Planning Ethics

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Agenda

• Required AICP Content
• Recent Changes in Ethics Code
• Focused Discussion on Select Principles
• Ethics Cases of the Year
• “Real Life” Scenarios
“PLEASE NOTE: This session has been created to provide general education regarding the AICP Code of Ethics. Though examples, sample problems, and question and answer sessions are an important part of illustrating application of the code’s provisions, all certified planners should be aware that “Only the Ethics Officer is authorized to give formal advice on the propriety of a planner’s proposed conduct.” (AICP Code of Ethics, Section C3). If you have a specific question regarding a situation arising in your practice, you are encouraged to seek the opinion of the Ethics Officer.”

- 312-786-6360
- www.planning.org/ethics
- ethics@planning.org  *(not to discuss specific situations)*
AICP Code of Ethics

Why talk about ethics?
OK, you convinced me – so what is in the code?
Oh yea, I knew that – has anything changed?
Why Talk About Ethics

• Citizens have a right to expect that planners (in the public or private sectors) will help elevate governance, not fall to its more base level.
• Planners have ethical responsibilities to their colleagues, their clients and their communities.
• AICP planners belong to the American Institute of Certified Planners, and must practice in accordance with standards of practice, including the AICP’s Code of Ethics and Professional Conduct.
• Planners are guided by both existing local, and sometimes state, ethics provisions. But frequently none exist, and planners must exercise common sense.
• Ethics scenarios are rarely “cut and dried” and often contain a high level of nuance. Ethics discussions help develop reasoning and reflection skills that can be applied in everyday situations.
Overview of AICP Code of Ethics

• Aspirational Principles (Ideals)
  • “Primary Obligation is to Serve the Public Interest”
    • Long-range and comprehensive thinking
    • Social justice
    • Fairness to all planning participants
  • “Diligent, Creative, Competent Performance”
    • Work in pursuit of our client’s or employer’s Interest
    • “Consistent with...faithful service to the public interest”
  • “Contribute to the Development of, and Respect for, our Profession”
    • Educate public about profession
    • Share experience
    • Contribute to professional development of students, young professionals

• Rules of Conduct (Standards)
• Procedures for Obtaining Guidance
• Procedures for Investigating Complaints
• Disciplinary Actions
Recent Changes to AICP Code of Ethics
Section C – Advisory Opinions

• Create a clearer process for informal advice and formal advisory opinions
  • Any person can seek informal advice
    • Via phone
    • Not binding, but considered in future investigations
  • AICP members can seek formal opinion
    • In writing
    • Won’t issue opinion if it concerns past conduct that might be subject of misconduct charge
    • Will endeavor to issue opinion in 90 days
    • Can use opinion as defense in future misconduct charge

• Allow Ethics Committee to issue advisory opinions without a formal request
  • Membership may provide input on those opinions
  • All such advisory opinions must be published to the entire membership
  • Member can request edits to opinion

• Provide for an annual report to the Membership on the work of the Ethics Committee and Ethics Officer
Recent Changes to AICP Code of Ethics
Section D – Adjudication of Complaints

• Clearer Process for Filing a Complaint
  • Any person can file a complaint against AICP member
    • Must be signed
    • Confidentiality not guaranteed

• Timelines for Review
  • Preliminary Review by Ethics Officer (30 days)
  • Dismiss *(can appeal)* or serve the accused with complaint
  • Accused has 30 days to respond; Complainants can re-respond within 14 days
  • Ethics Officer makes written decision and imposes discipline
  • Decision is appealable by both parties

• Encourage investigations and ‘settlements’
  • Ethics Officer can negotiate settlement at any time in process

• Permit Ethics Committee to continue investigations even if accused resigns AICP membership
Recent Changes to AICP Code of Ethics
Section E – Discipline

• Specific forms of discipline
  • Confidential letter of admonition
  • Public letter of censure
  • Suspension of AICP Membership
  • Revocation from AICP
  • Other Conditions (Letter of Apology, Restitution)

• “Serious Crime” defined – Membership Revoked
  • Perjury, Misrepresentation, Fraud, Tax Evasion, Bribery, Extortion, Theft, Physical Harm

• “Other Crimes”
  • Actions determined by Ethics Committee or Officer to be inconsistent with professional responsibility

• Ethics Committee may or may not publish names and discipline imposed
Actual Ethics Cases and Issues

- Lack of Cooperation with Ethics Compliance
- Private Communication with Decision Makers
- Abuse of Position
- Respect for Confidentiality
- Misuse of AICP Credential
- Loyalty to Employer
- False Statements
- Honest and Fair Dealing
- Legal and Ethical Conduct
- Quality of Practice
- Conflicts of Interest

[Bar chart showing the frequency of issues]
**Exploring Rules of Conduct**

How could the Rules of Conduct apply to me?
Rule of Conduct 5

“
We shall not, as public officials or employees, accept from anyone other than our public employer any compensation, commission, rebate, or other advantage that may be perceived as related to our public office or employment.
"

Rule of Conduct 9

“
We shall not engage in private discussions with decision makers in the planning process in any manner prohibited by law or by agency rules, procedures, or custom.
"
2016-2017 Ethics Cases Of The Year

Orbit City: We Have a Problem

prepared by:
Ethics Committee,
American Institute of Certified Planners
2016-2017 Ethics Cases of the Year

This year’s “Case” includes a cast of Characters, with 8 scenarios that highlight different situations, including:

1. Accurate Information
2. AICP Credential
3. Outside Employment
4. What’s That Knocking Sound?
5. A Piece of the Action
6. Gifts and Favors
7. Factual Planning Analysis
8. Private Communications
MEET Jane Jetson, AICP
Jane is a chief planner with Orbit City, where she has worked for a decade.
She works on current and long-range planning and zoning for the City, where she manages a division staff of six planners and zoning code enforcement staff.

MEET Elroy Spacely (Jane’s supervisor)
Elroy is an architect and city planner. He is the community development director who oversees Jane’s division. Mr. Spacely reports directly to the City Manager.

MEET Rosie Flintstone, AICP (one of Jane’s staff planners)
Rosie is on the staff of the Orbit City planning and zoning division. She reports to Jane Jetson. She is a fairly recent AICP member, having graduated from planning school just a few years ago.
Scenario 1: Accurate Information

Accurate Information

• Rosie is responsible for reviewing site plan submittals. Because Orbit City has numerous lakes within its boundaries, there are growing concerns about stormwater runoff.

• Consequently, one of the items on the site plan application is a question: “Does your project result in any new stormwater runoff or paved surfaces?”

• Rosie tells Jane (her supervisor) that, based on her review of the site plans, some applicants are incorrectly checking the box, “no new stormwater runoff or paved surfaces,” on their applications.

• Jane approaches her boss, Mr. Spacely, about the matter. He tells Jane to not question the applicants, but to simply accept the applications as they are submitted.
Scenario 1: Accurate Information

*Ethical Implications for Rosie*

Providing inaccurate information—when you know something is wrong

*Principle #1g*: “We shall...endeavor to conserve and preserve the integrity and heritage of the natural and built environment.”

*Principle #2a*: “We shall exercise independent professional judgment on behalf of our clients and employers.”

*Principle #2b*: “We shall accept the decisions of our client or employer...[unless] plainly inconsistent with our primary obligation to the public interest.”

*Rule #1*: “We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear, and accurate information on planning issues.”
Scenario 1: Accurate Information  
Ethical Implications for Jane

Jane directs Rosie to ignore evidence

**Principle #1g:** “We shall...endeavor to conserve and preserve the integrity and heritage of the natural and built environment.”

**Principle #2b:** “We shall accept the decisions of our client or employer....[unless] plainly inconsistent with our primary obligation to the public interest.”

**Rule #1:** “We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear, and accurate information on planning issues.”

**Rule #18:** “We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.”
As a non-professional involved in the planning process Mr. Spacely also has “ethical principles”

Ethical Principles for Planning:

*Principle #6*: “Strive to protect the integrity of the natural environment”

*Principle #11*: “Not misrepresent facts or distort information.”
Scenario 1: Accurate Information

What if?

Q: Rosie, after failing to convince her supervisors there’s a problem, tells a reporter that lake pollution may be increasing due to unregulated stormwater runoff? What are the ethical implications of her actions?

Principle #2b: We shall accept the decisions of our client or employer concerning the objectives and nature of the professional services we perform unless the course of action is illegal or plainly inconsistent with our primary obligation to the public interest.

Rule #7: “We shall not use to our personal advantage...information gained in a professional relationship...that we should recognize as confidential because its disclosure could result in embarrassment or other detriment to the client or employer...except when (1) required by process of law, or (2) required to prevent a clear violation of law, or (3) required to prevent a substantial injury to the public. Disclosure pursuant to (2) and (3) shall not be made until after we have verified the facts and issues involved and, when practicable, exhausted efforts to obtain reconsideration of the matter and have sought separate opinions on the issue from other qualified professionals employed by our client or employer.”
Scenario 6: Gifts and Favors

• After a major project has been approved, the development team expresses its appreciation by dropping off gift bags for City Council members, the City Manager, and two staff members (Jane and Rosie, both AICP). Each gift bag contains a $50 bottle of wine and two $25 gift cards.

• The City Manager and the City Council view the gift bags as a positive action by the developer, following a difficult public planning process.
Scenario 6: Gifts and Favors

Ethical Implications for Jane and Rosie

• Jane and Rosie should decline the gift; the issue is the potential for a perception of inappropriate favors – not necessarily the gift’s monetary amount.

  *Principle #1c:* “We shall pay special attention to the interrelatedness of decisions.

  *Rule #5:* “We shall not, as public officials or employees, accept from anyone other than our public employer any compensation...or other advantage that may be perceived as related to our public office or employment.”
Scenario 6: Gifts and Favors

Ethical Implications: City Manager and City Council

• Check what local and state ethics laws say about gifts.

• The City Manager and Council members also are participants in the “planning process.”

*Ethical Principles in Planning (#5):* “Seek no gifts or favors...in which it might reasonably be inferred that the gifts or favors were intended or expected to influence a participant’s objectivity as an advisor or decision maker in the planning process.”
Scenario 8: Private Communication

- UniBlab Consulting has a client who is proposing a mixed-use project, “Viva Orbit City,” for a long-underutilized site.

- Project partners begin contacting City staff directly, rather than using their consulting firm, UniBlab, in order to save on costs and “speed up the process.”

- Jane’s staff fields numerous phone calls from project partners, who are pressuring to get the application before the Planning Commission—prior to full staff review.

- The developer also has submitted visuals of the project to the media—before providing some of them to staff—in order to gain more public support.

- Several elected officials, after being contacted by the developer and seeing the media stories, are upset the application is not being fast-tracked.
Scenario 8: Private Communication
Ethical Implications for Jane

• Private communications

  **Rules #8 and #9:** “We shall not, as public officials or employees, engage in private communications with planning process participants (or decision makers)...if prohibited by law or by agency rules, procedures, or customs.”

• The project is still under review

  **Rule #1:** “We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear, and accurate information on planning issues.”
Scenario 8: Private Communication

Ethical Implications: Elected and Appointed Officials

- Public officials are also part of the planning process

**Ethical Principles in Planning:** “Planning process must continuously pursue and faithfully serve the public interest.”
Real Life Scenarios

Only the names have been changed to protect the innocent
Leaving the Public Sector for the Private Sector

• You work in the Planning Department of a small City
• Your task is to prepare an RFP for computerizing the zoning code and streamlining administration

• No one responds to the RFP

• You and a colleague consider quitting, setting up your own firm, and bidding on the Project

• Does it matter that no one bid on the work?
• Does it matter that streamlining is in the public interest?
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**Should You**

- Talk to the City Attorney
- Discuss with chapter professional development officer
- Abandon idea, besides conflict of interest, with only one client you’ll go broke
- Other
Leaving the Private Sector for the Public Sector

- **Principle #2c:** We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.

- **Rule 6:** We shall not perform work on a project for a client or employer if, in addition to the agreed upon compensation from our client or employer, there is a possibility for direct personal or financial gain to us, our family members, or persons living in our household, unless our client or employer, after full written disclosure from us, consents in writing to the arrangement.

- **Rule 14:** We shall not use the power of any office to seek or obtain a special advantage that is not a matter of public knowledge or is not in the public interest.

- **Rule 15:** We shall not accept work beyond our professional competence unless the client or employer understands and agrees that such work will be performed by another professional competent to perform the work and acceptable to the client or employer.
Mixing Business and Pleasure

• You are the Director of a Community Development Agency
  • Agency prepares applications for empowerment zone funding
• Your employee, Sandra, is responsible for recommending which proposals receive support from the City

• Sandra meets Mike outside of work, and they start a romantic relationship

• Turns out, Mike is a developer looking to build in the empowerment zone

• Sandra speaks with you
  • Says she will continue her relationship with Mike
  • Says she can separate professional and personal life
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Should You
• Tell Sandra to dump Mike, at least until she makes her recommendations
• Assign Sandra to a different department
• Discuss with your boss, City Manager, and hold mandatory ethics workshop
• Trust Sandra – she’s never given you reason not to
• Other
Mixing Business with Pleasure

- **Principle #2c:** We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.

- **Rule 8:** We shall not, as public officials or employees, engage in private communications with planning process participants if the discussions relate to a matter over which we have authority to make a binding, final determination if such private communications are prohibited by law or by agency rules, procedures, or custom.

- **Rule 13:** We shall not sell, or offer to sell, services by stating or implying an ability to influence decisions by improper means.

- **Rule 14:** We shall not use the power of any office to seek or obtain a special advantage that is not a matter of public knowledge or is not in the public interest.
Without civic morality communities perish; without personal morality their survival has no value.

—Bertrand Russell

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