**WORKING DRAFT FOR REVIEW**

**RECOMMENDATIONS TO THE IEEE AD HOC COMMITTEE ON ETHICS PROGRAMS FOR REORGANIZING THE CURRENT EMCC**

**AND RESTORING ETHICS ADVICE AND ETHICAL SUPPORT**

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**Prepared by the Concerned Ethics Volunteers (CEV)**

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| **AD HOC COMMITTEE ITEM 1**  **Propose the creation of a New Initiative on Ethics, to address both professional ethics and the TechEthics program. Professional ethics tasks of the New Initiative to include:**   * **Develop a training program (on-line) for members to get a deeper understanding of the Code of Ethics. Available to all members.** * **Provide advice to members on ethics questions, hopefully through a global service provider. Available to members who inquire.** * **Provide support to assist members navigate/address specific ethical challenges they face. Available to members with specific situations they are seeking assistance with.** | |
| **OUR RECOMMENDATIONS** | **REASON OR RATIONALE** |
| **1. Revise the EMCC’s Mission and its Operations Manual by:**   1. **Removing the phrase “Neither the Ethics and Member Conduct Committee nor any of its members shall solicit or otherwise invite complaints, nor shall they provide advice to individuals.” from 2 places; first from By-law I-305.5 and second from its use in the EMCC Ops Manual.** 2. **A new Ethics Advice Service (EAS) should be provided. Appendix A provides and outline of what this EAS service should be.** 3. **And removing the phrase “The Ethics & Member Conduct Committee shall not be involved in employee-employer disputes”from the EMCC Operations Manual.** 4. **Ethical Support, as currently illustrated in Appendix B Flowchart and defined in Appendix C, shall be reinstituted. No changes to this Policy/Procedure is required.** 5. **Once removed, the EMCC or its replacement EC/MCC entities shall be ProActive in Ethics Advice and Ethical Support to the Membership** | **1. a and b. These two restrictions have been in effect for at least 15 years. They contradict higher level Governance Document Bylaws/Policy and Procedures, which, beginning in 1978 and is still in the applicable documents, directed the Member Conduct Committee to process requests for and to recommend Ethical Support in matters when Members’ employment was placed in jeopardy for upholding the Code of Ethics. Otherwise, if they remain, they would be in conflict with Canon 10 of IEEE’s Code of Ethics.**  **b. NOTE: This restriction does not appear elsewhere in any higher Governance documents and is at the lowest level of hierarchy, thus INVALID.**  **The subject sentence in I-305.5 for deleting has prohibited the IEEE Ethics Committee from doing anything useful. Getting it repealed would constitute a clear, and necessary, step in any ethics revival.**  **The original co-intent of the Member Conduct Committee was to provide Ethical Support to the Membership.** |
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| **AD HOC COMMITTEE ITEM 2**  **Initiate a review of current ethics-related structures and policies, including:**   * **Gaps or limits in current structures that prevent bodies with ethics responsibilities adequately addressing their areas of responsibility** * **Update bylaws or any regulatory impediments to meeting the goals in point 1.** | |
| **OUR RECOMMENDATIONS** | **REASON OR RATIONALE** |
| **2. Separate the EMCC into an Ethics Committee(EC) and Member Conduct Committees(MCCs)** | **2. The EC is Legislative and the MCC is Judicial in their charters and purposes** |
| **3. Centralize the EC and decentralize the MCCs into Regions** | **3. One EC is sufficient but MCCs need to be regionalized. However, there is a risk that the lack of control from the center will be exploited. Some oversight is a consideration. The EC could be empowered to perform this, but keeping it independent from the MCCs may be preferable. May be a small Supreme MCC is a possible solution.** |
| **4. The EC shall:**  **a. Maintain the Code of Ethics**  **b. Develop Implementation Guidelines tailored to technical disciplines, practices, local customs and Interpret them when called upon**  **c. Publish Ethics Articles and hypothetical ethics education cases in the INSTITUTE**  **d. Provide advice and interpretations when requested from MCCs**  **e. Issue Annual Reports on activities and accomplishments to the Members** | **4. The Code of Ethics is its main focus along with guides on how to interpret and apply, is the body to educate Members on Ethics, and can function in an advisory/interpretive role.**  **Annual Reports will make the EC visible and accountable whereas today it is not to the Members.** |
| **5. The MCCs shall be empowered to:**  **a. Recommend Member Discipline for Code violations**  **b. Respond to Member Inquiries seeking Ethics Advice**  **c. Provide an Ethics Conflict Resolution Service**  **d. Recommend Ethical Support to Members found to have his/her employment in jeopardy for upholding the Code of Ethics** | **5. This restores the MCC to its founding purposes and reinforces its advisory and supporting functions which have been restricted from performing for over 15 years.** |
| **6. The MCCs shall:**  **a. Tailor application of the Code of Ethics to their local customs, laws, business practices, and norms** | **6. It will be important to Regionalize enforcement of the Code to local situations, thus decentralization is called for** |
| **7. The MCCs shall issue Annual Reports on activities, cases (sanitized) and accomplishments to the Members** | **7.** **Annual Reports will make the EC visible and accountable whereas today it is not to the Members.** |
| 8. **Membership on the EC/MCCs shall be a balance of Executive and Employee level Members** | **8. History has shown that there was bias against the employee Members’ interests.** |
| 9**. A Constitutional Amendment shall be considered to accomplish these goals to establish a long term stability and freedom from come and go ethical political winds, as was experienced in the 1990’s when all EC and MCC ethics programs and their Pro Active Members were eliminated.** | **9. This will insure long term stability and independence of the EC/MCCs from political tampering that has been experienced in the past.**  **A new MCC’s revamped structure’s principles and powers need defining. Where it sits in the reporting chain and who will operate it are open questions.**  **Once a new MCC model exists, the entire Board of Directors need education and strong majority buy-in to give the structure strength, meaning and security from the next President or powerful Director with a differing view.** |
| **10. If there are questions or challenges to these recommendations, one consideration is for some type of legal action.** | **10. IEEE’s Governance document hierarchy could be reviewed legally and it is believed that it will show the current “ETHICS ADVICE AND ETHICAL SUPPORT” restrictions are without legitimacy. Advice in this context shall include the operation of an IEEE Ethics HOT Line, as was done successfully in the late 1990’s.** |
| **11. This was deleted.** | **11. This was deleted.** |
| **12. Review, assess and promote the preponderance of evidence of PROs over the CONs in favor of restoring Ethics Advice and Ethical Support. Refer to accompanying Report:**  **Our FOR and AGAINST Ethics Advice and Ethical Support document is available online at:**  [**http://ethw.org/w/images/e/ef/Over\_40\_Years\_of\_Precedents\_for\_Ethical\_Advice\_and\_Support.docx**](http://ethw.org/w/images/e/ef/Over_40_Years_of_Precedents_for_Ethical_Advice_and_Support.docx) | **12. Over the years the amount of PROs versus CONs statements demonstrates how strong Employee Members support Ethics Advice/Support over past Board Members.**  **SUMMARY OF ETHICAL ADVICE**  **AND SUPPORT FINDINGS**   |  |  |  | | --- | --- | --- | |  | **+** | **--** | | **PRECEDENTS** | **22** | **3** | | **GOVERNANCE** | **10** | **3** | | **ARTICLES** | **20** | **3** | | **CASES** | **3** | **0** | | **AWARDS** | **11** | **0** | |
| **13. Pubicize the approved changes to the EMCC and its operations to the Membership.** | **13. Communicate this new EC/MCC division, renewal of ethics advice/ethical support and the MCC regionalization to the Membership.** |
| **14. Stress to all Members serving in Director positions, that their first priority is to the good of the Membership and not outside business, employment or other personal interests.** | **14. This is a matter of New York State Law covering Directors who serve Non Profit Corporations for where their primary allegiance is to be given.** |
| **15. Engage NAVEX GLOBAL to incorporate handling the new Ethics Committee and Regionalized Member Conduct Committees Code of Ethics, in providing Ethics Advice and Ethical Support to Members.** | **15. Ethics Point’s current HOTLINE service for IEEE’s Code of Conduct (affecting its employees and all senior Volunteer Members) would add on similar operations for IEEE’s Members upholding its Code of Ethics. Via phone and internet, a Member would select either the Conduct or Ethics half of Ethics Point to service their request. Ethics Point would then maintain complete accountability for all contacts and hand off to either the EC or the appropriate MCC, based on the inquiry. Additional services, TBD, would also be handled. The current Conduct services would not be affected.** |

**APPENDIX A – A New Ethics Advice Service (EAS)**

A new Ethics Advice Service (EAS) needs to be instituted and provided to members when it is sought. One basic element of this service would be an Ethics HOTLINE, accessible by way of incoming phone, internet WEB access or by email, and staffed by Member Volunteers from the Ethics Committee. To accomplish this, the phrase “***nor shall they provide advice to individuals*** needs to be deleted from IEEE By-Law I-305.5 and in the EMCC Operations Manual in Section 1, **1.3 Scope**.

The providing of Ethics Advice, as currently approved in *“Policy 7.11 Ethical Support Part A, Item 2”*should be expanded to add the following elements of an Ethics Advice Service.

These additional services should include the following:

**(1) Provide Education Articles on Ethics**

Publishing an Ethics Column in the INSTITUTE on a monthly or by-monthly basis. The EMCC should return to this practice so ethics would be kept before the membership through commentary, review of real or hypothetical cases, discussion points, etc.

**(2) Provide Interpretations of Applicable IEEE Governing Documents Pertaining to Ethics**

Periodically, the EMCC could take parts of the governing documents and offer interpretation of them. Further, the Code of Ethics ought to be supplemented with a set of Guidelines, which could amplify them, cite examples, and offer guidance to practitioners, the EMCC, and the Hearing Boards when cases come before them. And of course, if members ask for interpretations, they could be provided too.

**(3) Hold Face-to-Face Interactions with Members Asking for Support,**

At times, it would be helpful to provide face-to-face interactions with members who are facing difficult choices or potential conflicts on ethical matters.

**(4) Provide a Sounding Board Function, Electronic or Hard Copy Media Assistance,**

In addition to face-to-face interactions, the EMCC could also provide other media forms for enabling members to interact with them and obtain guidance, help, support, etc when they are faced with tough ethical choices.

**(5) Utilize a Third Party Hearing Panel of Independent Expert(s) or Peer Review**

At times, it could be very helpful to convene a panel of technical/ethical experts to provide an independent, third party set of resources to both parties in a conflict, to listen to the issues in the matter and to offer insight which could go a long way helping to diffuse or clarify

mis-understandings or to provide a sound technical basis for supporting or refuting claims.

**(6)Provide Whistleblower Avoidance Advice**

IEEE's current document spelling out ways to mitigate ethical conflict, leading to whistle blowing, could be supplemented by actions and advice from the EMCC. This could go a long way to mitigate the need for one to have to resort to whistle blowing.

**(7) Provide Mediation or Arbitration Efforts Aimed at Resolving an Ethics Conflict Matter**

If the preceding services are not successful in resolving potential conflicts heading to a formal case, then the EMCC, with the assistance of third party experts, could offer to and/or perform mediation or arbitration for the parties in conflict. The goal always would be to try to resolve the

matter so as to negate the need for a member to have to resort to filing formal charges against another member.

**(8) Provide Membership in, Soliciting and Coordinating the Assistance of the Ethics Officers Association Where Employers Have This**

In organizations, which are members of the Ethics Officers Association, the EOA could be invited to participate with the EMCC in trying to resolve, educate, mediate, counsel members so as to resolve potential/real conflicts.

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**APPENDIX B – Ethical Support Process Flowchart**

The following is the original Ethical Support flow chart process of the original Member Conduct Committee.



**APPENDIX C – Ethical Support Procedure Policy 7.11**

**(No change to this policy is needed)**

*“7.11 Ethical Support*

***Part A - Submission of Requests for Support, Inquiries and Information.***

*1. All requests for support regarding circumstances of affected by adherence to the IEEE Code of Ethics shall be sent to the Chair, IEEE Ethics and Member Conduct Committee, IEEE, c/o Corporate Activities, 445 Hoes Lane, Piscataway, NJ 08854 by traceable mail.*

*2. Information which any individual wishes to bring to the attention of, or inquiries for which a response is sought from IEEE shall be submitted in the same manner but need not be notarized or sent by traceable mail. Information and inquiries shall be reviewed by the Ethics and Member Conduct Committee and forwarded, with or without comment or recommendation, to the Board of Directors for consideration and action as may be appropriate.*

***Part B - Form and Contents of the Request for Support. The request for support shall be in the form of an affidavit, typewritten, notarized and signed by the individual. Such request shall be notarized, or include equivalent certification of signature in areas outside of the US. The Request for Support shall include:***

*1. The name(s), position(s) or title(s) and address(es) and telephone numbers (where available) of the employer or others who are believed to have knowledge pertaining to the subject of the Request;*

*2. The issue, incident(s), or the matter of ethical principle which the person believes is involved together with the specific provisions of the IEEE Code of Ethics deemed relevant or considered to have precipitated the condition(s) of jeopardy;*

*3. Documents, statements and any other evidence to be considered as supporting the Request. The identification and location of any other documents and material relevant to the Request but not provided in the submission; 7.9 4. A full description of the circumstances, events and facts which relate to the ethical matter for which IEEE support is sought.*

***Part C - Procedure on Receipt of Request for Support. The Chair of the Ethics and Member Conduct Committee shall:***

*1. Review the Notarized Request for Support, Inquiry or matter of information to ascertain that the incident or event involved occurred no longer than two years prior to receipt thereof. Should the interval exceed two years, all material shall be returned without duplication or distribution, noting this limitation.*

*2. If the incident occurred within the two-year limitation period, then promptly acknowledge Receipt of the Request, Inquiry or information. Transmit copies of the Request, Inquiry or information to Committee members, ensuring that no other distribution or duplication of the material is made, except to provide IEEE counsel with relevant documents, etc. in connection with a request for legal advice.*

*3. Take steps to consider the Request for Support, Inquiry or information submitted, assemble information, provide for Committee evaluation and prepare a Report on Preliminary Investigation within a period of one hundred twenty (120) days from acknowledgment of receipt of the Request, Inquiry or information. In those instances where investigative difficulties preclude completion within this limitation, the IEEE President may grant extension upon request.*

*4. Ensure, during the period of its investigation, that the Ethics and Member Conduct Committee, acting on its own behalf or through ad hoc Committees appointed by the Ethics and Member Conduct Committee Chair, seek relevant information from IEEE members, employees and others as may be appropriate to the nature and contents of the Request for Support, Inquiry or information. Such information as may be obtained shall be reduced to writing and included in the file or records of the Chair of the Ethics and Member Conduct Committee of the case under review.*

*5. During the course of the investigation ensure that the contents of the Request, identity of persons involved and the scope of the inquiry shall remain undisclosed by the Ethics and Member Conduct Committee to the extent practicable, consistent with the need to secure valid information and conduct an expeditious review.*

***Part D - Responsibilities of the Ethics and Member Conduct Committee****.*

*1. If in the course of its investigation and review the Committee deems it appropriate to contact persons or entities outside the membership of IEEE or the employer concerned, the Committee shall: a) obtain from the requesting individual a letter of waiver; and b) send to the employer(s) concerned a letter disclaiming any and all purpose or intent to engage in collective bargaining on behalf of the individual with respect to such matters as salaries, wages, benefits, and working conditions, customarily dealt with by labor unions.*

*2. The Ethics and Member Conduct Committee, upon concluding its investigation, shall prepare a Report on Preliminary Investigation which shall include findings, conclusions and recommendations based on relevant information and technical and professional opinions.*

*3. If the request is deemed to be meritorious, the Committee shall submit to the Board of Directors the request and its Report on Preliminary Investigation upon conclusion of its review of the request together with any matters or information related thereto.*

*4. If the Request for Support is deemed to be without merit, the Ethics and Member Conduct Committee Chair shall notify the requesting individual by traceable mail of the action to terminate and shall include a copy of the Report on Preliminary Investigation.*

*5. If new or additional information considered material is received within ten business days following service of notice by the Chair of the Ethics and Member Conduct Committee, the Committee may reconsider and revise its findings. If the prior findings are affirmed, no further consideration shall be granted and the requesting individual so notified. Subsequent submission of a Request or Inquiry bearing on the same or substantially similar incident or issue may result in the Committee declining further consideration.”*

**COMPOSITION AND IEEE ENTITIES REPRESENTED BY THE CONCERNED ETHICS VOLUNTEERS**

In this group are IEEE members representing positions of: IEEE Life Senior and Fellow Members, 3 PhDs, a Past IEEE President, a Past member on the Committee on Social Implications of Technology, IEEE BART Case Leader, Carl Barus Ethics Award Committee member, 2 members of the Society on Social Implications of Technology, a retired Professional Engineer, original authors of the 1978 Member Conduct Committee charter, a Past Members of the Member Conduct Committee, a Past Chair and Members of the Ethics Committee, volunteers who operated the IEEE Ethics HOTLINE and the Online Ethics Center HOTLINE, authors of the INSTITUTE Bi-Monthly Ethics Articles, a Past Chair/Member of the Ethics and Member Conduct Committee, 4 academic college teachers, 2 women, 2 members from industry.