

“Professional Codes of Ethics- We compare- You decide”

As noted in the January issue of PMForum, PMI has set off a storm of concern over the proposed Code of Ethics changes.

Being “professional” project managers, we all know the “Devil Lives in the Details” and this Viewpoint article will be looking at the proposed changes in great detail.

To baseline the comparison, the author has chosen the American Society of Civil Engineers Code of Ethics. Why? First because the ASCE was established in 1852, so at 154 years old, should lend it some credibility. Secondly, it is truly a Global organization, with over 100,000 members and sections in most major countries in the world. Lastly, the Professional Engineer (PE) license is recognized throughout the world as a reliable credential attesting to competency based excellence in engineering, construction management and the environment.

For the purposes of comparison, there are two documents from ASCE which will be referenced:

- 1) ASCE Code Of Ethics- <http://www.asce.org/professional/ethics/>
- 2) ASCE Code of Professional Conduct https://www.asce.org/pdf/ethics_manual.pdf

Where to start? The first question we want to explore is “What is the purpose of a Code of Ethics?”

PMI, in their proposed changes, Paragraph 1.1 states “**The Primary purpose of the Code is to promote a fair business environment for project management.**” ASCE is not specific on the purpose, but the first of the Fundamental Canons states “**Engineers shall hold paramount the safety, health and welfare of the public** and shall strive to comply with the principles of sustainable development in the performance of their professional duties. A web search indicates a general consensus best explained by Anderson et al. (1993) “the ACM **code was established together with a review board as instruments to deter members from unethical behavior.** The aim was to introduce means to regulate membership and thereby **convince the public that the profession deserved to be self regulating**”.¹ Compare this against the “original” Code of Ethics, the Hippocratic Oath http://en.wikipedia.org/wiki/Hippocratic_Oath

As can be seen, the primary purpose of truly professional codes of ethics maintains a focus on protecting the interests of the consuming public, in exchange for the right of an occupation to become self regulated, and not on promoting a “fair business environment”. Another “perception” of the PMI Code of Ethics is an undue focus on controlling the relationship of the member/owners to the organization itself, than to the consuming public, but we will explore that issue later.

In Paragraph 2.2.1, PMI proposed wording states: “**We avoid conducting ourselves in a manner that interferes with or inhibits the legitimate roles and responsibilities of others.**”

What is PMI trying to accomplish with this statement? Why or How would a Project Manager “interfere with or inhibit the legitimate roles and responsibilities of others?” The closest ASCE comes to addressing this issue is through the **Canon 6 “Engineers shall not knowingly act in a manner which will be derogatory to the honor, integrity, or dignity of the**

¹ Anderson, R. E. et al. (1993): Using the New ACM Code of Ethics in Decision Making. Communications of the ACM, Vol. 36, No. 2.)

engineering profession or knowingly engage in business or professional practices of a fraudulent, dishonest or unethical nature.”

As Paragraph 2.2.1 is so vague and unclear, it either should be totally reworded or deleted in its entirety.

In Paragraph 2.2.2, PMI proposes:

“As practitioners, we treat other individuals with respect and avoid conduct that is discourteous or abusive and that may jeopardize the success of the project.”

While the words sound good, the terms discourteous and abusive are inconsistent with the image of a professional in the first place. And does this mean being “discourteous or abusive” is OK, as long as it does NOT jeopardize the success of the project? Given the difficulties in defining success of a project, how can this paragraph possibly contribute to the professionalization of Project Management?

Another point to consider- Isn't “Respect” something which is EARNED?

Paragraph 2.2.2 also fails to address the role of the “Whistleblower”. Couldn't the actions of a whistleblower be viewed as “discourteous and abusive” by those on his/her team? And certainly, by blowing the whistle, doesn't this jeopardize the “success” of the project, at least as perceived by those for whom the whistle is being blown?

This Paragraph has no corollary from ASCE, other than Canon 6, however the issue of the role of Whistleblower is spelled out in detail.²

“Whistle blowing” is when an employee reports an employer who is breaking the law. Employees who blow the whistle on their employers are protected by law. If they are fired or otherwise retaliated against for whistle blowing, they can take legal recourse. To actually whistle blow, the employee must report the illegal act outside the company to a government or law-enforcement agency. If the employee just complains to someone inside the company, that is not whistle blowing, and the employee is not protected by the whistle blower laws. It is not necessary that the employer actually break the law. The employee could blow the whistle on something that isn't illegal in the first place. The employee is still protected from retaliation or termination. However, the employee must believe that he or she is reporting a violation of the law, and the employee's belief must be reasonable. If the employee has reported the allegedly illegal activity to a government or law enforcement agency, he or she is protected. The employer cannot retaliate against the employee. The employer cannot fire the employee for the whistle blowing. The employer cannot mistreat the employee for whistle blowing. This does not mean that after whistle blowing, the employee cannot be fired for any reason. The employer can continue to treat the employee like any other employee. But the employer cannot treat the employee differently because of the whistle blowing.”

Whistle blowing has two contexts. One is described above in the classical employee/employer relationship. The other is within the ranks of the professional organization to which one belongs. But in either case, shouldn't the basic rules or concepts be the same?

In Paragraph 2.5 PMI proposes:

If we become aware that others are engaging in activities which are intended to misrepresent or hide the truth from the customer or other stakeholder, we will report the facts relating to the non-disclosure to appropriate management and, if necessary, to those who are impacted by the conduct.

² https://www.asce.org/pdf/ethics_manual.pdf page 6

Compare the wording of what PMI proposes against the relevant ASCE Canon 3.

CANON 3.

Engineers shall issue public statements only in an objective and truthful manner.

- a. Engineers should endeavor to extend the public knowledge of engineering and sustainable development, and shall not participate in the dissemination of untrue, unfair or exaggerated statements regarding engineering.
- b. Engineers shall be objective and truthful in professional reports, statements, or testimony. They shall include all relevant and pertinent information in such reports, statements, or testimony.
- c. Engineers, when serving as expert witnesses, shall express an engineering opinion only when it is founded upon adequate knowledge of the facts, upon a background of technical competence, and upon honest conviction.
- d. Engineers shall issue no statements, criticisms, or arguments on engineering matters which are inspired or paid for by interested parties, unless they indicate on whose behalf the statements are made.
- e. Engineers shall be dignified and modest in explaining their work and merit, and will avoid any act tending to promote their own interests at the expense of the integrity, honor and dignity of the profession.

Which of the two is the more professional?

In Paragraph 2.6 PMI states:

The practitioner owes a duty of loyalty to the customer and the practitioner's employer.

This is more commonly known as a "Fiduciary Responsibility" which is defined as:

"A fiduciary duty is an obligation to act in the best interest of another party. For instance, a corporation's board member has a fiduciary duty to the shareholders, a trustee has a fiduciary duty to the trust's beneficiaries, and an attorney has a fiduciary duty to a client.

A fiduciary obligation exists whenever the relationship with the client involves a special trust, confidence, and reliance on the fiduciary to exercise his discretion or expertise in acting for the client. The fiduciary must knowingly accept that trust and confidence to exercise his expertise and discretion to act on the client's behalf.

When one person does agree to act for another in a fiduciary relationship, the law forbids the fiduciary from acting in any manner adverse or contrary to the interests of the client, or from acting for his own benefit in relation to the subject matter. The client is entitled to the best efforts of the fiduciary on his behalf and the fiduciary must exercise all of the skill, care and diligence at his disposal when acting on behalf of the client. A person acting in a fiduciary capacity is held to a high standard of honesty and full disclosure in regard to the client and must not obtain a personal benefit at the expense of the client."

This is a serious issue, with major potential consequences, and one which should be written with the advice of INDEPENDENT legal council. The author suggests PMI authorize the Circle of Fellows or some other group of highly regarded members hire an independent outside attorney to help draft the wording which reflects the best interests of the member/owners of the organization and not those of PMI HQ staff.

ASCE addresses the issue of Fiduciary responsibility through Canon 4:

CANON 4.

Engineers shall act in professional matters for each employer or client as faithful agents or trustees, and shall avoid conflicts of interest.

- a. Engineers shall avoid all known or potential conflicts of interest with their employers or clients and shall promptly inform their employers or clients of any business association, interests, or circumstances which could influence their judgment or the quality of their services.
- b. Engineers shall not accept compensation from more than one party for services on the same project, or for services pertaining to the same project, unless the circumstances are fully disclosed to and agreed to, by all interested parties.
- c. Engineers shall not solicit or accept gratuities, directly or indirectly, from contractors, their agents, or other parties dealing with their clients or employers in connection with work for which they are responsible.
- d. Engineers in public service as members, advisors, or employees of a governmental body or department shall not participate in considerations or actions with respect to services solicited or provided by them or their organization in private or public engineering practice.
- e. Engineers shall advise their employers or clients when, as a result of their studies, they believe a project will not be successful.
- f. Engineers shall not use confidential information coming to them in the course of their assignments as a means of making personal profit if such action is adverse to the interests of their clients, employers or the public.
- g. Engineers shall not accept professional employment outside of their regular work or interest without the knowledge of their employers.

Again, the author urges stakeholders to compare what PMI proposes against what ASCE has written. Notice again the focus has little or nothing to do with the professional organization itself.

This also brings up an issue of promises made in writing by PMI to get the member/owners to vote for Policy Governance in the first place. In the documents posted to the PMI website circa May/June of 1998, PMI clearly *stated* "The Board exists (as trustees) on behalf of the moral owners of the organization -The members!"

As the elected BoD are trustees, then by definition, they have a fiduciary obligation to us, the member-owners of the organization to represent OUR best interests and not those of PMI HQ staff. Based on the proposed wording as recently published, it appears as though exactly the opposite is true.

In Paragraph 3.0 of PMI's proposed changes states:

Section 3 of this Code applies to all "Volunteers" participating in PMI sponsored activities, whether they are members or not.

How can an organization enforce a Code of Ethics on people who do not belong to the organization? Perhaps as part of the renewal process, PMI could hold PMP holders to adopt the CoE, even though they are not PMI members, however to try to hold a non-member "volunteer" accountable makes no practical sense.

ASCE is silent on the role of the member as he/she relates to the organization itself. The closest ASCE comes to defining anything to do with the relationship between the member and the organization is in the Code of Ethics Manual, which states

The Role of the ASCE member

The Employer usually provides a mechanism to help employees handle difficult judgment decisions, those "gray areas" where it is often hard to differentiate right from wrong. No ASCE member should be uncomfortable in handling a question involving proper professional

conduct. If you are uncertain about what is proper ethical conduct in a particular situation, if you are concerned about your own conduct, or if you believe that a fellow ASCE member may have violated the Standards, you should contact one of the following:

Your immediate supervisor, owner, or department head

ASCE's Committee on Professional Conduct through ASCE's legal counsel.

When you communicate a question of ethics/professional conduct to one of the above:

You shall be treated with dignity and respect.

Your concerns shall be seriously addressed and you shall be informed of the outcome.

Your communications shall be protected to the greatest extent possible:

Questions of guidance or clarification may be asked anonymously.

A report of possible misconduct requires identification of the ASCE member making the report.

The identity of an ASCE member who in good faith reports violations of the Standards shall be treated as confidential, and no reprisal should be taken against them.

Disciplinary action shall be taken against anyone who retaliates, either directly or indirectly, or encourages others to do so, against any ASCE member who reports a violation of the Standards.

The identity of the reporting person shall only be disclosed on a "need to know" basis.

In Paragraph 3.2.1 it states:

Section 3 of this Code "We place the good of the profession....."

ASCE's Canon 3.a and 3.e says:

- a. Engineers should endeavor to extend the public knowledge of engineering and sustainable development, and **shall not participate in the dissemination of untrue**, unfair or **exaggerated statements** regarding engineering.
- f. Engineers shall be dignified and modest in explaining their work and merit, and will avoid any act tending to **promote their own interests** at the expense of the integrity, honor and dignity of the profession.

In published research, funded in part by PMI, Bill Zwerman, Janice Thomas et al concluded that "*Project Management has not yet attained all the characteristics of a profession*"³. And on page 170, they reiterate "*using the criteria established for recognizing an occupation as a profession, project management does not qualify*"⁴ Research by this author through a survey of some 400 global practitioners; overwhelmingly indicate that Project Management is NOT a profession, but a Process, Methodology or System⁵.

So unless PMI HQ or the BoD can come up with evidence to the contrary, given the fact that Project Management is NOT a profession, taken in the context of the ASCE Code of Ethics, doesn't it raise serious ethical questions about the organization itself and the elected leadership making unsubstantiated or exaggerated claims, serving their own self interest? If the organization were to use "Evolving" or "Emerging" profession or similar modifiers, that would be more consistent with what a true professional organization should be doing.

³ Zwerman, Bill L, Thomas, Janice L et al, "Professionalization of Project Management: Exploring the past to Map the Future", 2004, page 45.

⁴ Ibid. Page 170

⁵ Giammalvo, Paul D. Unpublished PhD Research entitled "Is Project Management a Profession? And if not, what is it?" 2006

PMI, in their proposed changes, have dedicated an entire section to the issue of the relationship between volunteers.

3.2.2 Respect: We show respect for others with whom we are working on volunteer activities.

Comment: *Respect allows volunteers to work together with effectiveness and enthusiasm. People are valued for their unique contributions. Volunteer work is about giving beyond self. The Volunteer considers other people's time valuable and trusts other volunteers to deliver on their commitments and provides constructive criticism when it is required.*

As noted previously, not only is the question of whether Project Management is or is not a profession a core issue of the entire Code of Ethics proposal, but the question has to be asked, why is it necessary for an entire section to be dedicated to how volunteers deal with one another? ASCE, a 150+ year old, highly regarded organization, does not mention it at all, and only alludes to it obliquely in Canon 6. We need to ask for more clarification on the driving force behind this proposed change. Just something to consider, but is the underlying need for this wording be a symptom of something else and not a root cause? We need to find the symptom.

The remainder of the document is fairly straightforward, although the wording is sorely in need of cleaning up. This author is not convinced the issues relating to being honest when applying for PDU's would be best handled through the Code of Ethics, but the issue is not worth arguing over.

Having gone over what is IN the document, let's explore some major issues which were NOT addressed in the proposed changes but SHOULD have.

A core element of almost all the recognized professions is some sort of restrictions on Advertising. ASCE dedicates a rather lengthy and detailed paragraph regarding advertising. Canon 5.f states

CANON 5.

Engineers shall build their professional reputation on the merit of their services and shall not compete unfairly with others.

- g. Engineers may advertise professional services in a way that does not contain misleading language or is in any other manner derogatory to the dignity of the profession. Examples of permissible advertising are as follows:
 - Professional cards in recognized, dignified publications, and listings in rosters or directories published by responsible organizations, provided that the cards or listings are consistent in size and content and are in a section of the publication regularly devoted to such professional cards.
 - Brochures which factually describe experience, facilities, personnel and capacity to render service, providing they are not misleading with respect to the engineer's participation in projects described.
 - Display advertising in recognized dignified business and professional publications, providing it is factual and is not misleading with respect to the engineer's extent of participation in projects described.

- A statement of the engineers' names or the name of the firm and statement of the type of service posted on projects for which they render services.
- Preparation or authorization of descriptive articles for the lay or technical press, which are factual and dignified. Such articles shall not imply anything more than direct participation in the project described.
- Permission by engineers for their names to be used in commercial advertisements, such as may be published by contractors, material suppliers, etc., only by means of a modest, dignified notation acknowledging the engineers' participation in the project described. Such permission shall not include public endorsement of proprietary products.

One of the most disturbing aspects of PMI over the past 5 or 6 years has been the blatant commercialization of the PMP. Full page advertisements abound in the PMI publications touting "Pass your PMP Exam in 5 days or your money back". Or perhaps worst of all is Peter Nathan and Gerald Jones "PMP Certification for Dummies". Has anyone ever seen "Brain Surgery for Dummies"? or "Pass your PE Exam in 5 days or your money back"? Consistent with ASCE's Canon #6, do we believe that "Passing your PMP Exam in 5 Days or your money back" or "PMP Exam for Dummies" fulfills the letter or intent of ASCE's Canon 6?

CANON 6.

Engineers shall act in such a manner as to uphold and enhance the honor, integrity, and dignity of the engineering profession.

- a. Engineers shall not knowingly act in a manner which will be derogatory to the honor, integrity, or dignity of the engineering profession or knowingly engage in business or professional practices of a fraudulent, dishonest or unethical nature.

In looking at the ASCE magazine, there is not ONE advertisement for help in passing the Engineer In Training (EIT) Exam. Why? Because ASCE is a true professional organization. It is not in the business of providing testing or training. Which raises the question- Why is PMI? There are no shortages of Universities and commercial education providers out there. So why doesn't PMI, as a professional organization, limit their activities to enhancing the brand image of the profession, lobbying for and on behalf of the practitioners, setting standards and enforcing the Code of Ethics, leaving the commercial activities to others? These are serious ethical if not legal issues which the elected BoD must consider. PMI is a not-for-profit organization, which is tax exempt under 501 (c) regulations. Yet here we have an organization which directly competes against tax paying members. This is certainly ethically questionable and while it may be legal, legislation is in process to tighten up abuses by Not for Profit organizations doing exactly what PMI is doing.

<http://www.ncnonprofits.org/grantthornton.html>

Another issue not addressed in the proposed Code of Ethics. In 1998, in order to get members to vote for policy governance model, promises were made in writing on the PMI Website that stated very clearly and unequivocally that anyone joining PMI became a "moral owner" of the organization, and that the elected leadership's first obligation was *to "understand the wants and needs of the membership, and to turn those overall needs into results to be achieved by the organization. PMI's management staff is accountable to the Board through the Executive Director. The*

role of the management staff is to implement the means to achieve the organizational results defined by the Board.”⁶

The posting goes on further to explain “***The Board’s primary relationship is with the member-owners, not with staff.***” and “***a Board aligned to the member-owners, not staff. This Board-member linkage becomes critical for the Board to perform it’s primary duty -- translating the needs of the members into results to be achieved by the organization***”

It is ESSENTIAL that any Code of Ethics contain wording enshrining these promises made in order to get the member/owners to vote for policy governance.

To summarize:

- ü The proposed Code of Ethics changes do not come close to a “best in class” Codes of Ethics and should be immediately withdrawn from consideration pending a re-write modeled after ASCE or similar benchmarks.
- ü In any resulting Code of Ethics, references to “Project Management as a profession” should be modified to reflect the fact that we are NOT a profession, but an aspiring or evolving or emerging profession. This is a gross misrepresentation or exaggeration of the facts.
- ü The proposed Code of Ethics should NOT require the signing of any onerous copyright assignment. (for background information, the current ASCE Code of Ethics was based on Sierra Pacific Power Standards of Business Conduct)⁷
- ü The revised Code of Ethics should address the marketing of the PMP Exam Training as well as anything which detracts from the image of PMI or the PMP as a professional organization or credential. This should include ANY references advocating the concept of “teaching to the exam”.
- ü In order to be accepted as a truly global professional code of ethics, revisions should be focused not on peer to peer or peer to organization relationships, but on our obligations to the “the safety, health and welfare of the public and shall strive to comply with the principles of sustainable development in the performance of their professional duties”. As PMI holds itself out to be a global organization, the Code of Ethics should include references to the Millennium Development Goals.

How else to interpret this other than to believe the to voice their dissatisfaction with the organization’s paid staff and/or elected leadership.

⁶ Powerpoint slide show posted on the PMI Website circa May or June of 1998.

⁷ Acknowledgements: The preceding “Standards of Professional Conduct” was prepared by ASCE’s Committee on Practice Guidelines. It was modified from Sierra Pacific Power’s “Standards of Business Conduct.” Page 9 https://www.asce.org/pdf/ethics_manual.pdf