

**Society of American Archivists
Council Meeting
February 2 – 4, 2010
Washington, D.C.**

**Action: Process for Code of Ethics Review/Revision
(Submitted by the Committee on Ethics and Professional Conduct)**

BACKGROUND

Since 2006 the Committee on Ethics and Professional Conduct (CEPC) has been engaged in analysis and review of the current Code of Ethics and the possibility of developing additional guidelines regarding the professional responsibilities of archivists. At its 2007 annual meeting in Chicago, CEPC reviewed and discussed comparisons between the 1992 and 2005 Codes of Ethics, as well as comments (both published and orally conveyed) regarding deficiencies in the current (2005) Code. In 2007, CEPC compiled comments about ethical codes and discussed reports of complaints heard from other SAA members. In 2008, CEPC voted to examine options for revising the Code to address some of its perceived weaknesses.

CEPC members support an aspirational Code of Ethics, but one that more clearly reflects recent scholarship and professional discourse regarding archival ethics and the profession's goals and identity. The 2009 Anthony Clark controversy also focused the SAA membership's attention on the Code and Ethics and its perceived deficiencies. A vocal minority of the SAA membership would like an enforceable Code, something that SAA lacks the resources and organizational will to pursue. Both Frank Boles (2008-2009 SAA President) and Peter Gottlieb (2009-2010 SAA President) have strongly encouraged CEPC to propose a revision of the Code that would include more of the character of the 1992 Code while maintaining its aspirational – and legally neutral – character.

DISCUSSION

Given that a Code of Ethics is central to the archives profession, that the membership should have an opportunity to comment on the review and revision process, and that SAA has charged a task force to develop a statement about core values for archivists in 2010 that should inform the revision, CEPC sees the revision of the Code as a two-year process. Below is a suggested timeline with benchmarks for assessing progress.

March 15, 2010: After SAA Council minutes are posted and/or any comments and recommendations from the Council are incorporated into the proposal, the proposal will

be posted on the CEPC webpage and a notice sent to the SAA membership via appropriate list serves that this document is available for review and comment.

March – August 2010: Continue to gather data and work on elements of the Code as outlined in the proposal.

August 10 – 15, 2010 (Joint Annual Meeting): The goal of the CEPC meeting will be to develop a draft of the revised Code based on the work we have done in advance. We will also spread the word about the revision and solicit comment through a variety of methods, including 1) contact section and roundtable leaders and offer to have a CEPC member attend their meeting to discuss the Code revision and 2) discuss the Code revision as part of a forum open to the membership.

August – December 2010: Incorporate comments and meeting feedback in the Code as appropriate and present to the SAA Council at its winter 2011 meeting.

March 15, 2011: After SAA Council minutes are posted and/or any comments and recommendations from the Council are incorporated into the revision, the Code will be posted on the CEPC webpage and a request for comment will go out to the membership.

March – May 2011: Any appropriate changes are incorporated in the Code.

June 2011: Revised Code submitted for SAA Council meeting agenda.

August 22 – 27, 2011 (Annual Meeting): Revised Code approved by the SAA Council.

Environmental Scan and Code Comparison

As background for this proposal, CEPC did a comparison of the 1992 and 2005 versions of the Code (see Appendix A for 2007 document). We also reviewed codes of ethics from allied professional organizations (see Appendix B for Rand Jimerson's 2009 report). Below is a summary of observations about the various codes.

ALA Rare Book and Manuscript Section: The RBMS code does include archivists in its scope and is similar to the 1992 version of the SAA Code in that it includes commentary. It contains elements that SAA decided to remove in the 2005 revision, such as competition. It also sends mixed signals about personal collecting.

Institute of Certified Records Managers Code of Ethics: ICRM takes the Code in a direction that SAA does not have the resources or organizational desire to pursue. It is an enforceable code with links to the law and a review process that can result in de-certification. While a minority of SAA members has expressed interest in an enforceable code, CEPC does not see that as feasible even if such a code was desired by SAA leadership.

International Council on Archives Code: CEPC finds a number of desirable elements in the ICA document, particularly its focus on behaviors and actions. This code combines elements that the Values Task Force should also take into account.

Association of Canadian Archivists Code: Much like the ICA Code, the ACA Code focuses on principles and values.

SAA Values Task Force

The SAA Task Force on Developing a Statement of Core Values for Archivists has been charged to have their statement ready by the 2010 Annual Meeting. CEPC considers this statement to be a complementary document to the Code of Ethics and something to be acknowledged in the introduction to the Code, if not in other ways. CEPC plans to share with the Task Force its work on the Code revision, including this proposal. Past CEPC chair Rand Jimerson is a member of the Task Force, as is current member Shawn San Roman.

What Would a Revised Code Look Like?

CEPC intends to maintain the aspirational character of the Code and further remove any references to the law, which imply enforcement. Below is a list of elements that CEPC is considering for the revision:

- Important to disconnect code from an enforcement procedure: Aspirational code – SAA does not have the resources or desire to have an enforcement procedure.
- What elements need to be removed? Code is not meant to be *legally* restraining; references to law should be removed.
- What needs to be added? Suggestions from the meeting included:
 - Disclosure (could include gifts, personal collecting, etc.)
 - Neutrality where possible; unbiased approach
 - Authenticity; public needs to understand level of trust involved with records, especially electronic records
 - Transparency
 - Social justice; for the benefit of society as a whole
 - Public faith; fair and balanced archives
 - Access and privacy
 - Working with dealers
- Include resource page/wiki/bibliography of related codes, readings, cases/decisions
- Should be intelligible to the general public, not just to archivists.

RECOMMENDATION

THAT the SAA Council charge the Committee on Ethics and Professional Conduct to seek broad member comment on possible revisions to the SAA Code of Ethics and, per the process and timeline below, present for Council review and approval a revised Code that maintains an aspirational (not enforceable) character.

Process and Timeline for Revision of SAA Code of Ethics

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Support Statement: Given that a Code of Ethics is central to a profession and that feedback about the SAA Code of Ethics has been received over a period of years, it is appropriate that the Code be brought before the membership for consideration and possible revision. The proposed timeline will ensure that there is good opportunity for member input and careful consideration by the Committee on Ethics and Professional Conduct and the Council.

Fiscal Impact: None.

APPENDIX A

Memorandum

To: SAA CEPC Members
 From: Shannon Supple and Tim Pyatt
 Date: 28 November 2007
 Re: SAA Ethics Code Changes

This memorandum sets forth and compares the changes between the previous (approved in 1992) and current (approved in 2005) SAA Codes of Ethics.

A. COMPARING THE 1992 AND 2005 CODES.

As we all know, the current SAA Code of Ethics (2005) is composed in a different way than the previous Code of Ethics (1992). The 1992 Code has an explanatory preface, statement of purpose, introduction, ten substantive sections, and a conclusion, and all but the preface and statement of purpose include commentary. The current 2005 Code has a preamble, statement of purpose, and eight substantive sections. No commentary accompanies the current code. The two codes, broken down into their constituent parts, can be compared like so:

Previous Code (1992)	Current Code (2005)
[Explanatory Preface]	Preamble
II. Introduction to the Code	
I. The Purpose of a Code of Ethics	I. Purpose
III. Collecting Policies	II. Professional Relationships
XI. Complaints About Other Institutions	
XII. Professional Activities	
IX. Information About Researchers	
VI. Appraisal, Protection and Arrangement	III. Judgment
X. Research by Archivists	IV. Trust
V. [Archival] Description	V. Authenticity and Integrity
IV. Relations with Donors and Restrictions	VI. Access
VIII. Use and Restrictions	
VII. Privacy and Restricted Information	VII. Privacy
	VIII. Security/Protection
	IX. Law
XIII. Conclusion	

Some of the sections of the two codes reflect similar topics, while others do not seem to have a counterpart in the other version. But this is not exact, as some of the sections from the 1992 Code apply to a few sections of the 2005 Code (e.g., the 1992 Code's IV. Relations with Donors and Restrictions maps to the 2005 Code's II. Professional Relationships, VI. Access, and VII. Privacy). The above matrix also maps the 1992 and 2005 Codes to each other, so please refer to it for guidance as well.

B. SPECIFIC CODE SECTIONS.

The 2005 Code is compared to the 1992 Code (below) by section and in greater detail. This analysis is organized according to the sections of the 2005 Code. Shannon focused on the Preamble and Sections I-IV of the 2005 Code, while Tim analyzed Sections V-IX. (Tim's comments on the latter sections are in square brackets.)

Preamble

The Preamble establishes the Code's intention and purpose, and includes a definition of an "archivist." The first paragraph, which lists what the Code is meant to accomplish, is akin to 1992 Code section I (The Purpose of a Code of Ethics, paragraph 3). The former states that the Code establishes standards, introduces them to new members, reminds experienced archivists of them, serves as a model for institutional policy, and inspires public confidence. The 1992 Code gives three reasons for itself: informing new members, reminding experienced archivists, and educating people:

"The archival profession needs a code of ethics for several reasons:

(1) to inform new members of the profession of the high standards of conduct in the most sensitive areas of archival work;

(2) to remind experienced archivists of their responsibilities, challenging them to maintain high standards of conduct in their own work and to promulgate those standards to others; and

(3) to educate people who have some contact with archives, such as donors of material, dealers, researchers, and administrators, about the work of archivists and to encourage them to expect high standards."

In the second paragraph, the Preamble explains that it is intended as an ethical framework to guide members of the profession. The 1992 Code has similar language in its explanatory introduction:

"The code is a summary of guidelines in the principal areas of professional conduct."

The third paragraph defines the term "archivist." There is no specific definitional statement in the 1992 Code.

I. Purpose

This section and the Preamble would be better served by combining and refining them, since this section is mostly redundant coming after the Preamble with its discussion of the Code's purpose. This section's main contribution is that it sets forth the aspirational nature of the Code. The aspirational or proscriptive nature was not included in the 1992 Code. The 1992 Code has a much larger section on purpose: I. The Purpose of a Code of Ethics. This section has five paragraphs and seems to be the equivalent of the 2005 Code's Preamble and I. Purpose sections. The 1992 Code's section I (Purpose) focuses on the reasons for a code of ethics in general, the specific reasons for this code, the

institutional role in ethics, then waxes philosophically on ethics and its relation to law and morality.

II. Professional Relationships

This section focuses on what archivists do and their relations to other archivists, users, and institutions. (It does not discuss their relations with donors.) As with most of its topics, the 1992 Code goes into more detail in a number of aspects of professional relationships than does the 2005 Code. The first sentence, which is a general statement of what archivists do, is taken almost verbatim from the 1992 Code:

“Archivists select, preserve, and make available documentary materials of long-term value that have lasting value to the organization or public that the archivist serves.”

(There is some redundancy with the definition in the Preamble.) The other two sentences cover a number of different sections from the 1992 Code, including those regarding cooperation and collaboration: sections XII (Professional Activities) (*“Archivists share knowledge and experience with other archivists through professional activities and assist the professional growth of others with less training or experience”*) and III (Collecting Policies) (*“They cooperate to ensure the preservation of materials in repositories where they will be adequately processed and effectively utilized”*). Note that the “do not compete” portion of the 1992 Code’s section III was omitted in the 2005 Code. Respect for institutions, their missions, and collecting are also found in the 1992 Code: sections II (Introduction to the Code) (*“Archivists perform their responsibilities in accordance with statutory authorization or institutional policy”*), III (Collecting Policies) (*“...in accordance with their institutions’ purposes, stated policies, and resources”*), and XI (Complaints About Other Institutions) (*“Archivists avoid irresponsible criticism of other archivists or institutions...”*). The final sentence focuses on professional relationships with colleagues and users. In addition to the 1992 Code sections mentioned above, these topics are also discussed in more detail in sections IX (Information About Researchers) (*“Archivists endeavor to inform users of parallel research by others using the same materials, and, if the individuals concerned agree, supply each name to the other party”*) and X (Research by Archivists) (*“When archivists use their institutions’ holdings for personal research and publication, such activities should be reported to their employers and made known to others using the same holdings”*). The 2005 Code emphasizes respect and cooperation without these kinds of details.

III. Judgment

It would make a lot of sense to collapse III. Judgment and IV. Trust into one section since professional judgment and avoiding financial and other conflicts of interest are intertwined. This is particularly true in the second paragraph of III. Judgment, which focuses on stopping personal beliefs and perspectives from affecting professional decisions. The 1992 Code discusses conflicts such as these in sections I (The Purpose of a Code of Ethics), particularly in paragraphs 1-2 and 4, and XIII (Conclusion). The 1992 Code discusses professional judgment in a few sections, including section III (Collecting Policies) regarding collecting/acquiring materials, especially the first paragraph of the section III commentary on the specifics of acquisition; sections VI (Appraisal, Protection,

and Arrangement) and IV (Relations with Donors and Restrictions) on appraisal; and sections V (Description) and VI (Appraisal, Protection, and Arrangement) on processing/arrangement.

IV. Trust

This section focuses on not profiting or otherwise benefiting from privileged access and control. The 1992 Code addresses this specifically regarding research by archivists in section X (Research by Archivists) and also very generally in section I (The Purpose of a Code of Ethics) (stating that one purpose of a code of ethics is “...*the guarantee that the special expertise of the members of a profession will be used in the public interest*”).

V. Authenticity and Integrity

[Covered tangentially in 1992 section VI. Appraisal, Protection, and Arrangement]
Relevant section from 1992 code: “*They maintain and protect the arrangement of documents and information transferred to their custody to protect its authenticity. Archivists protect the integrity of documentary materials of long-term value in their custody, guarding them against defacement, alteration, theft, and physical damage, and ensure that their evidentiary value is not impaired in the archival work of arrangement, description, preservation, and use.*” [Nothing from the 1992 commentary directly addresses authenticity]

VI. Access

Commentary from 1992, item VIII. Use and Restrictions: “*Archival materials should be made available for use (whether administrative or research) as soon as possible. To facilitate such use, archivists should discourage the imposition of restrictions by donors. Once conditions of use have been established, archivists should see that all researchers are informed of the materials that are available, and are treated fairly. If some materials are reserved temporarily for use in a special project, other researchers should be informed of these special conditions.*” [Note: this commentary needs revision to reflect issues raised by institutional and business archives. For example, the first sentence could be revised to read: “Within the content of an institution’s mission, archival materials should be made available for use (whether administrative or research) as soon as possible.”]

VII. Privacy

Relevant text from the 1992 Commentary: “*In the ordinary course of work, archivists encounter sensitive materials and have access to restricted information. In accordance with their institutions' policies, they should not reveal this restricted information, they should not give any researchers special access to it, and they should not use specifically restricted information in their own research. Subject to applicable laws and regulations, they weigh the need for openness and the need to respect privacy rights to determine whether the release of records or information from records would constitute an invasion of privacy.*” [Note: I think additional information, such “Privacy dies with the individual under law,” should be included.]

VIII. Security/Protection

[Addressed as part of item VI. Appraisal, Protection and Arrangement in 1992 code.] Relevant text from item VI includes: “*Archivists protect the integrity of documentary materials of long-term value in their custody, guarding them against defacement, alteration, theft, and physical damage, and ensure that their evidentiary value is not impaired in the archival work of arrangement, description, preservation, and use. They cooperate with other archivists and law enforcement agencies in the apprehension and prosecution of thieves.*” [Security not addressed in the 1992 commentary]

IX. Law

[Not a specific item in the 1992 Code, but covered tangentially in several of the commentaries.] From item I. Purpose: “*It presumes that archivists obey the laws and are especially familiar with the laws that affect their special areas of knowledge.*” From item VII. Privacy: “*Subject to applicable laws and regulations, they weigh the need for openness and the need to respect privacy rights to determine whether the release of records or information from records would constitute an invasion of privacy.*” From item IX. Information about Users: “*Such information should consist of the previous researcher's name and address and general.*”

Comments on the SAA Code of Ethics

Rand Jimerson

CEPC Meeting, August 2, 2009

The SAA Council has encouraged the Committee on Ethics and Professional Conduct (CEPC) to proceed with its announced plans to review the Code of Ethics, with the objective of offering suggestions for revision of the Code. As outgoing chair of CEPC, I have not moved forward quickly with the review process, partly due to a busy schedule this year and partly because I thought it better to allow the review process to proceed under the incoming CEPC leadership. This process is one that deserves continuity of leadership, which the new CEPC chair will bring. Since my new book, *Archives Power: Memory, Accountability, and Social Justice* (currently at the printer, and expected to be available by next week at the Joint Annual Meeting in Austin) focuses considerable attention on ethics (including a conclusion entitled “Rethinking Archival Ethics”), I did not want my public statements on these issues to hamper my ability as chair of CEPC to direct the review of the Code of Ethics. Finally, I prefer to have the freedom to address Code of Ethics revisions as a member of SAA rather than in any official capacity.

Although I still plan to address my concerns about the Code of Ethics during the review process that will take place largely after I step down as chair of CEPC, I would like to begin this discussion in my final days as chair. I hope that CEPC can begin planning a more active process to review and revise the Code of Ethics during its August 11 meeting in Austin. This memo is intended to suggest some possible considerations for that discussion. I hope it will provide some ideas worthy of consideration as CEPC develops its plans for a full review and revision of the SAA Code of Ethics.

(1.) **Distinguish ethical from legal concerns.** The current SAA Code of Ethics states, “Archivists must uphold all federal, state, and local laws.” While this is arguably true from a legal standpoint, it contradicts the essential nature of ethics, which addresses moral principles. As David Wallace argues in a 2007 conference paper, the law can sometimes be a force to oppress people, to reinforce power relationships, with “absolutely no bearing to morality and justice.” This statement in the SAA Code bears the stamp of legal counsel and aversion to liability, rather than any semblance of concern for the fundamental concepts of ethics. It is particularly ironic that this statement was included in the Code *after* passage of the USA PATRIOT Act, which librarians and archivists widely criticized as a violation of several principles of professional ethics.

(2.) **Consider societal as well as inward-looking professional concerns.** The current Code almost exclusively focuses on internal considerations for archival practice, rather than the relationships between archivists and the wider society. This has also been true of all previous Codes, but it particularly noticeable with the 2005 Code. The Code’s only attention to external constituencies comes in a few references to archival donors and researchers. A strong professional code of ethics should address broader societal relationships and impacts of the archival profession, such as the recent discourses about

public accountability, open government, diversity in the archival record, and documentation of previously marginalized social groups.

(3.) **Neutrality is impossible—get over it.** As recent discussions of the impact of archivists on the archival record have demonstrated, archivists can never be—and have never been—neutral and passive in the mode Hilary Jenkinson advocated. Inevitably we interact not only with donors and researchers, but also with the archival record. Archivists are in fact co-creators of the records offered to researchers. To act ethically, one must acknowledge this lack of neutrality and seek to influence what records are kept in archives in a transparent manner that serves the best interests of all members of society, not merely those with political, economic, and intellectual influence. Archivists who seek to document under-represented social groups, for example, apply their personal beliefs to their professional work in order to achieve a positive benefit for society. This is an ethical decision. We should think carefully about this before accepting such Code of Ethics statements as this: “Archivists . . . should not allow personal beliefs or perspectives to affect their decisions” (Code, III). At the very least, I would argue, this should be qualified or framed within the context of professional judgment and standards rather than as a value-laden concept of neutrality.

(4.) **Focus on desired results.** One of the central distinctions to be found in statements regarding ethics is that between deontological and teleological theories. In brief, deontological theories seek to establish the morality of an action based on the act itself, with no consideration of consequences. Teleological theory reverses this orientation, focusing on desired ends rather than means. In these formulations, the moral act would produce the most desirable consequences rather than stipulate what actions should be taken. Statements of archival ethics have most commonly emphasized deontological concepts (what archivists should do), with less attention to teleological statements (what results are desired). In one of the best recent articles about archival ethics, Glenn Dingwall¹ argues (convincingly, I think) archival ethics statements should explain the motive behind actions archivists should take and the benefits society reaps from archival actions.

(5.) **Suggestions for a new approach to the Code of Ethics.** The following passage summarizes some of my concerns, as addressed in the conclusion to *Archives Power*.

Archival ethics codes provide only limited guidance for archival praxis and may inhibit actions to ensure a fully representative and diverse approach to documentation, interpretation, and access to archives. Perhaps more significantly, such codes offer virtually no useful perspectives on the nature of the archival enterprise for those outside the profession. As archivists continue to seek ways to secure broader public understanding of archival programs and services, such internal standards fail to communicate archival perspectives to the rest of society. “Most of the codes fall short when it comes to strengthening public confidence in the profession,” Glenn Dingwall concludes. This is a missed opportunity.

¹ 1 Glenn Dingwall, “Trusting Archivists: The Role of Archival Ethics Codes in Establishing Public Faith,” *American Archivist* 67 (Spring/Summer 2004).

A strong professional code of archival ethics could explain the principles that govern archivists' behavior and practice. It could help bridge the gap between the archival profession and the public it strives to serve. As Dingwall argues, professional associations must acknowledge that the public—particularly the “resource allocators” who control funding for archival programs—is one of the primary audiences for their codes of ethics. In making such connections between archivists and society, archival codes of ethics should place greater emphasis on particular categories of actions taken by archivists and on their desired outcomes. Dingwall contrasts this narrow (deontological) statement in the Association of Canadian Archivists code—“Archivists endeavour to protect the intellectual and physical integrity of the records in their care”—with the more explanatory (teleological) statement in the ICA code—“Archivists should protect the integrity of archival material and thus guarantee that it continues to be reliable evidence of the past.” The latter goes beyond a merely prescriptive injunction of the actions archivists should take to explain the motive behind such action and the benefits society reaps from archival actions. In order to make ethics codes accessible to the public, archivists should incorporate more teleological language to highlight the consequences they are trying to achieve on behalf of societal interests. In this way, ethics codes can indicate the moral reasoning that underlies archival activities and relate such concepts to specific dilemmas that occur in the workplace. This will not resolve moral dilemmas, but it will establish a solid basis for individuals to make ethical choices and to explain the resulting decisions to the rest of society.

(6.) **Examples of ethics statements incorporating motives and benefits.** In addition to the example Dingwall presents from the ICA Code of Ethics, I have found a few other archival ethics code statements that include both prescriptions for action and an explanation of the desired outcomes, social benefits, and motives for taking certain actions. The relevant phrases and clauses are underlined.

SAA Code:

II. Professional Relationships. ... “Respect and cooperation form the basis of all professional relationships with colleagues and users.

VI. Access. ... “Archivists recognize their responsibility to promote the use of records as a fundamental purpose of archives. Archivists may place restrictions on access for the protection of privacy or confidentiality of information in the records.”

ICA Code of Ethics:

“1. Archivists should protect the integrity of archival material and thus guarantee that it continues to be reliable evidence of the past.”

2. ... “They should not seek or accept acquisitions when this would endanger the integrity or security of records ...”

4. ... “Archivists should select documents to be kept or to be destroyed primarily to save essential testimony of the activity of the person or the institution which produced and accumulated the documents but also bearing in mind changing research needs. Archivists

should be aware that acquiring documents of dubious origin, however interesting, could encourage an illegal commerce”

6. ... “They should observe faithfully and apply impartially all agreements made at the time of acquisition, but in the interest of liberalization of access, should renegotiate conditions in accordance with changes of circumstance.”

Association of Canadian Archivists, Archivist’s Code of Ethics:

Principles

“Archivists appraise, select, acquire, preserve, and make available for use archival records, ensuring their intellectual integrity and promoting responsible physical custodianship of these records, for the benefit of present users and future generations.”

“... Archivists contribute to the advancement of archival studies by developing personal knowledge and skills, and by sharing this information and experience with members of archival and related professions.”

“Archivists use their specialized knowledge and experience for the benefit of society as a whole.”

Applications of Principles

A. Appraisal, Selection, and Acquisition. ... A2. “Archivists do not compete for acquisitions when competition would endanger the safety of the records; they cooperate to ensure the preservation of records in repositories where they can be effectively managed and used.”

C. Availability and Use. C1. “Archivists arrange and describe all records in their custody in order to facilitate the fullest possible access to and use of their records.”

E. Advancement of Knowledge. ... E2. “Archivists share their specialized knowledge and experience with legislators and other policy-makers to assist them in formulating policies and making decisions in matters affecting the record-keeping environment.”