

About the Commentary: The Commentary addresses selected issues within the Code of Conduct to elaborate on their meaning, provide interpretive guidance, and suggest ways of adopting the Code of Conduct. It is intended primarily for implementers, policy administrators, aviation association management, and pilots who wish to explore the Code in greater depth, and will be updated from time to time. Please send your edits, errata, and comments to <PEB@secureav.com>. Terms of Use are available at <<http://secureav.com/terms.pdf>>.

COMMENTARY TO AMCC I.f – *GENERAL RESPONSIBILITIES*

f. aspire to professionalism,

GA pilots share many attributes traditionally identified with aviation professionals, including:

- a wide range of required specialized skills
- a need for good judgment
- a need for recurrent training and proficiency
- a direct responsibility for the well-being of others
- serious consequences for misfeasance or malfeasance

These common points stress professionalism as a desirable attribute for pilots of all stripes. As one commentator asserted, “[p]rofessionalism is a trait to which every pilot should aspire, whether or not he or she ever plans to earn a living in the air.”¹ Another offered that *professional* “is the one word I’d pick to summarize the traits good pilots have . . . no matter what kind of aircraft they are flying.”²

Nonetheless, whether or not these shared attributes are sufficient to make the typical private pilot a “professional”³ is a source of some controversy within the GA community. Many aviation commentators salute evidence of professional *attitudes* or *outlook* among GA pilots but do not assign professional status to them, nor expect all aviators to meet professional standards.⁴

For example, a National Association of Flight Instructors official cautioned that while pilots aspiring to professional standards is “a wonderful goal” that can bolster flight safety, “don’t expect recreation and sport pilots to perform with a level of professionalism – it is unreasonable to suggest this.”⁵ Those who expect GA pilots to perform with professionalism often stop short of an unqualified characterization of them as *professionals*: “If you are going to fly in the clouds, a professional attitude is required, though most of us who do it are not professional pilots.”⁶ “The GA pilot that exhibits an attitude of professionalism has the tools needed to make safe, sane decisions and therefore is a safer pilot.”⁷ Consider how the following discussion extends the concept of professionalism to any licensed pilot:

To me, aviation “professionalism” means, literally, to behave as would a professional pilot. In other words, the Part 91 pilot should aspire to the standards set by Parts 135 or 121. What does this mean on a practical level? This morning I flew from Tampa to Phoenix. My pre-flight preparation began last night, when I had a light dinner, with no alcohol, and hit the sack early. It continued this morning when I awakened early enough to have some breakfast and get to the airport without rushing, despite the fact that my wake-up call was at 5am (2am Phoenix & body-clock time).

I did a thorough pre-flight, including a painstaking review of my airplane's recent maintenance history, although the airplane was clearly airworthy. I obtained a detailed

weather briefing even though VFR conditions prevailed. I ensured my passengers were well briefed on all aspects of the flight, especially concerning emergency procedures. I used radio phraseology right out of the AIM, and--finally--I flew the airplane as I would on a checkride.

Perhaps this last point is the one to emphasize: The professional pilot treats EVERY flight as if it were a checkride, as if an FAA inspector were in the right seat (or in an airliner's jumpseat). And this applies to any licensed pilot, recreational or private through ATP: your ticket is on the line every flight, and so is your life for that matter, and the lives of your passengers.

I guess I'm trying to say that "professionalism" exists on a very basic, practical level. You just have to treat every action and every decision, on every flight, as if your life depended on it. After all, in a way, it does.⁸

Some worry that the term *professional* might place unwanted expectations on pilots. John King argued that although "some say [pilots] should always take a professional approach," the word *professional* itself is "a bit severe: It suggests that you have to have an Airline Transport Pilot Certificate for all operations. I would just rather think that pilots flying for personal reasons can do so at minimum risk as long as they are proficient, as long as they know the risks, and as long as they take the prudent steps that can minimize those risks."⁹ Furthermore, the label *professional* may have liability implications for GA pilots. Acts deemed reasonable by an ordinary person may be regarded as unreasonable for a professional. Professionals are assumed to possess special knowledge, skills, and ability; to understand that others may rely upon that knowledge and ability; and to foresee potential damage or losses to others if they do not perform with the requisite skill and ability required of their profession.¹⁰

Some in the aviation community urge that the designation *professional* be reserved for CFIs¹¹ and commercial and ATP pilots—that is, for those pilots who make a living by flying. Most AMCC reviewers and much of the literature do not support this view, however. As John Nance argued:

The pursuit of profit . . . is normally part of the test of what is and what isn't a profession, but aviation is a necessary exception to that rule. In fact, a professional aviator is simply a person who approaches aviating in a professional manner, regardless of whether he or she has ever earned a cent through flying. Why? Because the stakes are far too high to tolerate the idea of amateur airmanship, and because nonpiloting persons will not tolerate amateurish airmanship, unprofessional conduct . . .¹²

[T]he more we approach flying with the same solemnity and dedication required of the traditional professional, the safer and more effective we become – whether we're flying for hire, [or] for fun . . . [T]here can be no reasonable tolerance of performance at less than a professional level. We are professionals, in other words, regardless of our niche in aviation, and we must act the part.¹³

A retired Air Force general echoed that sentiment: "A professional outlook marks the modern airman [w]hether he flies for profit or pleasure. . . . You must pursue an avocation professionally. . . [because] there is an effect on other people – both economically and morally – you can hurt people as a PIC."¹⁴

Many observers both within and outside aviation avoid using financial compensation as a yardstick for identifying professional status: "The recognized professions definitely reject . . . financial return as the measure of success. They select as their test *excellence of performance* in the broadest sense."¹⁵ Moreover, professionals such as physicians, lawyers, and engineers are *always* expected to "act professionally," even when providing volunteer assistance.¹⁶

Since all pilots must operate within a system composed of and run by professional groups, some in GA believe that private pilots need to interact on an equal footing with paid pilots as “professionals.”¹⁷ Proponents of this view point to various qualities shared by commercial and GA pilots. Like most professionals in other fields, many GA pilots adhere to codes of ethics or conduct.¹⁸ Furthermore, GA pilots shoulder the same responsibilities as airline pilots—especially when they carry passengers. According to this view, whenever he or she is in the air, a private pilot’s “real” (*i.e.*, most important) job is piloting: “Once you start down the runway [as a pilot], skill at law, medicine, business, or publishing comes secondary. Taking off means becoming a full-time pilot until you tie the airplane down at the destination.”¹⁹

One reviewer urged that the AMCC promote pilot “responsibility”²⁰ rather than “professionalism,” to the extent that *responsibility* focuses more on accountability and doesn’t have “snobbish connotations.” Another reviewer argued that “a responsible pilot, without traits of professionalism, is not necessarily capable of good decision making.”²¹ The AMCC does place great stress on the importance of acting responsibly,²² but it goes a step further in urging GA pilots to *aspire* to professionalism. *This is not the same thing as advocating full professional status for GA pilots.* An aspiration to professionalism is a practical compromise, one that advances responsible conduct as a baseline that all GA pilots must achieve—and should aim to exceed.²³ In short, the focus of this principle is on goals, not performance. It does not mandate that GA pilots satisfy professional standards; instead, it strongly urges that they try to do so. The hoped-for outcome is that by aspiring to *professionalism* but not *professional status*, GA pilots will improve flight safety and earn the respect accorded paid pilots, but avoid the potential liability exposure and other demands that necessarily accompany the mantle of *professional*.

CODE EXAMPLES:²⁴

- “To conduct both our professional and personal lives in a manner to reflect credit on the profession and to set an example of self-discipline for all pilots.” *Code of Conduct*, National Association of Flight Instructors²⁵
- “He will regard himself as a debtor to his profession . . . and will dedicate himself to [its] advancement. He will cooperate in the upholding of the profession by exchanging information and experience with his fellow pilots and by actively contributing to the work of professional groups and the technical press. *Pilot’s Code of Ethics*, Air Line Pilots Association²⁶

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¹ *Be a Pro Pilot Now and Always*, AOPA ePILOT (May 16, 2003), available to members at < <http://www.aopa.org/members/files/pilot/epilot/ft/2003/030516epilot.html?PF> >.

² Lauran Paine Jr., *Father to Son – Observations about flying airplanes*, SPORT AVIATION 122-123 (Oct. 2002). “The thing we call luck is merely *professionalism* and attention to detail it’s your awareness of everything that is going on around you [sic] it’s how well you know and understand your airplane and your own limitations.” Stephen Coonts, *The Intruders*, quoted in DAVID ENGLISH, *SLIPPING THE SURLY BONDS* 177 (1988) (emphasis added). “Pilots can accelerate their cognitive maturation by more specifically and

intentionally learning to think like experienced aviation *professionals*.” ROD MACHADO, IFR PILOT’S SURVIVAL MANUAL 2 (1991) (emphasis added).

See Capt. Jeremy R. Jankowski, *Five Ways To Go Pro*, AVIATION SAFETY, Sept. 2005, pp. 8-11 (Proposing five attitudes and procedures of professionalism “no matter what you fly”: *human factors* – a “directly controllable–aspect of flight,” *crew resource management* – “to solicit quality information on which to base your own decisions,” *standardize* – for “consistent execution of good sense procedures,” *exercise discipline* – e.g., “the disciplined use of a checklist,” and *train* – “consistent training.”).

³ Professionalism has been characterized as “performance which is reliably repeatable.” Interview with William H. Wimsatt, Esq., Magana, Cathcart & McCarthy, Past Pres., Lawyer-Pilots Bar Ass’n, in Los Angeles, Cal. (Nov. 19, 2002). Cf. “One who is able to reliably do the safest course of action under an extreme pressure (from whatever the source).” Email from Capt. Jeremy R. Jankowski (Sept. 18, 2005).

⁴ As one celebrated aviation expert put it, the label of professionalism “can be applied to non-professional flying *but not too liberally*.” Email from Barry Schiff, Editor at Large, AOPO PILOT (Oct. 26, 2002) (emphasis added).

⁵ Telephone Interview with G. A. “Sandy” Hill, VP, NAFI (Oct. 14, 2002). See Commentary to AMCC III.c, *Training and proficiency*, available at < <http://www.secureav.com/Comment-AMCC-III.c-Training.pdf> > (considering training for professionalism).

⁶ Brian M. Jacobson, *How to Avoid an Accident*, IFR REFRESHER 9 (July 2003). In a similar vein, another expert argued: “Usually all that is necessary is a *professional attitude* towards controllers [a] *professional approach* to communications and a considerate attitude.” BARRY SCHIFF, THE PROFICIENT PILOT VOL. 1 243, 249 (Aviation Supplies and Academics, Inc. 1977). The NBAA includes the following issues for study regarding professional aviator attitudes: safety conservatism, discipline, currency, responsibility, decisions, fatigue, and security. *NBAA Training Guidelines, Single Pilot Operation of Very Light Jets and Technically Advanced Aircraft* (Jan. 2005), at §3.2, available to members at < <http://web.nbaa.org/public/ops/safety/vlj/> >.

⁷ Email from Dale DeRemer, Ph.D. (Sept. 19, 2005).

⁸ Email from Captain Don Steinman, America West Airlines (Sept. 29, 2005).

⁹ Interview with John King, King Schools, in São Paulo, Braz. (Sept. 30, 2002).

¹⁰ See *Data Processing Servs., Inc. v. L.H. Smith Oil Corp.*, 492 N.E.2d 314 (Ind. App. 1986) (computer programming). See generally Fair Labor Standards Act (FLSA) and corresponding regulations, *Defining and Delimiting the Exceptions for Executive, Administrative, Professional, Outside Sales and Computer Employees*, 69 Fed. Reg. 22,122 (Apr. 23, 2004) (meaning of “professional”); *Paul v. Petroleum Equip. Tools Co.*, 708 F.2d 168 (5th Cir. 1983) (learned professional exemption upheld for company pilot who held an ATP, commercial certificate, instrument and multi-engine ratings – finding combination of instruction and flight tests satisfied the requirement of a prolonged course of specialized instruction despite its distance from campus); *Ragnone v. Belo Corp.*, 131 F.Supp.2d 1189, 1193-94 (D. Ore. 2001) (helicopter pilot was a “learned professional” under the FLSA regulations); *Kitty Hawk Air Cargo, Inc. v. Chao*, 2004 WL 305603 (N.D. Tex. 2004). But cf. *In Re United States Postal Serv. ANET and WNET Contracts*, ARB Case No. 98-131 (Aug. 2, 2000) (pilots not considered “learned professional”), available at < http://www.oalj.dol.gov/public/arb/decsn2/98_131a.scap.pdf >.

Some courts use a single requirement to resolve whether an occupation is a profession. See *Garden v. Frier*, 602 So. 2d 1273, 1275 (Fla. 1992) (requiring a four-year specialized college degree to qualify as a professional). Cf. *Tylle v. Zoucha*, 412 N.W.2d 438, 440 (Neb. 1987) (test focused on educational training); *Kuntz v. Muehler*, 603 N.W.2d 43, 47 (N.D. 1999), available at < <http://www.court.state.nd.us/court/opinions/990188.htm> >; *Light v. Roney*, No. CA 951414, 1995 WL 1280766, at 3 (Mass. Aug. 30, 1995) (test considers nature of the professional-client relationship).

¹¹ Interview with Sandy Hill, VP, NAFI, in Longmont, Colo. (Sept. 23, 2002).

¹² Lt. Col. John J. Nance, USAFR, *Preface to Tony KERN, REDEFINING AIRMANSHIP* xxvi (McGraw-Hill Professional 1997).

¹³ *Id.*, p. xxv.

¹⁴ NEIL D. VAN SICKLE, MAJ. GEN, USAF (RET.), *MODERN AIRMANSHIP, Preface* (McGraw-Hill Professional 4th ed. 1971) (emphasis added). “If you goof up, you’re just as dead [as a professional]. All aircraft commanders [*i.e.*, PICs] have a high degree of commonality throughout the ratings and aircraft – characterized by a consistent attitude toward the activity.” Telephone Interview with Richard Marks, Esq., ATP (Jan. 9, 2005).

¹⁵ *Be a Pro Pilot Now and Always*, AOPA ePILOT (May 16, 2003) available at < <http://www.aopa.org/members/files/pilot/epilot/ft/2003/030516epilot.html?PF> >. Indeed, Justice Louis D. Brandeis stated, “The recognized professions definitely reject the size of their financial return as the measure of success. They select as their test, excellence of performance in the broadest sense.” Address at the Brown University Commencement (1912).

“Folks tend to forget – perhaps some never learn – that the word *professional* has two very distinct meanings. Everyone knows its use to denote a person who does something for pay, such as ‘a professional athlete’ or ‘an individual practicing a profession.’ But the word also describes a person who demonstrates the highest level of skills, knowledge, and ethics in a particular area, an authority qualified to teach apprentices. It is this latter meaning that we embrace in describing the professionalism to which each pilot should aspire.” Email from Rusty Sachs, Exec. Dir., National Ass’n of Flight Instructors (Nov. 11, 2005).

¹⁶ “Pilot Ethics – Professionalism. Doctors and lawyers are charged with ethical responsibilities because of their access to a specialized body of knowledge inaccessible to the layman, which forces their patients and clients to rely on their skill and judgment. *Pilots have similar responsibilities to their passengers . . .*” TAA Safety Study Team, GENERAL AVIATION TECHNICALLY ADVANCED AIRCRAFT FAA-INDUSTRY SAFETY STUDY 24 (Aug. 23, 2003) (emphasis added), available at < http://www.faa.gov/education_research/training/fits/guidance/media/TAA%20Final%20Report.pdf >.

Consider the following quote regarding professionalism in the law and its applicability to aviators: “Professionalism is a much broader concept than legal ethics . . . professionalism includes not only civility among members of the bench and bar, but also *competence, integrity, respect for the rule of law, participation in pro bono and community service, and conduct by members of the legal profession that exceeds the minimum ethical requirements*. Ethics rules are what a lawyer must obey. Principles of professionalism are what a lawyer should live by in conducting his or her affairs. Unlike disciplinary rules that can be implemented and enforced, professionalism is a personal characteristic.” *A National Action Plan on Lawyer Conduct and Professionalism*, Amer. Bar Ass’n, Working Group on Lawyer Conduct and Professionalism (1999) (emphasis added) (copy on file with author). Cf. Katherine Staton, *Professionalism and Civility in the Practice of Aviation Law-The VORs and GPSs Which Guide Our Practice*, 64 J. AIR L. & COM. 811 (Summer 1999) (observing the decline in the state of professionalism and civility in the legal world of aviation).

¹⁷ Interview with Rich Stowell, Aviation Learning Center, in Santa Paula, Cal. (Jan. 2, 2003).

¹⁸ See AMCC VIIe, *Promote ethical behavior within the GA community*, available at < <http://www.secureav.com/Comment-AMCC-III.e-Advancement.pdf> >. See also Am. Bar Ass’n, MODEL CODE OF PROF’L RESPONSIBILITY (“MODEL CODE”), *Preamble* (1980), quoted in *Professional Responsibility: Report of the Joint Conference*, 44 A.B.A.J. 1159 (1958) (“A true sense of professional responsibility must derive from an understanding of the reasons that lie back of specific restraints, such as those embodied in the Canons.”).

¹⁹ RICHARD L. COLLINS & PATRICK E. BRADLEY, *CONFIDENT FLYING – A PILOT UPGRADE* 34 (ASA 2nd ed. 2001).

²⁰ See AMCC I.a, note 1, available at < <http://www.secureav.com/Comment-AMCC-1.a-General-Responsibilities.pdf> > (AMCC adopting *responsibility* rather than *obligation* or *duty*).

²¹ Email from Dale DeRemer, Ph.D. (Sept. 19, 2005).

²² Indeed, all of AMCC Section I concerns pilot responsibilities, and the need for pilots to act with responsibility is underscored in AMCC I.g, *Act with responsibility and courtesy*, available at < <http://www.secureav.com/Comment-AMCC-I.g-General-Responsibilities.pdf> >.

²³ See Phil Boyer, *Professional Pilots*, AOPA PILOT, Feb. 2005, p. 4: "I think many of us would think of ourselves as professional pilots, whether or not our primary income stream comes from the left seat. And, if you can't accept that, then at least we should *aim* to fly professionally. . . [A]viators share a common passion and commitment to the task of piloting an aircraft for business or personal use that I would claim is highly professional in nature." (emphasis added). Cf. "[E]xpectations alone do not define a professional, but rather how well he lives up to those expectations." Email from Capt. Jeremy R. Jankowski (Sept. 18, 2005). Another view asserts that *pride* underlies the professionalism of "aviation practitioners":

To me, the comparison between "amateur" and "professional" in aviation is quite similar to the way I'd use it with regard to, say, woodwork.

Some of the finest pieces of craftsmanship I've seen have been produced by "amateurs" - in fact, their work is generally superior (in some cases, dramatically so) than the work of "professionals", because they love what they do, and they are motivated mostly by PRIDE - in their skills, their workmanship, their dedication. A perfectly good rocking chair can be made by a professional furniture-maker, probably in much less time than the amateur. But often, only the amateur can *afford* to apply extraordinary time and effort to make the piece that inspires a gasp of admiration. The professional must earn a living, while the amateur is driven by pride.

It is in this sense that an "amateur" effort can be something of a badge of honor - equally tough work is done, and better, by someone whose motivation is, simply, pride.

So for me, it's more important that General Aviation pilots - the non-professionals - are PROUD of their skills, their judgment, their currency, and so on. The moniker of "professional" is to me a starting point -- **Of course** we want to be "professional" - we want to be better than that!

Clearly it's not reasonable for a GA pilot to be 'better' than his/her professional counterpart in certain areas. Someone who flies for a living is likely to be highly current in almost all aspects of flying, frequently has the benefit of another pilot to share the task, and on and on. But we have the advantage in certain areas. We can (and should) spend more time briefing our passengers. We can (and should) take full advantage of the fact that we do NOT have a schedule to which we must adhere. We can (and should) modify our destinations and travel times based on weather (far more frequently than professional pilots can). Those of us who own airplanes can (and should) be intimately familiar with those airplanes . . . and so on.

Most GA pilots fly because they love the activity. If we can also take pride in the activity as "aviation practitioners", we will *automatically* behave in a professional manner. The semantics are not important. I believe that the best way for pilots to "Aspire to Professionalism" is for pilots to take immense pride in what they do.

Email from Michael Radomsky, Pres., Cirrus Owners and Pilots Ass'n (Nov. 9, 2005).

²⁴ Code Examples are examples from relevant codes of conduct that are presented for background, perspective, and comparison. Code Examples are not necessarily endorsed by the AMCC Commentary.

²⁵ Available at < <http://www.nafinet.org/who/code.html> >.

²⁶ Available at < <http://www.alpa.org> >.
