

IPU RESEARCH NOTE

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PRACTICAL ETHICS FOR PRUDENT REGULATORS

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PRACTICAL ETHICS

Public utility regulation, not unlike other public and private endeavors, can present ethical challenges. Compliance with high ethical standards is critical for maintaining public trust and sustaining regulatory institutions that serve the public interest. The prudent regulator:

1. Thinks and talks about ethics, and attends ethics training, before problems or controversies arise.
2. Fosters an ethical organizational culture and environment.
3. Leads by example and commands respect by maintaining appropriate boundaries and demeanor.
4. Completes ethics and accountability statements, and fully discloses financial and other interests and activities.
5. Avoids conflicts of interest by limiting extra-commission activities and reports conflicts as required.
6. Adheres to campaign finance rules as applicable.
7. Does not compromise personal ethical values or become complacent about ethics over time.
8. Respects the ethical choices of colleagues and staff members.
9. Is familiar with professional standards and canons (e.g., the Bar, NARUC).
10. Understands and follows the rules and procedures of their jurisdiction.
11. Recognizes that responsibility for compliance is theirs alone, and never relies on others to define acceptable behavior.
12. Knows how rules vary for different roles, venues, and proceedings.
13. Regards the written rules as minimal requirements and always errs on the cautious side.
14. Sharpens and trusts their instincts about conflicts of interest and situations requiring ethical judgment.
15. Recognizes the biases and interests of themselves and others.
16. Does not prejudice issues that may come before them, or make prejudicial statements or endorsements.
17. Does not act in an advisory capacity to regulated interests or other stakeholders.
18. Is cautious about telegraphing policy preferences or decision intentions.
19. Participates in open, inclusive, and balanced professional and educational forums.
20. Is discerning about information, and its origins and intentions, and gives notice of pertinent extra-record information.
21. Recognizes when they are being lobbied, pressured, flattered, or bamboozled.
22. Is cognizant of the interests of third parties and agents (e.g., attorneys, analysts, and consultants).
23. Keeps in mind that the quid pro quo may not be entirely obvious.
24. Learns when and how to say "no" to inappropriate overtures.
25. Is accessible to all constituencies in accordance with applicable rules.
26. Is fair and open-minded, and welcomes diverse perspectives.
27. Writes emails as if they are public, publishable, discoverable, and unprotected by attorney-client privilege.
28. Is aware of appointment and phone records of all types.
29. Invites a witness to be present at meetings and keeps copious notes.
30. Is cautious about industry friendships and favors.

31. Travels judiciously and responsibly, and complies with travel policies.
32. Is knowledgeable about rules related to conference and event sponsorship and participation.
33. Knows who is picking up the tab and pays their own way whenever necessary.
34. Rejects and returns gifts and gratuities and keeps records of doing so.
35. Establishes trust with oversight bodies (e.g., legislative committees).
36. Plans and prepares for a career path that minimizes conflict.
37. Is cautious, but open and responsive when interacting with the media, and consults with agency media experts.
38. Remembers the little stuff, but also complies with the "big stuff" (e.g., pays taxes, drives sober, does not harass, etc., etc., etc.).
39. Does not rationalize borderline behaviors, even if occasional or seemingly minor.
40. Does not practice denial, defensiveness, or indignation.
41. Seeks advice from the ethics officer, and does not self-advise, interpret, or guess about the rules of conduct.
42. Comes clean quickly and completely about accidental breaches, and does not obfuscate or attempt to spin.
43. Learns from their mistakes and those of others.
44. Is acutely aware that in public life perceptions and appearances matter as much as technical violations.
45. Knows that news, gossip, and innuendos tend to spread quickly in the relatively confined regulatory subculture of regulation, and are not confined to it.
46. Considers the prospect of a sensational newspaper headline and whether they can live with it.
47. Looks in the mirror and strives to make their [parents, spouse, and/or children] proud.
48. Takes a long-term view, because memories of scandal are long and personal and professional stakes are high.
49. Appreciates how ethics relate to institutional integrity and sustainability.
50. Keeps sight of their obligations to the public and the public interest at all times.

Source: Janice A. Beecher, "The Prudent Regulator: Politics, Independence, Ethics, and the Public Interest," *Electricity Law Journal*, 29 no. 2 (2008). Available at http://www.eba-net.org/docs/elj292/577 - prudent_regulator-clean_final_print_11-2-08.pdf?PHPSESSID=10fac675d3b04f367421f05a12cd241b.