V. Strive for Professional Excellence. ASPA members are committed to competency, expertise, and the development of professional competencies among public service professionals."

8. At least one member raised the issue of whether ASPA is not overwhelmingly aimed at administrative functions (and not policy and political functions) and whether changing this language might not dilute the important emphasis on administrative neutrality.

REFERENCES


ABOUT THE AUTHOR

Montgomery Van Wart has a Ph.D. from Arizona State University and is chair of the public administration department at the University of Central Florida. He played a primary role in the redrafting of ASPA’s 1994 code of ethics and chaired the committee responsible for reviewing the code starting in 2001. Among his publications on ethics is Changing Public Sector Values.