

Revision of the AALL Code of Ethics

Role of an Ethics Code

by Ralph A. Monaco

One of the defining characteristics of a profession is self-governance, and its code of ethics is its public disclosure of the ethical principles by which it governs itself. Codes of ethics also serve to gain public recognition of an occupation's professional status.

Professional codes justify legitimate professional actions by pointing out their relationship with the needs, desires, preferences, values, and interests they are supposed to serve, and define and reject those professional actions which are detrimental to the profession. A code of ethics should embody the entire philosophy of the occupation and capture and express the essence of the occupation.

A code of ethics should include a means by which members of the profession ensure compliance.

The primary task of an association of professionals is to further the interests and ideals of its own members, and to monitor the rights, privileges, and career development of its membership.

As a starting point, the role of a profession and professionals in society can be partly defined by the needs they are presumed to satisfy, and by

the interests they are supposed to promote. Professionals of all descriptions have a firm obligation to satisfy the needs, to promote the interests, and to respect the values of their clientele. All those who want to become members of a given professional group must learn the skills required in the profession's work, and the established membership has a duty to keep step with its chosen field's developments. Although no code of ethics can provide absolutes for every situation, the librarians' code can perform two valuable functions. First, its very existence informs the profession itself, and those it serves, of the core values of its practitioners. Second, it favors certain values that must be consciously overcome if library policy is made to the contrary.

The AALL Professional Code makes a statement about law librarians' relationship to our society as a whole, our mission, and our values, and should reflect a positive attitude towards new challenges facing the profession.

Drawing from the AALL Special Committee Toward a Renaissance in Law Librarianship, any revised code of ethics we adopt should incorporate the Committee's definition of law librarianship's professional mission and value, as well as its professional traits and attitudes.

The foundation of our profession is its mission. In its broadest sense, that mission can perhaps be characterized simply as one of serving the information needs of the legal profession

and the legal information needs of the public. All functions of acquiring, collecting, organizing, retrieving, and disseminating legal and related information are only subsets of that basic mission.

In order to accomplish this mission, it is necessary that we ascribe to a set of essential values or principles, including genuine belief that the world is a better place when people and institutions have optimum access to information, faith that the world is also a better place when the rule of law prevails, conviction that serving the information needs of the legal profession is a noble calling, belief that democracy is the best political order, firm conviction that an effective democracy requires ready public access to law, opposition to censorship, and commitment to fostering the equal participation of diverse peoples in library services and library employment, especially those who have been previously excluded or marginalized.

...Traits then that we have tended to overlook in the past are those that suit today's technological revolution: versatility, adaptability, flexibility, and being comfortable with changes in information technology. If there is one overcharging characteristic of the model law librarians in the information age, however, it is one who revels in change, who not only doesn't dread the next development in computer hardware or research software but is positively excited by its prospects and wishes to assume a leadership role in bringing change to the organization.

Practical Implications of Ethical Codes and Role of Professional Judgment

Libraries do not operate in isolation. It is true of this Association, as it is increasingly true of all professions, that its individual members rarely act with the autonomy that is sometimes wrongly believed to characterize the activities of most professional men and women. Whatever may be true of other professions, it seems clear that the librarian

rarely acts or can act without regard to the agency of which he or she is a part—whether a school, college, university, public library, or private organization. What makes special librarians unique is that their libraries promote the goals of another profession or organization. Should we be concerned that the values of the

A code of ethics should embody the entire philosophy of the occupation and capture and express the essence of the occupation.

It is true of this Association, as it is increasingly true of all professions, that its individual members rarely act with the autonomy that is sometimes wrongly believed to characterize the activities of most professional men and women.

organization always take precedence over the values of the profession?

The purpose of such codes is indeed to establish shared standards and agreed ways of handling situations. But how far should we expect agreement in principle to be reflected in practice? What counts as agreement in practice? Is it reasonable to expect all those professionals who sincerely subscribe and conform to a common code to act in the same way? Followers of the same rule will inevitably vary in how they apply it from instance to instance. Differing situations necessitate variation in how a rule is applied. There must be a role for discretionary judgment in following a code of ethics. Variation in application of rules in professional practice is not something unavoidable that we need to tolerate—it is something to be valued and safeguarded. Professionals need to be vigilant that calls for harmonization of their standards are not converted into attempts to curtail the role of professional judgment in decisionmaking. Our professional code should range over more general constraints and aspirations. The constraints should rule out certain ways of handling a situation. The aspirations should allow for professional discretionary judgment, and for varying application in specific cases. Codes are not necessarily improved by being more precise and too directive.

For whom is a code of practice written? Is it written for those outside the profession as a political weapon—staking out what the profession deems to be minimal standards in keeping with the profession's aims, so that members can clamor for the resources they need to comply with their code? Or is the code written rather for those inside the profession, setting the guidelines and requirements to follow in their day-to-day practice? Professionals' respect for their code may be subverted when they notice that it includes, as requirements, specific obligations that they know perfectly well they regularly cannot conform to under certain existing circumstances. The danger is that, once a written code is discredited, practicing professionals may fall back on the standards that prevail wherever they work ... and these may well fall below the standards it is reasonable to expect. Drawing once again from the AALL Special Committee Toward a Renaissance in Law Librarianship:

A law librarian needs to be well versed in the culture, structure, and likely future of the organization where s/he works. Academics need to know where the institutions are going and how top administrators plan to get there; law firm librarians need to know about the firm, its alliances, directions and priorities. Government librarians need to know about citizens they serve and the priorities of the government entities in which they work. *Libraries do not operate in isolation.*

Consequently any revision of our code requires consideration of the arena in which we operate, and reasonable accommodation to the loyalties owed to the employer.

Implementation

Should the code of ethics include a means by which the members of the profession ensure compliance with the responsibilities they profess? The Association must debate how proactive, if at all, it wants to be about the code's implementation. Some areas that must be discussed:

- Submit the code revision to the membership through an AALL town meeting.

American Association of Law Libraries Code of Ethics

The American Association of Law Libraries espouses the statement of professional ethics promulgated by the American Library Association, which states that: "A librarian

- has a special responsibility to maintain the principles of the Library Bill of Rights.
- should learn and faithfully execute the policies of the institution of which one is a part and should endeavor to change those which conflict with the spirit of the Library Bill of Rights.
- must protect the essential confidential relationship which exists between a library user and the library.
- must avoid any possibility of personal financial gain at the expense of the employing institution.
- has an obligation to insure equality of opportunity and fair judgement of competence in actions dealing with staff appointments, retentions, and promotions.
- has an obligation when making appraisal of the qualifications of any individual to report the facts clearly, accurately, and without prejudice, according to generally accepted guidelines concerning the disclosure of personal information."

In addition, the Association, in light of the special character and mission of its membership, espouses the principles that law librarians, while engaged in their professional work,

- have a duty neither to engage in the unauthorized practice of law nor to solicit an attorney-client relationship.
- have a duty to avoid any situations posing a possible undisclosed conflict of interest.
- have a special duty, given the nature of their patron base, to treat confidentially any private information obtained through contact with library patrons and not to divulge any confidential information to persons representing adverse interests.
- have a duty to exercise scrupulous care in avoiding any acts or even the appearance, of misappropriating the work product of library patrons or professional colleagues to their own credit or profit.
- have a duty actively to promote free and effective access to legal information.
- have a duty to society and the legal profession to work both individually and through their professional organizations toward improving the quality and minimizing the cost of the library component of the delivery of legal services.

Adopted, September 1978

- The membership should vote on the language of the revised code.
- Should professional associations disclose information about ethical problems within the profession and provide a public forum for discussing and working toward the solution of such problems?
- Should professional associations defend members of the profession who lose their jobs or are penalized for upholding tenets of the profession's code of ethics?
- As an absolute last resort, should there be censure or some fashion of contact with those institutions that compel their employees to perform duties which seriously conflict with the code? How practical is this measure and does it jeopardize AALL's status in any way?
- Encourage library schools that offer courses in law librarianship to incorporate discussion of the code of ethics in their instruction.

Continued on page 19

- Establish an AALL committee to render advisory opinions to serve as a guide for Association members—such as states' informal ethics opinions serve to guide practicing attorneys. Will this committee have any impact?
- Should the Association continue to take public positions, e.g. amicus briefs, when perceived violations of the tenets of our code occur, i.e. ACLU versus Reno?
- Will anyone listen or care?

Notes

Richard N. Stickler, "On reforming ALA's code of ethics," *American Libraries*, p. 40–44, January 1992.

Jean Preer, "Special ethics for special librarians," *Special Libraries*, p. 12–18, Winter 1991.

Heta and Matti Hayry, "The nature and role of professional codes in modern society," *Ethics and the Professions*, edited by Ruth Chadwick, 1994.

John McNeill, "Law Librarianship: Rebirth or Buried Alive?" *AALL Spectrum*, September 1996.

Timo Airaksinen, "Service and science in professional life," *Ethics and the Professions*, edited by Ruth Chadwick, 1994.

Jennifer Jackson, "Common codes: divergent practices," *Ethics and the Professions*, edited by Ruth Chadwick, 1994.

Dick Holdsworth, "Accountability: the obligation to lay oneself open to criticism," *Ethics and the Professions*, edited by Ruth Chadwick, 1994.

Lee Finks, "Librarianship needs a new code of professional ethics," *American Libraries*, p. 84–92, January 1991.

Richard H.S. Tur, "Accountability and lawyers," *Ethics and the Professions*, edited by Ruth Chadwick, 1994.

"Toward a Renaissance in Law Librarianship," Special Committee Report, AALL, 1996, Kathleen Carrick, chair.

Ralph A. Monaco is Head Librarian, Rivkin Radler & Kremers, Uniondale, New York.

Professionals' respect for their code may be subverted when they notice that it includes, as requirements, specific obligations that they know perfectly well they regularly cannot conform to under certain existing circumstances.