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Ethics for the Environmental Professional

NAEP Webinar
January 16, 2018

Ethics for the Environmental Professional



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- A Foundation of Ethics for the Environmental Professional – Richard Burke, CEP
- A Comparison of Codes of Ethics for Engineering, Legal, and Environmental Professionals – Tim Perry, Esq.

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A Foundation of Ethics for the Environmental Professional

Richard Burke, CEP



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Agenda

1. What is the basis for our ethics?
2. Ethical systems
3. Ethics in the working world
4. Environmental ethics





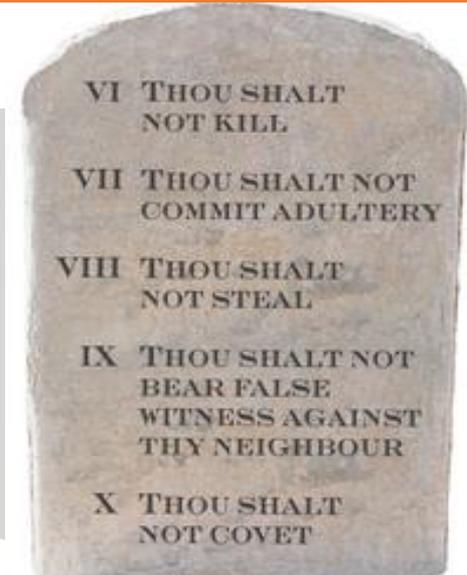
Definitions

Definitions:

- **Ethics** – what we should (and should not) do and how we should do it.

...We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are **Life, Liberty and the pursuit of Happiness.** ..

- **Morality** – a subset of ethics, focuses on certain fundamental behaviors.



What is the basis for our ethics?



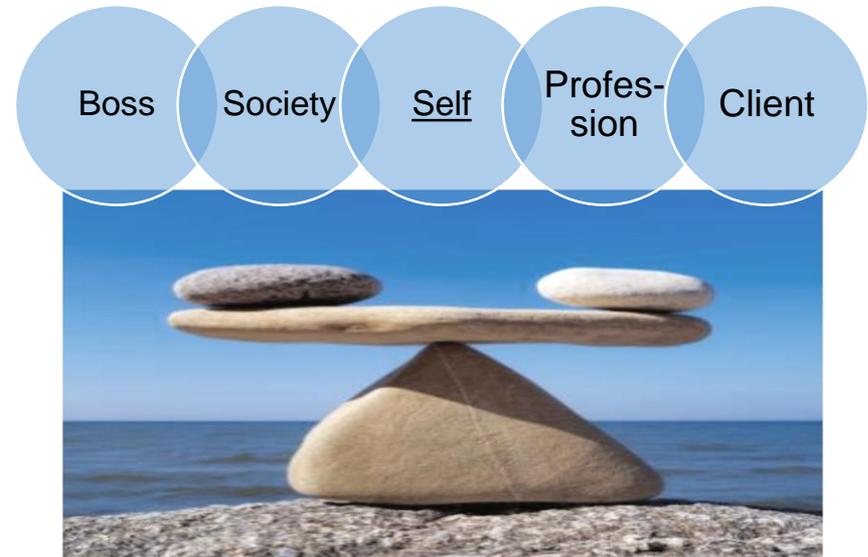
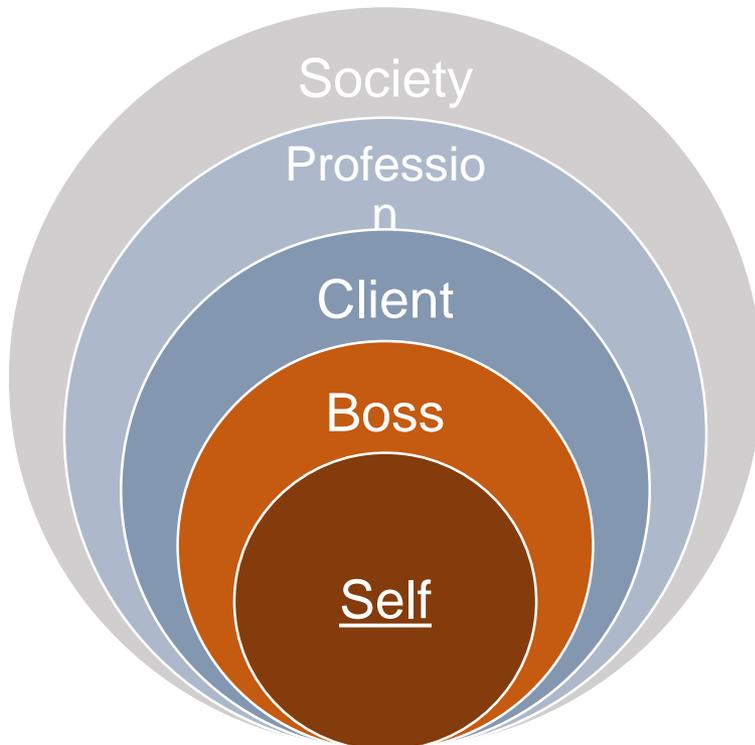
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**Ethical person considers the interests of others
besides one's self and one's group**

From self-centered...

...to balanced.





Ethical Goals and Values

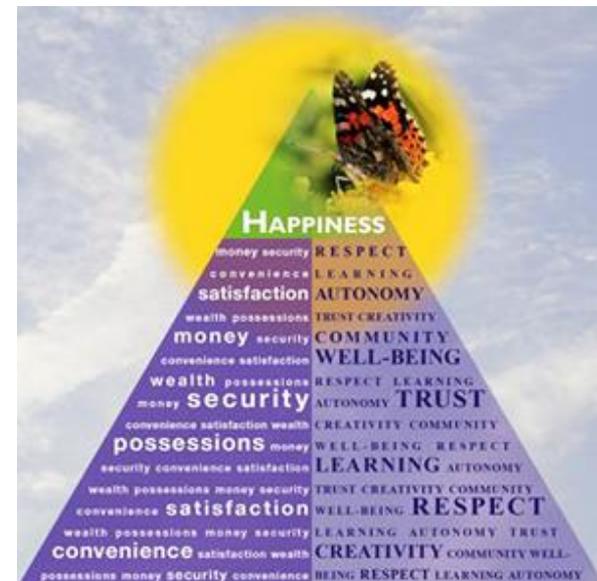
Legitimate self-interests

Life Goals:

- Control over our lives?
- Prosperity?
- Opportunity to contribute?
- Love/friendships?
- Excitement?

Ultimate Goal:

- Happiness, Serenity?

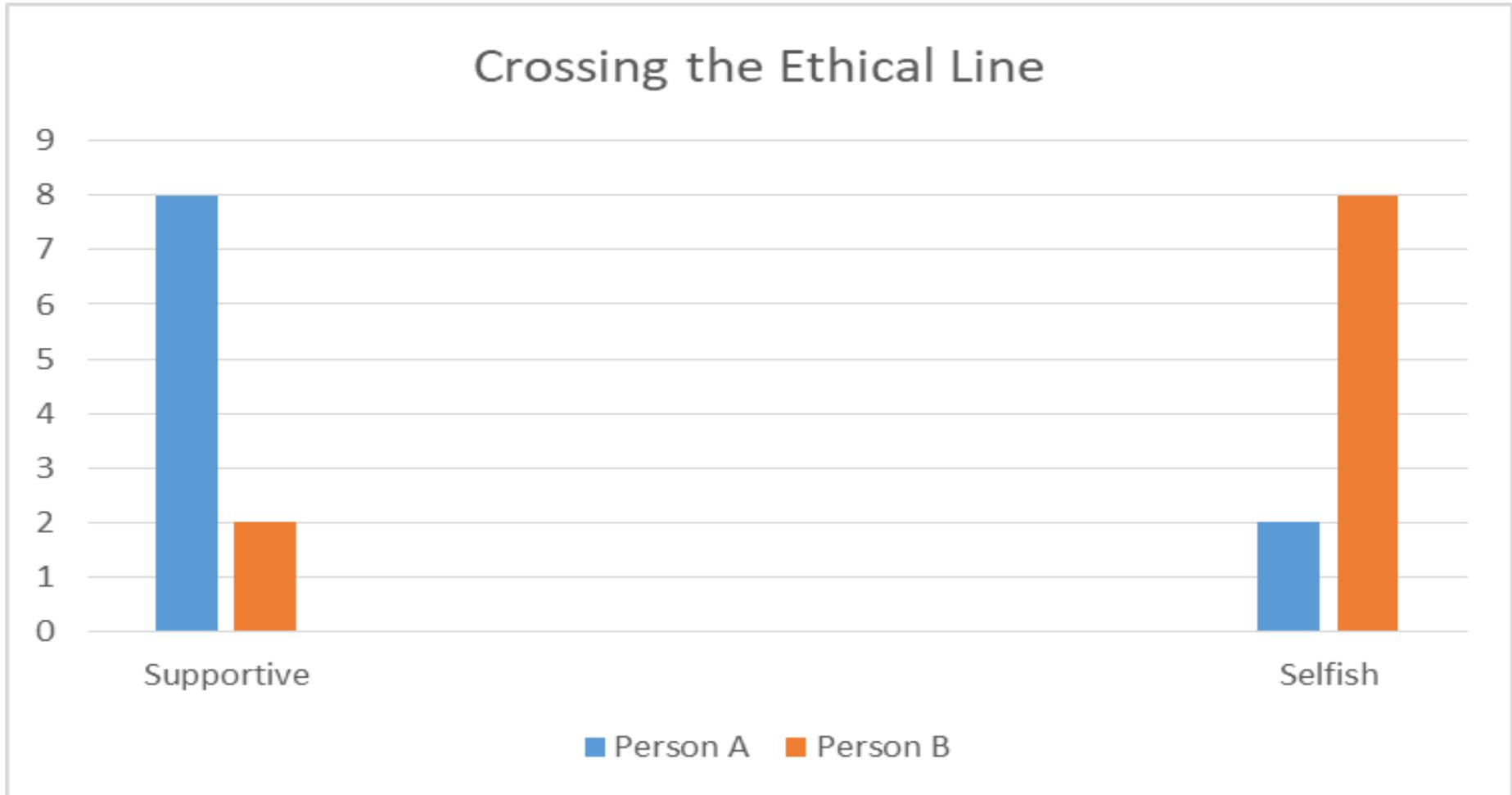


Ethical Goals and Values



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Ethical Goals and Values

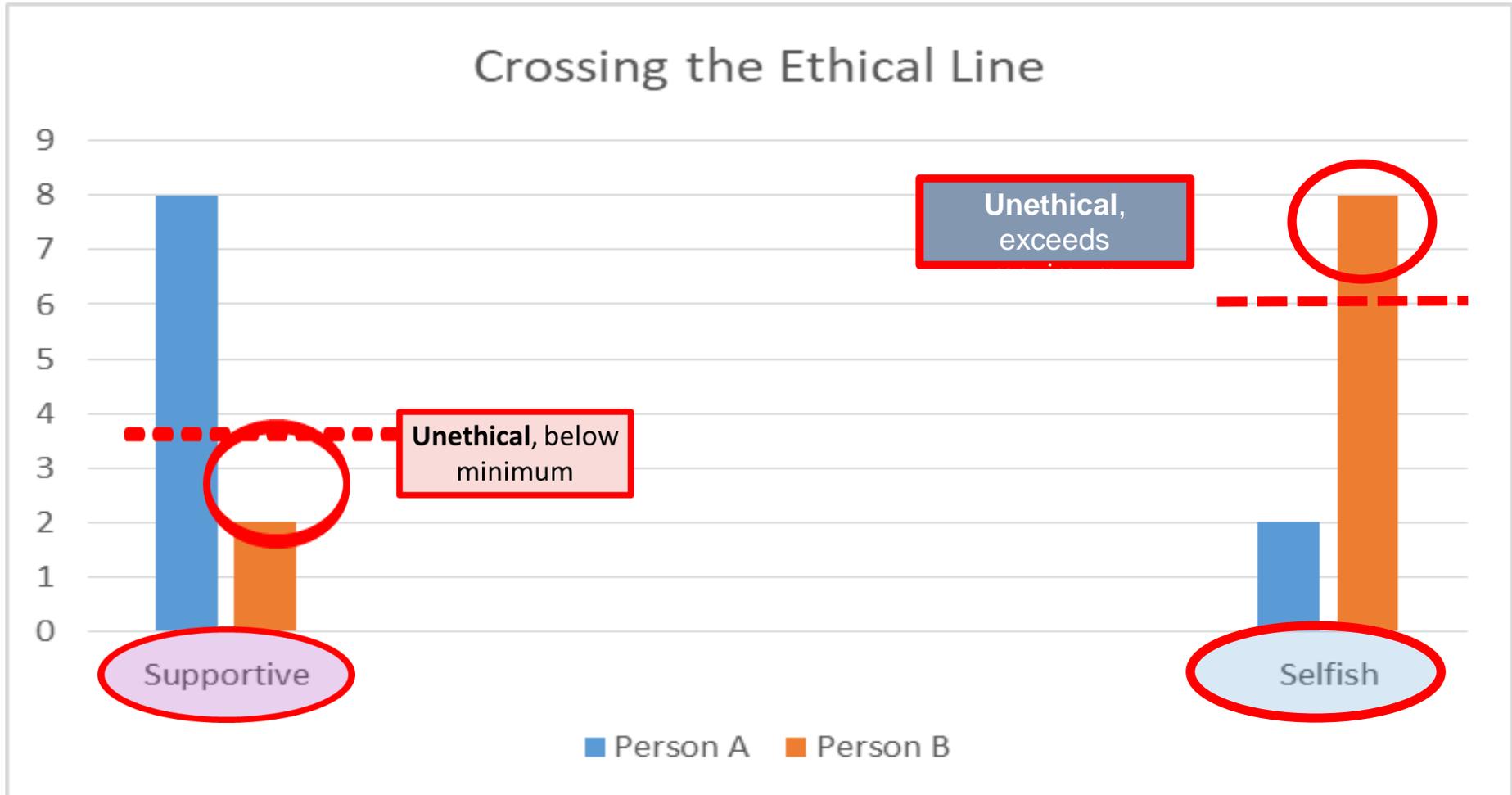


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Ethical Goals and Values

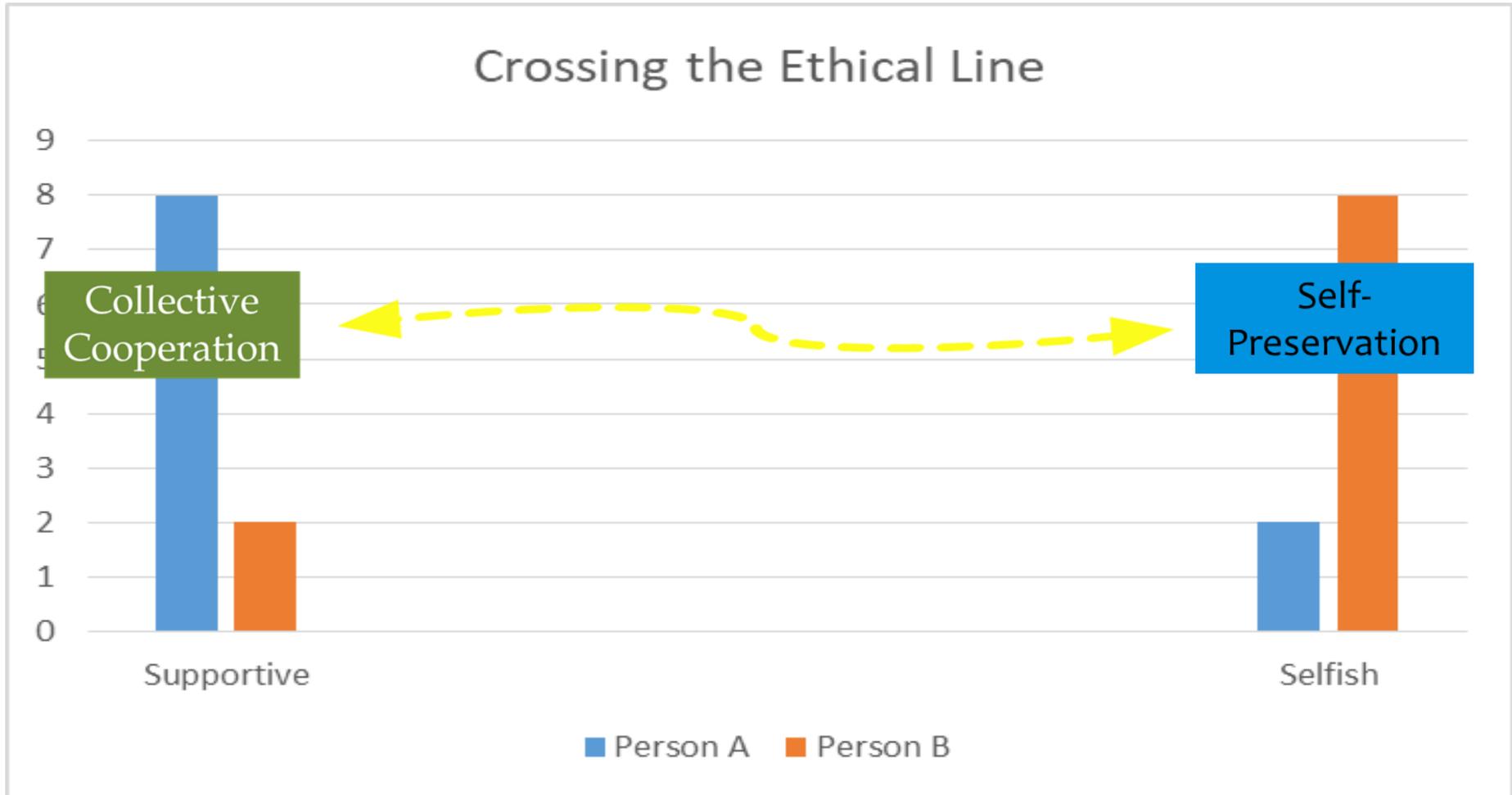


Ethical Goals and Values



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Ethics of Other Organisms



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Self/Group Preservation traits:

- Fight to dominate
- Deceive to survive

Cooperative traits:

- Support one's family or group over others (Kin or Group selection)
- Survive by symbiosis or by banding together (social animals)



Ethics of Early Humans



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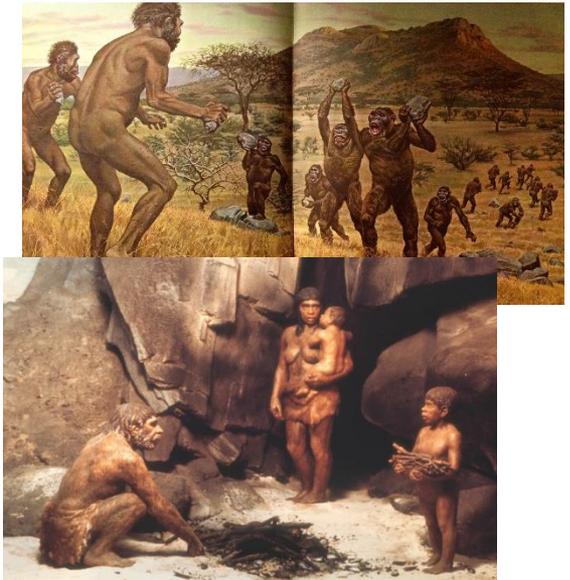
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Self/Group Preservation traits:

- *Followed instincts to do what “felt good”*
- *Killed to preserve self/family/group*

Cooperative traits:

- *Learned to flexibly cooperate*
- *Developed empathetic brain*



Basis for our ethics

- *Ethical assignment:* In the next few weeks, what steps can you take to expand your unselfish behaviors and reduce selfish behaviors to achieve your own happiness and serenity?



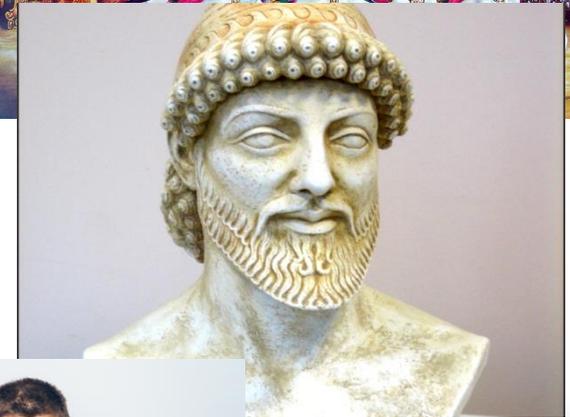
Ethical systems



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1. Ethical Systems – Eastern
2. Ethical Systems - Western
3. Ethical Systems - Today
4. *Ethical assignment*



Richard Burke, CEP, therichardburke@aol.com

Ethical systems - Eastern



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Higher rebirth if you:

- Ignore selfish desires, perform duty, show compassion, follow nature, the middle way

Good will come if you:

- Honor your elders, display self-deference, be kind to all

Unethical to:

- be attached, act self-important
- shirk your duty, be

inconsiderate

Self-
Preservation



Collective
Cooperation

Ethical systems - Western

Well-being (happiness) if you:

- Demonstrate virtues, including individual well-being

Go to heaven if you:

- Live according to the scriptures of your group

Unethical to:

- hurt members of your group
- not follow scriptures



Ethical systems - Today



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Ethical Systems of today:

- Evolutionary humanism
- Liberal humanism
- Socialist humanism



Self-Preservation



Group Cooperation



Collective Cooperation

Ethical systems



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- Girl Scouts promote self-preservation:
 - “goal setting, decision making, money management, people skills, and business ethics”



Ethical systems

- Girl Scouts promote self-preservation:
 - “goal setting, decision making, money management, people skills, and business ethics”



- Boy Scouts focus on cooperation:
 - “trustworthy, loyal, helpful, friendly, courteous, kind, obedient...”



Ethical systems

Ethical assignment: What steps can you take to teach the next generation how to act more ethically?

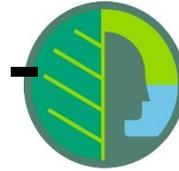


Ethics in the working world

1. Financial Gain
2. Power Preservation
3. Sexual Favors
4. *Ethical assignment*



Ethics in the working world - Financial Gain



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Problem:

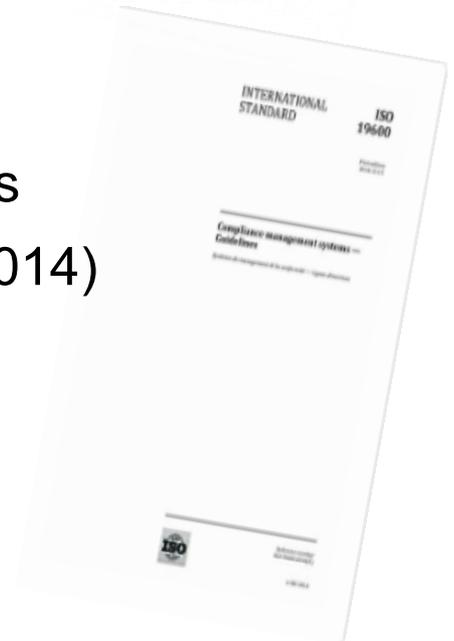
- Acting within an organization for personal gain

Example:

- Wells Fargo employees issue fake customer accounts to get bigger bonuses

Solutions:

- Wells Fargo eliminated sales goals, reinforced ethics
- ISO 19600: “Compliance management systems” (2014)



Ethics in the working world – Power Preservation



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Problem:

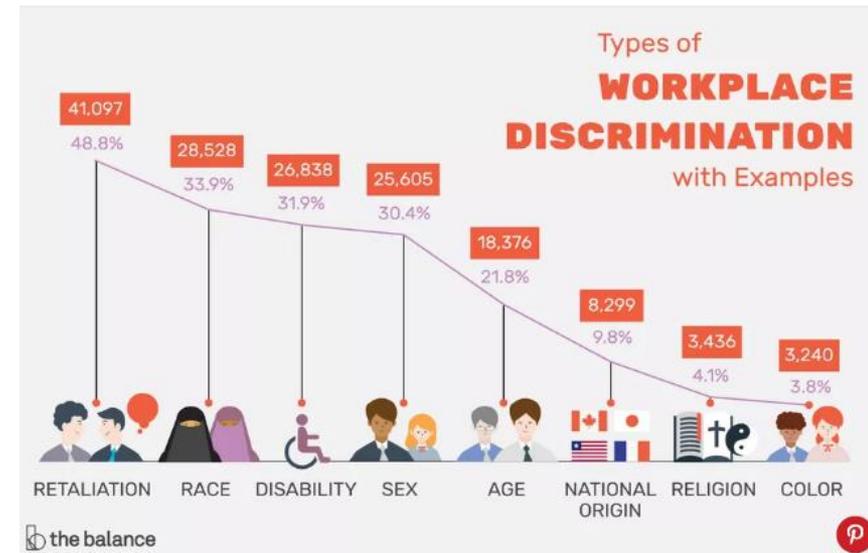
- Shunning based on group

Example:

- Big 5 paid \$165,000 to settle race discrimination lawsuit

Solutions:

- US Civil Rights Act of 1964
- Age Discrimination in Employment Act of 1967
- Americans with Disabilities Act of 1990



Ethics in the working world – Sexual Favors



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Problem:

- Females working alongside men get harassed

Example:

- Movie producer's sexual predation

Solutions:

- US Equal Opportunity Commission: online form
- CA, CT, ME, NYC require sexual harassment training



California Department of
Fair Employment and Housing



Ethics in the working world



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Ethical assignment: In the next two months, what steps can you take to promote ethical actions and prevent unethical actions in the organization(s) with which you are affiliated?



Environmental Ethics



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1. Past Views
2. Current Situation
3. Environmental Codes
4. *Ethical assignment*

Environmental Ethics

Past Views:

- Chief Seattle: we “all belong to the same family.”
- Jains: don’t kill members of any species.
- Tao Te Ching: “He who changes the world will destroy it.”
- Bible, Psalm 8: “You have made him to have dominion over the works of Your hands.”



Environmental Ethics

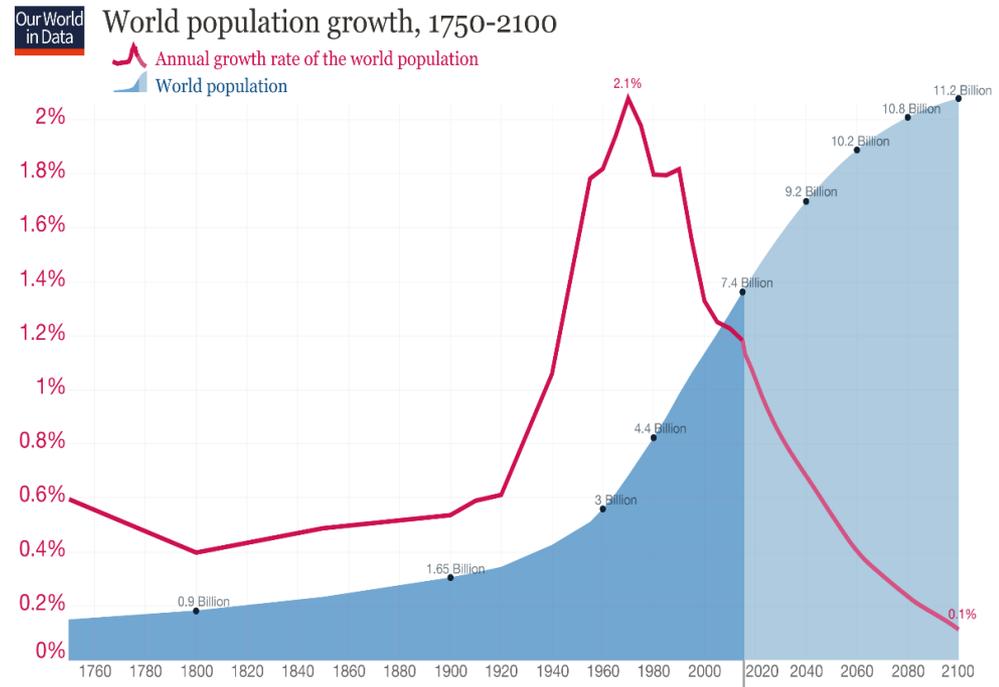


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Current Situation:

- 6th major extinction
- Tragedy of the commons
- Degrading envt'l capital
- Impact =
Population x
Affluence x
Technology





Environmental Ethics

Environmental Ethics Codes:

- **NEPA:** consider short-term uses **and** long-term productivity
- **PETA:** “Animals are not ours to eat, wear, experiment on, use for entertainment, or abuse in any other way.”
- **Pope:** we don’t have to be like rabbits to be good Catholics.
- **E. O. Wilson:** preserve half of the earth.
- **N. Modi:** “We do not have the right to spoil the environment for future generations ... that is, morally speaking, a crime.”

Environmental Ethics

Ethical assignment. What is the biggest step you can take in the coming year to be more ethical by reducing the adverse impacts of your actions on future generations of humans and other species?



A Comparison of Codes of Ethics for Engineering, Legal, and Environmental Professionals

Tim Perry, Esq.



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Agenda

1. Creed
2. Conflict of Interest
3. Competence
4. Confidentiality
5. Counselor

Attorney's Creed of Professionalism



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I revere the law, the judicial system, and the legal profession and will at all times in my professional and private lives uphold the dignity and esteem of each. I will further my profession's devotion to public service and to the public good. I will strictly adhere to the spirit as well as the letter of my profession's code of ethics, to the extent that the law permits and will at all times be guided by a fundamental sense of honor, integrity, and fair play. I will not knowingly misstate, distort, or improperly exaggerate any fact or opinion and will not improperly permit my silence or inaction to mislead anyone. I will conduct myself to assure the just, speedy and inexpensive determination of every action and resolution of every controversy. I will abstain from all rude, disruptive, disrespectful, and abusive behavior and will at all times act with dignity, decency, and courtesy. I will respect the time and commitments of others. I will be diligent and punctual in communicating with others and in fulfilling commitments. I will exercise independent judgment and will not be governed by a client's ill will or deceit. My word is my bond.

Florida Bar Creed of Professionalism

Engineers' Creed

As a Professional Engineer, I dedicate my professional knowledge and skill to the advancement and betterment of human welfare. I pledge: To give the utmost of performance; To participate in none but honest enterprise; To live and work according to the laws of man and the highest standards of professional conduct; To place service before profit, the honor and standing of the profession before personal advantage, and the public welfare above all other considerations. In humility and with need for Divine Guidance, I make this pledge.

Adopted by National Society of Professional Engineers, June 1954

NAEP CREED

The objectives of an Environmental Professional are:

1. To recognize and attempt to reconcile societal and individual human needs with responsibility for physical, natural, and cultural systems.
2. To promote and develop policies, plans, activities and projects that achieve complementary and mutual support between natural and man-made, and present and future components of the physical, natural and cultural environment.

Conflict of Interest – Attorneys

ABA Model Code of Ethics

Canon 5



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EC 5-2 A lawyer should not accept proffered employment if his personal interests or desires will, or there is a reasonable probability that they will, affect adversely the advice to be given or services to be rendered the prospective client. After accepting employment, a lawyer carefully should refrain from acquiring a property right or assuming a position that would tend to make his judgment less protective of the interests of his client.

Conflict of Interest – Attorneys

ABA Model Code of Ethics Canon

5



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EC 5-14 Maintaining the independence of professional judgment required of a lawyer precludes his acceptance or continuation of employment that will adversely affect his judgment on behalf of or dilute his loyalty to a client. This problem arises whenever a lawyer is asked to represent two or more clients who may have differing interests, whether such interests be conflicting, inconsistent, diverse, or otherwise discordant.

Conflict of Interest – Attorneys

ABA Model Code of Ethics

Canon 5



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- **EC 5-16** In those instances in which a lawyer is justified in representing two or more clients having differing interests, it is nevertheless essential that each client be given the opportunity to evaluate his need for representation free of any potential conflict and to obtain other counsel if he so desires. . . . If there are present other circumstances that might cause any of the multiple clients to question the undivided loyalty of the lawyer, he should also advise all of the clients of those circumstances

Conflict of Interest – Engineers

NSPE Code of Ethics for Engineers

Canon 4



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4. Engineers shall act for each employer or client as faithful agents or trustees. Engineers shall disclose all known or potential conflicts of interest that could influence or appear to influence their judgment or the quality of their services.
 - a. Engineers shall not accept compensation, financial or otherwise, 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 and agreed to by all interested parties.
 - b. Engineers shall not solicit or accept financial or other valuable consideration, directly or indirectly, from outside agents in connection with the work for which they are responsible.
 - c. Engineers in public service as members, advisors, or employees of a governmental or quasi-governmental body or department shall not participate in decisions with respect to services solicited or provided by them or their organizations in private or public engineering practice.
 - d. Engineers shall not solicit or accept a contract from a governmental body on which a principal or officer of their organization serves as a member.

Conflict of Interest NAEP Code of Ethics



As an Environmental Professional I will:

4. Examine all of my relationships or actions, which could be legitimately interpreted as a conflict of interest by clients, officials, the public or peers. In any instance where I have financial or personal interest in the activities with which they are directly or indirectly involved, I will make a full disclosure of that interest to my employer, client, or other affected parties.

Competence – Attorneys

ABA Model Code of Ethics

Canon 6



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EC 6-1 Because of his vital role in the legal process, a lawyer should act with competence and proper care in representing clients. He should strive to become and remain proficient in his practice and should accept employment only in matters which he is or intends to become competent to handle.

EC 6-3 However, he may accept such employment if in good faith he expects to become qualified through study and investigation, as long as such preparation would not result in unreasonable delay or expense to his client.

Competence – Engineers

NSPE Code of Ethics for Engineers Canon 2



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2. Engineers shall perform services only in the areas of their competence.
 - a. Engineers shall undertake assignments only when qualified by education or experience in the specific technical fields involved.
 - b. Engineers shall not affix their signatures to any plans or documents dealing with subject matter in which they lack competence, nor to any plan or document not prepared under their direction and control.
 - c. Engineers may accept assignments and assume responsibility for coordination of an entire project and sign and seal the engineering documents for the entire project, provided that each technical segment is signed and sealed only by the qualified engineers who prepared the segment.

Competence – NAEP Code of Ethics



Guidance for Practice as an Environmental Professional

As an Environmental Professional I will:

4. Conduct my analysis, planning, design and review my activities primarily in subject areas for which I am qualified, and shall encourage and recognize that participation of other professionals in subject areas where I am less experienced. I shall utilize and participate in interdisciplinary teams wherever practical to determine impacts, define and evaluate all reasonable alternatives to proposed actions, and assess short-term versus long-term productivity with and without the project or action

Confidentiality – Attorneys

ABA Model Code of Ethics

Canon 4



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EC 4-1 Both the fiduciary relationship existing between lawyer and client and the proper functioning of the legal system require the preservation by the lawyer of confidences and secrets of one who has employed or sought to employ him.

EC 4-2 The obligation to protect confidences and secrets obviously does not preclude a lawyer from revealing information when his client consents after full disclosure, when necessary to perform his professional employment, when permitted by a Disciplinary Rule, or when required by law.

Confidentiality – Attorneys

ABA Model Code of Ethics

Canon 7



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DR 7-102 Representing a Client Within the Bounds of the Law.

(A) -In his representation of a client, a lawyer shall not:

(3) -Conceal or knowingly fail to disclose that which he is required by law to reveal.

(4) -Knowingly use perjured testimony or false evidence.

(5) -Knowingly make a false statement of law or fact.

(6) -Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false.

(7) -Counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent.

(8) -Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

Confidentiality – Engineers

NSPE Code of Ethics for Engineers



III. Professional Obligations

1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.

a. Engineers shall acknowledge their errors and shall not distort or alter the facts.

3. Engineers shall avoid all conduct or practice that deceives the public.

a. Engineers shall avoid the use of statements containing a material misrepresentation of fact or omitting a material fact.

Confidentiality – Engineers

NSPE Code of Ethics for Engineers



III. Professional Obligations

4. Engineers shall not disclose, without consent, confidential information concerning the business affairs or technical processes of any present or former client or employer, or public body on which they serve.

Confidentiality – NAEP Code of Ethics



Ethics

As an Environmental Professional I will:

3. not condone misrepresentation of work I have performed or that was performed under my direction.

6. Not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation or discrimination

Counselor – Attorneys

ABA Model Code of Ethics

Canon 7



EC 7-5 A lawyer as adviser furthers the interest of his client by giving his professional opinion as to what he believes would likely be the ultimate decision of the courts on the matter at hand and by informing his client of the practical effect of such decision.¹³ He may continue in the representation of his client even though his client has elected to pursue a course of conduct contrary to the advice of the lawyer so long as he does not thereby knowingly assist the client to engage in illegal conduct or to take a frivolous legal position. A lawyer should never encourage or aid his client to commit criminal acts or counsel his client on how to violate the law and avoid punishment therefor.¹⁴

Counselor – Engineer

NSPE Code of Ethics for Engineers



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1. Engineers shall be guided in all their relations by the highest standards of honesty and integrity.
 - b. Engineers shall advise their clients or employers when they believe a project will not be successful
2. Engineers shall at all times strive to serve the public interest.
 - b. Engineers shall not complete, sign, or seal plans and/or specifications that are not in conformity with applicable engineering standards. If the client or employer insists on such unprofessional conduct, they shall notify the proper authorities and withdraw from further service on the project.

Counselor – NAEP Code of Ethics



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Ethics

As an Environmental Professional I will:

5. Not accept fees wholly or partially contingent on the client's desired result where that desired result conflicts with my professional judgment

Counselor – NAEP Code of Ethics



Guidance for Practice as an Environmental Professional

As an Environmental Professional I will:

1. Encourage environmental planning to begin in the earliest stages of project conceptualization.
2. Recognize that total environmental management involves the consideration of all environmental factors including: technical, economical, ecological, and sociopolitical and their relationships.
8. Conduct my professional activities in a manner that ensures consideration of technically and economically feasible alternatives.



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QUESTIONS?

Academy of Board Certified Environmental Professionals' Ethics Questions



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Answer one of the following questions:

1. You are a consultant developing a NEPA document for a large project. Your field personnel find previously-unknown key problems with the proposed project that will significantly affect project schedule and possibly project funding. Your client asks you to omit this information from the analysis. Describe how you might respond.
2. You are a consultant whose client must submit to a regulatory agency a plan to remediate a contaminated site. Imagine your client divulged to you information about contamination undisclosed to regulators, and then requested that you maintain confidentiality. Describe how you might respond.