

Host/Facilitator Guidelines for “Street-Level Ethics” Workshop

Overview

Welcome, and thank you for your willingness to devote your time to placing this critical issue before your fellow CPCUs and other insurance professionals. These materials should furnish you an adequate “road to run on” in leading a workshop on ethical business behavior.

These materials are not intended to be the final word on creating ethical behavior in insurance practitioners, but rather to serve as an introduction to the “street level” application of what are often seen as esoteric topics. The main objective is to lead the workshop participants to start “wading into the pool” of what constitutes an ethical dilemma. The intent is to avoid two extremes common to the subject: (1) turning the subject into an “intellectual” philosophical discussion, littered with fifty-dollar words such as “teleological”; or (2) creating a moral “firefight,” where all anyone gleans from the arguments is that the person who disagrees with me “is so lacking in morals his or her licenses should be pulled.”

It is precisely because most discussions on ethics follow one of these paths that little true progress towards increasing the amount of ethical behavior seems to have been made in business, despite the emphasis on the subject in business schools and associations for many years. If the discussion of ethics becomes so academic the participant sees little application to daily life, knowledge may be gained but behavior remains unchanged. And if the discussions or case studies presented appear clearly immoral or illegal so they are dismissed out of hand, once again, much heat may be generated but little behavioral change will occur.

In guiding your participants through this material, then, it is critical to avoid either extreme. Let the first half of the material be a simple summary of the issues as identified in the following outline. Place particular emphasis on clearly defining the differences between “morality” and “ethics.” The participant must end this section of the material with no doubt that “right versus wrong” is not an ethical issue and has no place in ethical decision-making. Only those situations that survive the “right versus wrong” filter to emerge as true “right versus right” scenarios should have the light of ethical analysis shone upon them. Anything less, and the discussion can become like Shakespeare’s famous description of life in *Macbeth*: “full of sound and fury, signifying nothing.” Avoiding extended immersion in the “right versus wrong” waters also helps avoid one of the major criticisms of many “ethics” presentations – the suggestion that the facilitator/instructor is “preaching” his or her own moral code to the participants. If this is done correctly, it may be accurate to say to one raising such an accusation: “This has nothing to do with morality; I’m talking ethics!”

The section on page 3, “Notes Specific to the Outline,” provides suggestions for presenting the first part of the course. Each note is referenced to a specific portion of the student outline. Reviewing this section prior to the seminar will give you a good overall feel for the intended flow of information leading up to the case studies. These suggestions are not meant to be a pre-written “speech,” but rather thought points upon which you can build your own personal approach to the material. No matter what style or approach you use, your attendees will gain a great deal from recognizing you are speaking from your own heart and experience, not just parroting words written by someone else.

One way to practice this approach is to take each note, absorb the intent and meaning of that portion of the outline, and then ask yourself, “If I had written this, how would I have said it?” Then present it just that way.

Following the first part of the outline, which will most likely be delivered in somewhat of a lecture format, come the case studies. The case studies relate to agents (4), underwriters (2), and claims adjusters (2). The intent is for each case to be realistic (each is based upon actual incidents), as well as to minimize moral issues. In each case, there are several possible paths for the person involved to take. In your discussion, encourage full exploration of each possible path. The only requirement is that, for a path to be considered by the group as a valid option, it must, in some fashion, be shown to adhere to one of the three ethical approaches identified in the outline. The object is not to arrive at THE right answer. If that were possible, the case is not a true ethical dilemma and serves no purpose in our study. The object is for each participant to confront the complexity of the issue, recognize the possibilities of multiple solutions, and then begin formulating a personal approach (based upon one or a combination of the three approaches identified in the outline) to choosing a solution when confronted by such situations in their own daily activities.

Participants should also begin to recognize the value of a Code of Ethics in providing a “roadmap” to follow, as opposed to wandering lost in the ethical wilderness. It should be made clear such Codes are not meant to take the place of individual accountability. But when an individual joins a profession or earns a designation that carries with it the explicit or assumed acceptance of such a Code, the public has a right to expect that person, at a minimum, to use the Code as a strong determinant of his or her individual behavior.

Note to session leader on timing

These materials are intended to fulfill the needs of a one-hour format. Estimated times are as follows:

I., II.	10 minutes
III.	20 minutes (includes brief review of actual wording of the Codes)

IV.	25 minutes
Wrap-up	5 minutes

It is your decision, based upon factors including, but not limited to, the actual time allowed, number of attendees, facilities available, and your comfort level as leader/lecturer/facilitator, how much of this material may be properly presented and still prove of benefit to participants. If time is limited, possible choices include: present in detail the first portion of the outline only, with the case studies for later discussion; a brief overview of the first portion of the outline, then going directly into one or more of the case studies; and presentation of the outline without the material on Codes of Ethics (you could hand out copies for later review). The case studies offer a great deal of flexibility in approach, and those options are discussed below.

Take your time, encourage discussion, and enjoy. Few subjects have the potential to make as great an impact on an insurance person's everyday actions than an appreciation of ethical dilemmas and how to approach them.

Notes Specific to the Outline

I.

Go over course objectives so participants know what you hope to accomplish during the workshop

II.A.

Offer examples contrasting a moral choice with an ethical one. Choose examples that will appeal to your audience, but avoid stereotyping. Your purpose is to get agreement on participants' understanding of the definitions, not to score points for humor or cleverness. The focus of your examples (with suggested possibilities) should be:

Moral decisions: (right vs. wrong) honesty vs. lying; paying vs. stealing; playing by the rules vs. cheating

Ethical decisions: (right vs. right) honesty vs. loyalty (I need to honestly answer your question vs. I promised to keep the information confidential); short-term vs. long-term (go on vacation with the kids vs. saving for their college costs); justice vs. mercy ("you embezzled money, so you're fired" vs. "look, I know you're having problems at home, so let's work out a payback schedule and see if we can make sure this never happens again"); individual vs. community ("I know a college degree from night school will finally help you get out of that dead end job, but the kids hardly ever see you now").

The concept of right vs. right originated with Rushworth M. Kidder, Ph.D., founder and president of the Institute for Global Ethics in Camden, Maine (www.globalethics.org). He discusses the concept of right vs. right and other issues involved in resolving ethical

dilemmas in his book *How Good People Make Tough Choices*, published by Simon & Schuster.

II.B.

Despite all the media and popular sentiment that these examples show a lack of ethics, in reality all of the examples cited in B. are moral issues, not ethical ones; many of the companies involved, in fact, had Codes of Ethics in place, and ethical enforcement procedures. But all the ethical guidelines in the world will have no effect on a person who has lost his or her moral compass. Calling these “ethical issues” is, in fact, giving them more status than they deserve, with the added negative affect of further lowering the value of the study of ethics in the minds of the public.

III.A.

Each of these three approaches should simply be presented as guidelines, along with the strengths and weaknesses inherent in each. The point is not to discard these approaches, but rather to recommend the participants use them with full knowledge of how formidable the strengths can be, if the weaknesses can be minimized or avoided. Stress how equally honest and ethical individuals, depending upon the analytical approach they choose, can arrive at equally ethical but opposite conclusions as to the proper action to take in a given situation.

For each approach, first lead the attendees to think through the intended strengths. Then, use an example of potential weaknesses for each approach (included as parentheticals below, or use a similar one of your own). Remind them they need to be cautious not to assume any approach is an automatic answer to every issue.

NOTE: Avoid spending more time on these than required to get a basic working knowledge sufficient for discussing the case studies. Particularly for those who have done a great deal of study on these approaches, there will be the temptation to delve deeply into the intellectual and historical underpinnings of each. Don’t assume your audience is at or near your level of interest or expertise - even the most experienced and intelligent persons may have little background on this particular subject. Don’t allow the session (and the participant’s attention) to be diverted from practical applicability. (Hint: If you are even tempted to speak the words “Kantianism”, “teleology” or “utilitarianism”, bite your tongue. You’re preparing them for the street, not a quiz.)

Situation-based. **Strengths:** take long view; pause to think of consequences before acting in haste; **Weaknesses:** often hard to determine long-term accurately; may lack the proper facts to make a clear decision; may lead to rationalization of hoped for outcome instead of realistic appraisal; most of us are all too familiar with the number of evil actions justified by their intended results (Holocaust; Watergate)

Rule-based: Strengths: Can simplify decision and clearly indicate action (the rule is the rule; ignorance of the law is no excuse; invariable practice); Weaknesses: Depends entirely on validity of the rules (many “wrong” things were once or continue to be “legal,” such as racism; if it isn’t illegal, must it be okay?); ignores the long-term implications of the actions (let the chips fall where they may); ignores unique aspects of a situation (novice vs. expert; first mistake vs. long-time perpetrator; innocent error vs. deliberate act)

People-based: Strengths: based upon the Golden Rule, which exists in nearly identical form in all religions and cultures; closest to a universally accepted value as exists, and validated over many centuries; Weaknesses: assumes the individual has the proper values (If I were in his position, I’d want him to lie to cover up my mistake, so I should lie to cover up his; if she were in my shoes, she’d want to sell the more expensive product, win the sales contest, and take that cruise, so it’s okay if I do the same)

III.B.

In reviewing (briefly!) the American Institute’s Code of Professional Ethics, indicate that despite differences in wording, most codes possess certain common threads and validate certain common values; indicate how they afford a “light in the darkness” or “tie-breaker” to help determine which, among possibly many ethical choices, are the ones held to be most valid by one’s peers; can take a great deal of pressure off the individual when first facing a situation to understand others in his or her profession have been in such situation before, and the Code reflects the summation of their experience and wisdom; also point out that the existence of a Code for a given profession or professional designation establishes in the minds of others an expected level of ethical adherence to the Code, thus bringing a certain amount of “peer pressure” on the individual to resist temptation and follow the proper course

IV.

Each case study is meant to represent totally independent events, with each to stand on its own merits. None of the facts are intended to carry over from one case to the next.

Depending upon the time available, size of your group, setting of the room, and comfort level of the facilitator, the cases can be: read aloud (all or as many as time allows) and discussed as a large group; read by participants silently, with discussion to follow as a large group; all discussed in smaller groups, to give more participants a chance to be involved, with directions to report back at the end of the session to the larger group as to the resulting discussion in each small group; or assign one case each to smaller groups, with directions to report back to the larger group on the case and discussion.

See notes in “Overview” as to objectives of Case Study discussion. Care must be taken to remind participants that the objective is NOT to arrive at the “right” solution, but to practice applying the strengths and weaknesses of each of the three approaches to ethical decision making in realistic scenarios. Encourage each attendee to arrive at a possible solution to each case that meets the test of each ethical guideline. Since not all attendees may be CPCUs or familiar with the specifics of the CPCU Code, there is no expectation each possible solution will adhere strictly to the provisions of that Code – although doing so is certainly valid (and expected of those holding the designation).

NOTE: Although each of the case studies is designed with the intent to focus the participant on the ethical issues involved, not the moral ones, there can be no guarantee every attendee will see each case in that light. If such a viewpoint is expressed, keep in mind the intention is not to go down a slippery slope of getting into an argument over fine points of “ethics versus morals” that is beyond the scope and intended level of this session. Never are you to allow a discussion of differing moral standards to distract from the objective of using ethical analysis. Not only will there be no winner in such a contest, the very emotion and conflict stirred up by such a debate will defeat the intended objectives of the session. If, in your opinion, participants convincingly argue the issues presented in a particular case are primarily moral ones, allow them the benefit of their beliefs, disregard that case, and move on to another case.

Following are discussion considerations specific to each case. These are meant only to suggest a few of the many possibilities, and not necessarily the best ones, illustrating how students, while thinking through each case, may use each of the ethical approaches from the outline. Encourage as many possibilities to be aired as time permits, always focusing upon whether each appears to properly utilize an ethical thought process.

Guides for Discussing Case Studies

#1 - How Low Will You Go?

Situation-based: There are conflicting long-term objectives, depending on whether the objective is the client’s, the carrier’s, or yours--which you choose as the priority--and what you project the long-term effect to be (examples: profitability, agency survival, carrier relationship).

Rule-based: Depends upon rules believed applicable; there are no apparent licensing or regulatory rules in play.

People-based: Applying the Golden Rule here depends upon which party you most identify with, and how you would like to be treated if you were that party. As a client, you’d like the lowest price; as the underwriter, you’d like what you perceive is the right price.

#2 - The Last Minute Certificate Crunch

Situation-based: Past experience indicates broker, if there, would issue the certificate; you have no doubt that if the broker were in your position, he would elect to help the client, and since possible pain of delay is far in excess of possible downside of not helping client, go ahead and issue certificate.

Rule-based: You have no authority to issue the certificate, so regardless of the consequences (including potential loss of a valuable client), you must refuse to do so

People-based: Procedures are valid for normal situations, but the general contractor has created an abnormal situation, causing great anguish for a valued client; if you were in the client's position, you have no doubt you would deeply appreciate the professional service of your agent stepping in to help you out, so you should do the same.

#3 - E&S: When Is “Worse” Better?

Situation-based: Your past experience with the other agent leads you to believe he is doing this above board, so his proposal is likely to be valid; and in the long run, it's just a temporary anomaly created by this crazy hard market, so why not do the best thing for the client and let him profit from the opportunity?

Rule-based: If the E&S proposal is in violation of the law, it has to be withdrawn; the law is valid, designed to protect standard carriers who are subject to far more intense regulation, from unfair competition from carriers who have not made themselves subject to the same state requirements; perhaps contacting the other agent and the E&S broker to apprise them of the admitted carrier's willingness to write the risk would allow them the opportunity to withdraw their proposal without resorting to regulatory intervention.

People-based: Given your long relationship, you would expect the other agent to trust you to have jumped through the proper hoops and play by the rules, so why shouldn't you give him the same benefit of the doubt and just walk away? After all, it IS a better deal for the prospect.

#4 - Wrong Is Wrong, but Right for Client

Situation-based: Even though the carrier may never find out, the prospect is really getting an unfair advantage over other tenants of the building, who are being written correctly; if the carrier does find out, the other agent's reputation and future ability to place business with that carrier is likely to be impaired, and this account is clearly not worth the long-term damage to a valued carrier relationship; maybe an informal visit to the agent's supervisor, whom you know from your CPCU chapter, can settle the entire

issue quietly, leading the other agent to withdraw his erroneous proposal without any damage beyond a possible unhappy prospect.

Rule-based: The underwriting rule has a valid purpose, since the other exposure in the building significantly increases the fire hazard; although the insured may not be happy, the package should never have been offered, and you have an obligation to the carrier to let them know of the error.

People-based: When you were new, you made similar mistakes, and you are certainly glad no one called you on the carpet or took away one of your few accounts over such an error, so it may be best to just let this one go; dropping by to see the other agent for a bit of experienced advice to withdraw the error before the carrier finds out is in order; if the package stays in place, however, clearly the client is getting a better deal.

#5 – School’s Out

Situation-based: Since you did not know of the agent’s position on the board and put the proposal together expecting nothing from the agent in return, the fact he took it upon himself to assist your daughter in getting accepted – an admission she clearly qualified for on her own merits, despite the waiting list – does not compromise your integrity. The insured got the proposal he deserved, your agent got the account he deserved, and your daughter got the school she deserved – and it all came about without any manipulation or unethical intent on your part. To avoid a similar situation in the future, however, you should ask for the agent’s future submissions to be handled by another underwriter.

Rule-based: You violated no underwriting rules with your proposal, and there was no quid pro quo with the agent, so as long as you don’t allow this incident to sway any of your future decisions involving this agent, there is nothing here to report.

People-based: The golden rule isn’t much guidance here, because you did nothing wrong. If you had been the prospect, you’d have wanted a fair and competitive price. If you’d been the agent, you would have wanted the same. In both cases, you treated them as you would have wanted to be treated yourself.

#6 – Ignorance Can Be Bliss

Situation-based: You’ve already approved the bond. Letting the approval stand gives the contractor’s employees continued work and helps him turn his life around. And it was only by his effort to make things right that you found yourself in a position to learn the new information. Since all the other underwriting data checked out, this new information does not seem to create enough extra risk to justify the damage to multiple parties (including the obligee, which will incur a significant delay on getting its new building if it has to start negotiations with another contractor) that will result if you deny the bond.

Rule-based: As much as you sympathize, the fact remains that if his financial and supervisory difficulties had come to light during your underwriting process, you would have denied the bond. So you have no choice but to deny it now.

On the other hand, under the rules of Alcoholics Anonymous, anything said at an AA meeting is supposed to be strictly confidential. In addition, you are not to reveal who attended the meeting to anyone outside.

People-based: You not only understand how he could do what he did in his position, you've BEEN in his position. That's why you are at the meeting. There is no question in your mind that your life would have been much different if your support group and boss hadn't rallied around you when you needed help. Can you do any less for this new fellow traveler?

#7 – He Who Hesitates Gets Lost

Situation-based: If you deny the claim now, no one wins. The insured and her daughter (the agent) are going to be extremely upset, and you don't blame them. Your carrier is going to get a black eye publicly, as well as significantly damage its relationship with one of its best agents. Technically, the claim isn't covered, but too much harm will be caused at this point to justify not paying the claim in the best interests of all involved.

Rule-based: Sorry, but it's not covered.

People-based: No matter who's position you put yourself in, the right thing to do after the lengthy delay seems to be to pay the claim. The only person who should suffer just resigned.

#8 – Gone With the Wind

Situation-based: Write the checks. The small amount of funds that may be paid fraudulently is dwarfed by the needs of the claimants. Besides, in the long run, the good will the carrier will reap from this gesture will more than compensate for any financial loss due to fraud.

Rule-based: Clearly the typical claims rules never anticipated anything as catastrophic as this – no coverage records, no way to verify insured status, or even prove who is an insured and who isn't. However, you can't just throw the rulebook away, either. Possibly you can ask the agents in the area to vouch for each claimant before you release the money; or at least get enough information from each claimant (name of agent, amount of coverage, location of home, how many years insured) to try to create some semblance of credibility to the process.

People-based: Write the checks. If you were the one standing in line, having just suffered the loss of everything you owned, that's exactly what you would want, and deservedly so.