



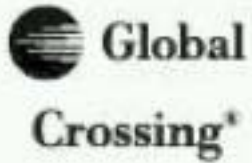
Ethics and Leadership

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UCAR Policy

“UCAR is committed to upholding high ethical standards in all of its scientific, technical, educational and administrative operations.”

UCAR Policy, Too

“Ethical conduct is grounded in principles embracing honesty, fairness, respect for others, honoring commitments and obligations, compassion, integrity, taking responsibility for our actions, striving for excellence in performance, and complying with laws and regulations.”

Why You?

- ◆ Leaders are in positions of trust
- ◆ The reputation of NCAR, UOP and UCAR could be seriously damaged as a consequence of an ethical violation
- ◆ Staff look to their leaders to set the tone for ethics in the workplace

Business Ethics Timeline

1960 – 2000

Courtesy of the Ethics Resource Center

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Washington, DC 20006**

1960s

ETHICAL CLIMATE:

Social unrest. Anti-war sentiment. Employees have an adversarial relationship with management. Values shift away from loyalty to an employer to loyalty to ideals. Old values are cast aside.

MAJOR ETHICAL DILEMMAS:

- Environmental issues
- Increased employee-employer tension
- Civil rights issues dominate
- Honesty
- The work ethic changes
- Drug use escalates

BUSINESS ETHICS DEVELOPMENTS:

- Companies begin establishing codes of conduct and values statements
- Birth of social responsibility movement
- Corporations address ethics issues through legal or personnel departments

1970s

ETHICAL CLIMATE:

Defense contractors and other major industries riddled by scandal. Recession and unemployment heightened environmental concerns. The public pushes to make businesses accountable for ethical shortcomings.

MAJOR ETHICAL DILEMMAS:

- Employee militancy (employee versus management mentality)
- Human rights issues (forced labor, sub-standard wages, unsafe practices)
- Some firms choose to cover rather than correct dilemmas

BUSINESS ETHICS DEVELOPMENTS:

- Compliance with laws high-lighted
- Foreign Corrupt Practices Act passed in 1977
- Values movement begins to move ethics from compliance orientation to being "values centered"

1980s

ETHICAL CLIMATE:

- Defense contractors are required to conform to stringent rules. Corporations downsize. Employees' attitudes about loyalty to the employer eroded. Health care ethics emphasized.

MAJOR ETHICAL DILEMMAS:

- Bribes and illegal contracting practices
- Influence peddling
- Deceptive advertising
- Financial fraud (savings and loan scandal)
- Transparency issues arise

BUSINESS ETHICS DEVELOPMENTS:

- First business ethics office at General Dynamics (1985)
- Defense Industry Initiative established (1986)
- Companies create ombudsman positions in addition to ethics officer roles
- False Claims Act (government contracting)

1990s

ETHICAL CLIMATE:

Global expansion. Major concerns about child labor, facilitation payments (bribes), and environmental issues. Internet emergence.

MAJOR ETHICAL DILEMMAS:

- Unsafe work practices in third world countries
- Increased corporate liability for personal damage (cigarette companies, Dow Chemical, etc.)
- Financial mismanagement and fraud.

BUSINESS ETHICS DEVELOPMENTS:

- Federal Sentencing Guidelines (1991)
- Class action lawsuits
- Global Sullivan Principles (1999)
- Caremark (Delaware Chancery Court ruling re Board responsibility for ethics)
- IGs requiring voluntary disclosure

2000s

ETHICAL CLIMATE:

Unprecedented economic growth followed by financial failures. Ethics issues destroy some high profile firms. Personal data is collected and sold openly Hackers and data thieves plague businesses and government agencies. Acts of terror and aggression occur internationally.

MAJOR ETHICAL DILEMMAS:

- Cyber crime
- Privacy issues (data mining)
- Financial fraud
- International corruption and terror
- Loss of privacy - employees versus employers
- Intellectual property theft

BUSINESS ETHICS DEVELOPMENTS:

- Business regulations mandate stronger ethical safeguards (Federal Sentencing Guidelines for Organizations; Sarbanes-Oxley Act of 2002)
- Anticorruption efforts grow.
- Shift to emphasis on Corporate Social Responsibility and Integrity Management

The Ethical Action Test

- ◆ Is it legal? Does it comply with our rules and guidelines?
- ◆ Would I take this action if my family or friends were involved?
- ◆ How would I feel if this action was reported on the front page of the newspaper?

Adapted From: *Ethics4Everyone: The Handbook for Integrity-Based Business Practices* The Walk the Talk Company

Ethics in Science



The Story of a Promising Young
Physicist, Jan Hendrik Schön

About Schön

- ◆ Joined Lucent Technologies' prestigious Bell Labs in 1998
- ◆ Lead author on more than 90 articles in about 3 years (7 papers in November 2001 alone!)
- ◆ Received an award for scientific "Breakthrough of the Year" in 2001
- ◆ Considered Nobel Prize contender

Schön's Work

- ◆ Experimenter in superconductivity and organic electronics
- ◆ Papers documented results that showed he could take molecules from materials that don't normally conduct electricity and make them into semiconductors, lasers and light-absorbing devices
- ◆ In the words of a Princeton professor, Schön had "defeated chemistry"

Climate at Bell Labs

- ◆ Impressive scientific past
 - 7 Nobel Prizes
 - Inventions from Bell Labs include:
 - ◆ Radio Astronomy, Transistors, UNIX
- ◆ BUT...dot.com burst hurt Bell Labs financially
- ◆ Desperately needed good news for shareholders, hence delight over Schön
- ◆ Critics of Schön were ignored by Bell Lab management

Then the fall...

- ◆ Small group of concerned Bell Lab researchers contacted Princeton professor Lydia Sohn, who, with a colleague, found some serious issues
 - Identical figures were used in different papers to illustrate completely different experiments
- ◆ The professors contacted Bell Labs management, as well as Schön and his supervisor and coauthor, Bertram Batlogg

Reactions

- ◆ Bell Labs established a committee to investigate
- ◆ Other issues surfaced, for example, no other physicist could repeat Schön's results
- ◆ Schön's colleagues quickly distanced themselves
- ◆ Schön first defended himself, then went silent

Investigative Committee Findings

- ◆ Allegations made about 25 papers, involving 20 coauthors
- ◆ Committee selected 24 final allegations for detailed examination, grouped into 3 classes:
 - Substitution of data
 - Unrealistic precision of data
 - Results that contradict known physics

Committee Findings

- ◆ "Schön is a hard working and productive scientist"
- ◆ All device fabrication, physical measurement and data processing in question were carried out by Schön
- ◆ Proper lab records were not maintained

Committee Findings (cont'd)

- ◆ “The evidence that manipulation and misrepresentation of data occurred is compelling”
- ◆ Substitution of data and use of mathematical functions to represent real data (Schön’s response was that it was done to “achieve a more convincing representation of behavior that was nonetheless observed”)

Committees Final Conclusion

- ◆ Of the 24 allegations examined
 - Scientific misconduct evident in 16
 - 6 were troubling, but no compelling evidence of scientific misconduct
 - 2 had no clear relationship to publications
- ◆ Coauthors absolved of scientific misconduct, though there is an issue of professional responsibility

The Upshot

- ◆ Lucent Technologies terminated Schön's employment
- ◆ Max Planck Institute withdrew director job offer made to Schön; doctoral degree withdrawn by University of Konstanz
 - Schön's appeal denied in October 2009
- ◆ 8 papers withdrawn by *Science*
- ◆ 7 papers withdrawn by *Nature*
- ◆ His work may still contain legitimate ideas and contributions
- ◆ By July 2008, Bell Labs had 4 scientists left in Physics Research; Bell Labs parent announced it was getting out of basic research in August 2008

What Do You Think?

- ◆ Would you hire Schön?
- ◆ What do you think of Schön's response to the Committee?
- ◆ What responsibility should his supervisor/coauthor Batlogg take?
- ◆ What IS a co-author's responsibility?
- ◆ Should the peer review system have found these problems? What effect might reputation have had on the peer reviewers?

In terms of business ethics:

- ◆ How would you rate Lucent Technologies/Bell Labs actions in terms of corporate responsibility?
- ◆ How would you rate Schon's actions in terms of personal responsibility?
Batlogg's?

For More:

PLASTIC
FANTASTIC

HOW THE BIGGEST
FRAUD



IN PHYSICS SHOOK THE
SCIENTIFIC WORLD
EUGENIE SAMUEL REICH

Los Alamos National Lab



Ethics and Culture

Los Alamos National Lab Facts and Figures

- ◆ In operation since 1943, originally the Manhattan Project laboratory
- ◆ Motto: "The World's Greatest Science Protecting America"
- ◆ Full time employees 8047
 - Total Employment (including contractors) 13,953
- ◆ FY05 Budget \$2.2 Billion
 - DOE \$2.0 Billion
- ◆ Consistently High Ratings from DOE

But...Management Issues

- ◆ Wen Ho Lee scandal 1997
- ◆ Nuclear security violations
- ◆ Fiscal Misconduct
- ◆ Firing of two alleged “whistleblowers”

Instances of Alleged Financial Fraud

◆ Procurement Card

- Mustang
- Casino cash advances
- Jewelry store

◆ Property

- "Lost or stolen" (e.g. 355 desktop computers)
- National security implications

Further Financial Malfeasance

- ◆ Over a 21 month period, 2 employees ordered (and kept for personal use) \$39,401 of merchandise
 - Included televisions and VCR's, hunting knives and equipment, vacuum cleaners, model airplane remote control kit, etc.
 - The employees had the goods delivered to an old bunker and an abandoned trailer

Whistleblower Firing

- ◆ Two employees of the LANL Office of Security Inquiries fired
 - October 2002 -- Highly favorable performance ratings
 - November 2002 -- Termination for:
 - ◆ Inaccurate and incomplete reporting
 - ◆ Inability to gain confidence and trust
 - ◆ Failure in custody of investigative information
 - Termination occurred same day that the two employees were interviewed by the DOE IG

A Series of Selected Quotes

“Long standing cultural issues at Los Alamos included:

- Lack of operational formality;
- Lack of sense of fiduciary relationship between Laboratory and the taxpayers;
- Lack of responsibility and accountability;
- Lack of management discipline;
- Lack of an understanding that competent managers and good science are not incompatible.”

◆ Testimony to the House Committee on Energy and Commerce by Joseph F. Salgado, Former Principle Deputy Director, Los Alamos

More Quotes

“The fact that there was not greater fraud and theft at Los Alamos is a tribute to the character of the vast majority of men and women working there and not to the efficacy of the management systems in place.”

Kyle McSlarrow, Deputy Secretary of Energy

More

“These actions created an atmosphere in which Los Alamos employees were discouraged from, or had reason to believe they were discouraged from, raising concerns to appropriate authorities.”

“Laboratory officials took a number of actions that, in our judgment, obscured serious property management and security problems.”

DOE Inspector General Report, January 2003

The Upshot

- ◆ 17 Los Alamos senior managers, including the Director and Deputy Director, fired, removed or resigned from their positions
- ◆ DOE announced that they would compete the Los Alamos management contract, which UC has had for over 60 years
- ◆ Person responsible for casino cash advances terminated
- ◆ Two security employees rehired to work for UC
- ◆ Two employees sentenced in Federal prison

But the Best is...

- ◆ UC determined the employee in the Mustang case was not responsible for any wrongdoing
- ◆ UC declined to take action in a second case of fraudulent purchasing
- ◆ "I'm not sure exonerated would be the right word. The conduct of Ms. Anaya, frankly, was no different than many other employees. We don't wish to single her out." John Lundberg, Deputy General Counsel, UC

And Now

- ◆ UC teamed with Bechtel to propose for management of Los Alamos; Lockheed Martin led a competing bid
- ◆ UC/Bechtel team awarded contract December 21, 2005
- ◆ Annual management fee \$53M to \$79M based on performance

And closer to home...

- ◆ UCAR Purchasing Card Fraud
- ◆ "Sweetheart" deal with a contractor
- ◆ Rewards programs

Where do all these rules come from anyway?

◆ Federal Law

- Fair Labor Standards Act
- False Claims Act
- Fly America Act
- ITAR, Export Administration Regulations (EAR)
- Others

◆ Federal Regulation

- OMB Circulars
- IRS Regulations
- Procurement Regulations

Where do all these rules come from anyway? (continued)

- ◆ State, County and City Laws and Regulations
- ◆ Sponsor Requirements
- ◆ UCAR Policies and Procedures

And why do I care?

- ◆ Federal Laws carry financial penalties, sometimes for individuals as well as corporations
- ◆ OMB Circulars and procurement regulations carry penalties ranging from unallowable costs to terminating current award to debarring organization, i.e. lose future funding

Why do I care, continued

- ◆ Individual awards are subject to termination if provisions are not followed
- ◆ Employees are subject to termination if they do not abide by UCAR policies, which are the implementation of federal laws and regulations

Fair Labor Standards Act

- ◆ Establishes minimum wage, overtime pay, recordkeeping and child labor standards
- ◆ Penalties for violating FLSA
 - Individual—"willful" violation \$10,000
 - Corporate--\$1,000 per violation

False Claims Act

- ◆ Allows persons and entities with evidence of fraud against the federal government to sue the wrongdoer on behalf of the government
 - If suit is successful, the person receives 15 to 30% of the settlement
- ◆ Violations include:
 - Knowingly presenting a false or fraudulent claim
 - Knowingly using a false record or statement to get a claim paid (e.g. timecard)
 - Conspiring with others to get a false or fraudulent claim paid

False Claims Act

◆ Penalties

- Three times the dollar amount of the fraud
- Civil penalties of \$5,000 to \$10,000 per false claim

Fly America Act

- ◆ Passed in 1975, covers all federally-financed travel
- ◆ Cost and convenience are specifically NOT a factor in exceptions to the Act
- ◆ Tickets on non-U.S. flag carriers cannot be paid for with government funds
 - Individual employee is liable for cost

ITAR and EAR

- ◆ International Traffic in Arms Regulations (ITAR) control “defense related items”
- ◆ Export Administration Regulations control most other items
- ◆ When in doubt, call Meg McClellan!

ITAR and EAR-Administrative, Civil and Criminal Penalties

◆ Administrative (ITAR and EAR)

- Termination of export privileges
- Suspension and/or debarment from government contracting

◆ Civil

- ITAR: Up to \$500K per violation for *individuals* and companies
- EAR: Up to \$12K per violation for *individuals* and for the company

◆ Criminal (willful violations)

- ITAR: Up to \$1 million for the company; up to \$1 million per violation for *individuals* and/or up to 10 years in prison
- EAR: Up to \$1 million for the company; up to \$250K per violation for *individuals* and/or up to 10 years in prison

Other Acts

◆ Copyright Laws

- ◆ From 1993 to 1998 the Business Software Alliance collected \$35 million in settlements related to software piracy
- ◆ In most cases, companies prosecuted attributed illegal downloading to insufficient management control over employees

◆ No Internet Theft Act (NET Act), Digital Millennium Copyright Act, Digital Theft Deterrence and Copyright Damages Improvement Act

◆ Workers' Compensation

◆ Anti-Discrimination Laws

OMB Regulations

- ◆ Circular A-110: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations
 - Sets specific standards for:
 - ◆ Financial and program management
 - ◆ Property management
 - ◆ Procurement
 - ◆ Reports and Records

OMB Circular A-122

- ◆ Cost Principles for Non-Profit Organizations (A-21 is for Universities)
- ◆ Establishes principles for determining cost of grants, contracts and other agreements
- ◆ 55 pages long
- ◆ Mandates what costs can legitimately be reimbursed under a government award
- ◆ Example? Overhead charge on equipment under \$5,000

Circular A-133

- ◆ Audits of States, Local Governments, and Non-Profit Organizations
- ◆ “Sets standards for obtaining consistency and uniformity among Federal agencies” in audits of government awards
- ◆ Governs how we prepare our financial statements AND how KPMG audits them

IRS Regulations

- ◆ Govern UCAR's actions as a tax-exempt organization
- ◆ Translates into how we can and cannot use tax-exempt bond financing

State Laws

- ◆ Employment issues
 - Workers Compensation
- ◆ Fraud statutes
- ◆ Duty of Loyalty
- ◆ Tort Claims
- ◆ Fundraising

Procurement Regulations

- ◆ Federal Acquisition Regulations govern elements of contracting
 - Same types of things covered by A-110 and A-122
 - But not always consistent!
- ◆ See UCAR Policy 3-2-1, Acquisition of Goods and Services

Sponsor Requirements

◆ Standard clauses

- Drug-free workplace
- Research involving recombinant DNA molecules
- Increasing Seat Belt Use in the United States
- Clean Air and Water

Sponsor Requirements

- ◆ Agency Specific clauses, e.g. "Sense of Congress on the Use of Funds"
- ◆ Agency by agency "tweaks"
 - Property
 - Subcontract approval levels
 - Pre-Award costs
 - No-Cost extensions
 - Etc.

UCAR Policies and Procedures

- ◆ Translate the provisions of laws and regulations into practical terms
- ◆ Establish authorities, e.g. travel authorization and contracting
- ◆ Policy violation is a serious issue and can result in personnel action up to and including termination
- ◆ Ignorance of policy is not an excuse
- ◆ Every individual is responsible for adherence to policy—they can't delegate it to someone else!

Some practical questions

◆ Computers and incidental use

- Computers are provided to do UCAR work
 - ◆ Incidental personal use is allowed
- Internet access
 - ◆ UCAR computer resources (web, email, etc.) cannot be used to pursue outside business interests
 - ◆ Content sent or accessed must be appropriate and must not in any way embarrass or discredit UCAR or our sponsors

Practical Questions

- ◆ See UCAR Policy 1-1-15, Access to and Use of Computer and Information Systems
- ◆ Privacy of communications and files on UCAR computers is NOT guaranteed
- ◆ Do not use a UCAR computer to post, directly or as part of a link, to a non-work related site
- ◆ What does an auditor look for?

Ethics Resources

◆ UCAR Ethics Website

<http://www.fin.ucar.edu/ethics/index>