

I. Introduction

1. IPWG believes that the Code should explicitly acknowledge that archivists often must balance competing, conflicting ethical principles. For example, Elena Danielson notes in *The Ethical Archivist* that there is an inherent tension between access and privacy. “It is disingenuous to write ethical guidelines saying that archivists should protect the privacy rights of data subjects. Violation of privacy is part of the process. The real question is how it can be meliorated.” (p. 9)

Consider adding, “When archivists face conflicting ethical principles, they draw on their experience and judgment, often with the input of others, to seek a solution that balances the competing principles based on the specific circumstances for the benefit of both present and future users of the collections.”

2. The use of “standards” is inappropriate as the principles are aspirational guidelines. Further, as noted above, ethical responses vary so widely based on specific circumstances that a “standard” response is unlikely.

The language of this document is often prescriptive, describing what archivists do, as opposed to aspirational, describing what archivists should do or strive to do. For example, Section II states that “archivists cooperate, collaborate, and respect” and “archivists are fair, unbiased, respectful, honest, and courteous.” This convention should be addressed explicitly in the introduction or the prescriptive language should be moderated throughout.

Consider the use of ‘ideals’ or ‘principles’ instead of ‘standards’.

3. IPWG has several concerns regarding the sentence, “Because archival holdings make possible alternative narratives toward the path of truth seeking, archivists seek to ensure that the power of archives will be available equally and fully to all members of society.”

Members felt the phrase “the path of truth seeking” could be improved. Minimally, delete “seeking” and, given that ‘truth’ is a loaded word, consider another word or phrase. Finally, not all archives are “open equally and fully to all members of society;” for example, corporate archives may not be open to the general public. Consider replacing “society” with “researchers.” Finally, members felt “the power of archives” could be simplified to “archives.”

As this statement is about equitable access, consider moving it to Section VI (see below), where we suggest the following, “Because archival holdings *support different understandings of the past*, archivists seek to ensure that the archives will be open equally and fully to all researchers, without discrimination or preferential treatment.”

If the Committee intended something other than access, it is not immediately apparent.

4. One member strongly objected to “archivists aspire to carry out their professional activities with justice and equity.” For archivists to determine what is justice conflicts with the equity demanded above. Archivists collect and provide access to records that *others* may use in the pursuit of justice.

III. Judgment

1. IPWG questions if diversity should be addressed in this section. Given the complexity of the issue, the committee suggests giving diversity its own section. A section on diversity would provide a place to

expand on issues relating to traditional cultural expressions and acquisition of collections to ensure a more accurate, complete, and unbiased record of the past.

2. If suggestion 1 is not acted on, then IPWG suggests that “multiple perspectives” be replaced by “diverse perspectives.”

IV. Trust

1. IPWG observed that archivists may need to address conflicts of interest beyond their institutions, such as personal businesses or collecting. Consider revising this sentence “and avoid potential conflict of interests.”

2. The statement, “They strive to balance the sometimes competing interests of various archival stakeholders” applies to principles other than Trust. Consider moving this to the Introduction.

V. Authenticity

1. IPWG believes the original is superior and should be retained, with the exception of including the last sentence in the draft text, “They document any actions that may cause significant changes to the records in their holdings or might raise questions about the records’ authenticity.”

VI. Access

1. IPWG believes that the intent of the original language should be retained here, rather than moving it to the introduction. Consider

Archivists recognize their responsibility to promote the use of records as a fundamental purpose of the keeping of archives. Because archival holdings *support different understandings of the past*, archivists seek to ensure that archives will be available equally and fully to all researchers, without discrimination or preferential treatment. Archivists understand the inherent tension between access and legal requirements, privacy, cultural sensitivities, and institutional policies, and they seek practical solutions that balance competing principles and interests.

Consider adding “and Use” to the heading. Copyright law generally allows access to the collections, but may restrict their use through reproduction, display, or performance.

2. IPWG believes that archivists have an ethical obligation to understand intellectual property law and its implications and applications for access. The members are concerned that many archivists have a poor understanding of the subject. As a result, some archivists inappropriately (or incorrectly) use copyright as a justification to limit access, or apply restrictions not based in the law (for example, setting a specific number of pages that may be copied). Consider

Archivists respect the rights of individuals who hold intellectual property rights to records in the collections, while promoting access and use where the law allows through fair use or similar provision.

3. Singling out ‘psychological’ as a barrier seems arbitrary when untimely or unhelpful access presents many other barriers. Further, archivists have no right to judge whether use is responsible, only that such use doesn’t damage the originals. Finally, consider “implement” rather than disseminate.

Consider, “Archivists provide timely and helpful reference service. Archivists formulate and implement institutional access policies and strategies that maximize use.”

4. IPWG feels that establishing a separate section regarding privacy skews the code, overemphasizing its importance over other legal and ethical barriers to access. Consider addressing under access. See below.

VII. Privacy

1. IPWG recognizes archivists’ responsibility to consider privacy rights, including third parties who have not granted permission to provide access and may not be aware that such information is accessible. At the same time, IPWG recognizes the inherent conflict between privacy and access in the Danielson quote above. IPWG recommends incorporating language that emphasizes balance, similar to that for intellectual property described above.

IPWG suggests the following text for a combined section on Access and Use:

Archivists recognize their responsibility to promote the use of records as a fundamental purpose of the keeping of archives, and provide timely and helpful reference service. Because archival holdings *support different understandings of the past*, archivists seek to ensure that archives will be open equally and fully to all researchers, without discrimination or preferential treatment.

Archivists understand the inherent tension between access and legal requirements, cultural sensitivities, and institutional policies, and they seek practical solutions that balance competing principles and interests.

Archivists respect the rights of individuals who hold intellectual property rights to records in the collections. They promote use of protected material where the law allows through a fair use or a similar exemption.

Archivists respect the rights of privacy, including individuals who have not authorized access to private information about their lives and may not be aware that such information is accessible. They use judgment and experience to balance access and use of records containing personal information with laws and cultural norms.

Archivists respect all users’ rights to privacy by maintaining the confidentiality of their research and protecting any personal information collected about them in accordance with their institutions’ policies.

VII. Security and Protection

1. Protection from alteration is also addressed in Section V, Authenticity. Should Sections V and VII be combined under this heading? Because authenticity is central to archives, it might be emphasized in the introduction.

VIII. Law

1. The elimination of this section makes sense, given Danielson’s observation that sometimes law and ethics are in conflict. For example, an archivist may place orphan works on a website, placing more emphasis on the ethical principle of access when it is impractical (if not impossible) to obtain legally required permission for reproduction. (And such an archivist should recognize the risks involved and be willing to take responsibility.)

2. At the same time, laws regarding intellectual property and privacy are significant. IPWG has tried to develop language above that does not explicitly require archivists to follow the law, as stated in the earlier code. Rather, the language suggests an ethical responsibility to know the law and to make decisions based on a balanced approach, rather than excessively liberal or conservative interpretation of the legal requirements.