


COMMENTARY

## The issue of enforcement: No teeth + no bite = no point?

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The authors of the focal article tackle an admirable challenge in trying to determine how applicable the APA Code of Ethics is to I–O psychologists and determine potential deficiencies in the Code that should be addressed in upcoming revisions. On the plus side, the authors determined that, overall, the content of the Code generalized to I–O psychology barring some notable exceptions. The problem, however, is not with the ethical guidelines themselves, or the areas of relevance versus deficiency. Rather, the biggest deficiency of the APA Code of Ethics as it relates to I–O psychology may be the espoused goals of the Code. The goals, while laudable, are likely to remain unattainable for the field of I–O psychology. In particular, the heart of the problem can be seen with the second goal of the Code: “to present a set of standards that describe enforceable expectations for professional behavior” (APA, 1953). That one word – enforceable – breaks the Code for I–O psychology.

In their focal piece, Watts et al., (2023) briefly touch on the issue of enforcement. They highlight that the Code “provides no enforcement prerogatives against the non-psychologist” (Footnote 3). They also note, with their discussion on data management, that institutional review boards (IRBs) provide enforcement of research-related ethical guidelines for psychologists though not all individuals work in settings that require IRBs. Beyond this, there is little mention of the issue of enforcement beyond a suggestion that commentary authors might speak to the “limited enforcement power available to the APA” and how the Code might “be reliably enforced for I–O psychologists” (p. 34).

The issue of enforcement is important in a discussion of ethics, and examples exist of how other fields have utilized enforcement protocol to their advantage. Clinical psychologists, for example, can be barred from practicing as a psychologist if they are found to be guilty of ethical transgressions. Medical doctors can be banned from practicing medicine. Lawyers who violate their ethical standards can be disbarred and prevented from practicing law in their respective jurisdiction. These are all demonstrations of ethical codes having teeth. In addition, these examples reflect the power of licensure.

Licensure for I–O psychologists has received its own share of debate over the years. Almost four decades ago, Howard & Lowman (1985) asked the question of whether I–O psychologists should be licensed and concluded that “the evidence and arguments . . . provide slim justification for licensing I/O psychologists if they are considered independently of the rest of psychology” (p. 45). Nevertheless, there are benefits of licensure (see Scontrino et al., 2010) and, because licensure of the title of ‘psychologist’ and practice of ‘psychology’ remains restricted in many U.S. states and Canadian provinces, a great number of individuals who wish to refer to themselves professionally as “I–O psychologists” must continue to navigate the nuances of licensure.

In 1993, a task force was created to examine SIOP’s policy on licensure. After several rounds of revisions, and an acknowledgement that much of the work and research activities of I–O

psychologists do not pose a threat of harm to the public and are not subject to licensure, the policy was adopted in 1996, with minor wording modifications approved by the SIOP Executive Board in 2019 to reflect current (at the time) licensure requirements (Campion, 1996; SIOP, n.d.). In short, SIOP's views on licensure is the following:

“SIOP recognizes that many states require that the practice of I-O psychology be licensed. SIOP members should be allowed to be licensed in those states that require such licensure, and SIOP should provide guidance to state licensing boards on how to evaluate the education and training of an I-O psychologist.”

Short of this, however, SIOP does not oversee licensure and, more to the point, has little power in terms of enforcement of ethical guidelines for its membership. Some might argue that SIOP should offer and require credentialing or licensure for its membership to allow it greater enforcement powers. This is unlikely to be a viable solution. Namely, consider the findings from a court case involving the American Osteopathic Association (AOA), who began in 2012 requiring that individuals be paid members of AOA in order to receive and maintain their credentials. Courts ruled that this requirement violated the Sherman Act in that it forced individuals to do one thing (i.e., purchase AOA membership) that they may not have otherwise done except that it was necessary for the other thing they needed (i.e., credentials to aid in their professional duties; Talone et al v. The American Osteopathic Association, 2018). This was deemed to constitute an unlawful tying arrangement (selling one good on condition of another). This is not to say that a professional organization may not offer unique benefits to only its members, of course. In fact, tying arrangements are typically not viewed as unlawful. However, considering the precedent set in *Talone et al v. The American Osteopathic Association*, it has been advised that credentialing criteria be kept separate from membership requirements (Jacobs et al., 2018).

Moreover, there are barriers with respect to SIOP enforcing a Code of Ethics – whether the APA Code of Ethics or its own Code specific to the needs of SIOP members. Namely, as a non-licensing professional organization, SIOP could take two possible actions in response to an ethical violation. First, SIOP could temporarily suspend or permanently expel the violator from membership. Second, SIOP could express official disapproval of the violator (and their actions) through public or private censure. The complications of these actions arise because membership in a professional society such as SIOP may impact one's career. Indeed, SIOP touts the value and benefits of membership on its website, highlighting the professional development and networking opportunities that accompany active membership, to name a few. The sticky point is that because of the positive impact membership can have on one's career, U.S. antitrust laws come into play. These laws place stipulations on punitive actions that can impact one's membership, including suspension, expulsion, and public admonishment. Specifically, such actions may only occur for a good cause and/or only after affording the member due process.

Of course, few would argue the need for the U.S. antitrust stipulations. Nevertheless, these very stipulations create hardship for SIOP for several reasons. First, good cause will be said to exist only if an individual behaves in a way that the professional organization has a legitimate interest in prohibiting. This may not always be the case, as some individual infringements of the Code of Ethics may not directly interfere with SIOP as a professional society. More problematic for SIOP, however, is the need for due process of members who could be sanctioned. In order for due process to occur, the accused would need an opportunity to be heard and represented by counsel, and there would need to be an appeals process in place. The resources necessary to allow for such due process are likely overly burdensome for a volunteer-based organization.

Beyond this, it can be argued that even if SIOP had the 'teeth' to enforce ethical guidelines, those teeth may be ineffective as a deterrent to ethical transgressions given it appears we as a field may have a reluctance to bite. The findings regarding incidence reporting that Watts et al. (2023) shared shed light on this point. Specifically, there was an attempt to informally resolve an ethical

issue with the perpetrator in just a little more than half (54.6%) of the ethical incidents reported. Arguably, this is the easiest form of action that one can take given it could be something as simple as raising the concern with the violator and working together to resolve the issue without any formal whistleblowing per se. In terms of formal reporting, a little over half (52.2%) of the ethical incidents were not formally reported (of those reported, only 26.7% were reported to a higher institutional authority). Finally, and dishearteningly, “for 35.2% of all incidents, *no clear attempt was made to informally or formally resolve the situation*” (Watts et al., 2023, emphasis added).

Breaking this down a little more, let’s consider that these were responses from individuals who had clearly identified these incidents as having ethical violations. These were self-reported incidents and presumably demonstrates that ignorance of the ethicality of the situation was not at play. In addition, these were situations that were memorable enough to recall later, demonstrating the criticality of the event. Lastly, we all know that it can be difficult to entice individuals to complete surveys, particularly ones that require a fair amount of effort (such as a survey in which ethical violations would be described in detail rather than a short and simple multiple-choice survey). Thus, the individuals responding to the survey are likely to be unique reflections of the population, possibly more civic-minded or other-oriented. Might these individuals be the ones more likely to do something? It’s true that we don’t know, and it’s only speculation at this point. But my point is that it is quite possible that the sample in question may have been *more* likely than the greater population of I–O psychologists to act on ethical violations, meaning that far more than a third of the population is likely to make no attempt to resolve ethical issues.

So, now what? Does it matter what the Code of Ethics includes if it cannot be meaningfully enforced? Even worse, if we are not willing to speak up and call out violators, what’s the point? We have a situation in which we have no teeth to bite, and apparently little willingness to bite. What, then, is the point?

Of course, there *is* a point to having ethical guidelines. If nothing else, they are a means of communicating to the public – and to ourselves – the values to which we are committed. In this way, they serve as an educational tool for future generations of I–O psychologists and as a publicity aid for what we find to be appropriate versus inappropriate behaviors for individuals in our positions. Externally, they may help clients know what might be deemed unethical by others in our profession, so they know when to dismiss a consultant or seek a second opinion. Internally, they hold us accountable to ourselves, and help shed light on how to interpret potentially gray areas. In this way, they are informational and assist us in making choices that are deemed appropriate by our profession.

In short, the onus for compliance of the Code is on us as members of SIOP. We need to embrace the values and principles embodied by SIOP and the Code, engage in ethical self-reflection, and model ethical behavior and decision making. In addition to holding ourselves to these standards, we should be demanding the same from our students, clients, colleagues, and so forth. We each have a role to play in educating ourselves and others, and ensuring we remain vigilant in behaving ethically. Until we take the necessary time to educate the ignorant, admonish transgressors, and insist that we and others do the right thing, our Code of Ethics will remain broken.

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