

As a child, what did you want to be when you grew up?

When poll is active, respond at PollEv.com/peterferoe311 Text **PETERFEROE311** to **22333** once to join



 Poll Everywhere

Text
PeterFeroe311
to
22333
to join the
conversation.

Then, tell us about
yourself.

We're going to use
this tool
throughout the
presentation;
texting now sets
everything up.

Planning Ethics

Land Use Law Center of Pace University December 6, 2018

PLANNING ETHICS

17th Annual *Alfred B. DelBello Land Use and Sustainable Development Conference:*
Sustainable Development as a Market Driver

Presented by the Land Use Law Center of Pace University
December 6, 2018



Peter Feroe, AICP
Technical Director | Planning



Gina Martini, AICP
Senior Project Manager



Bonnie Von Ohlsen, AICP,
RLA, LEED Green Associate
Planning Practice Builder

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.

Agenda

- Required AICP Content
- AICP Ethics Code Overview
- Focused Discussion
- Audience Discussion



Required AICP Content

“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)

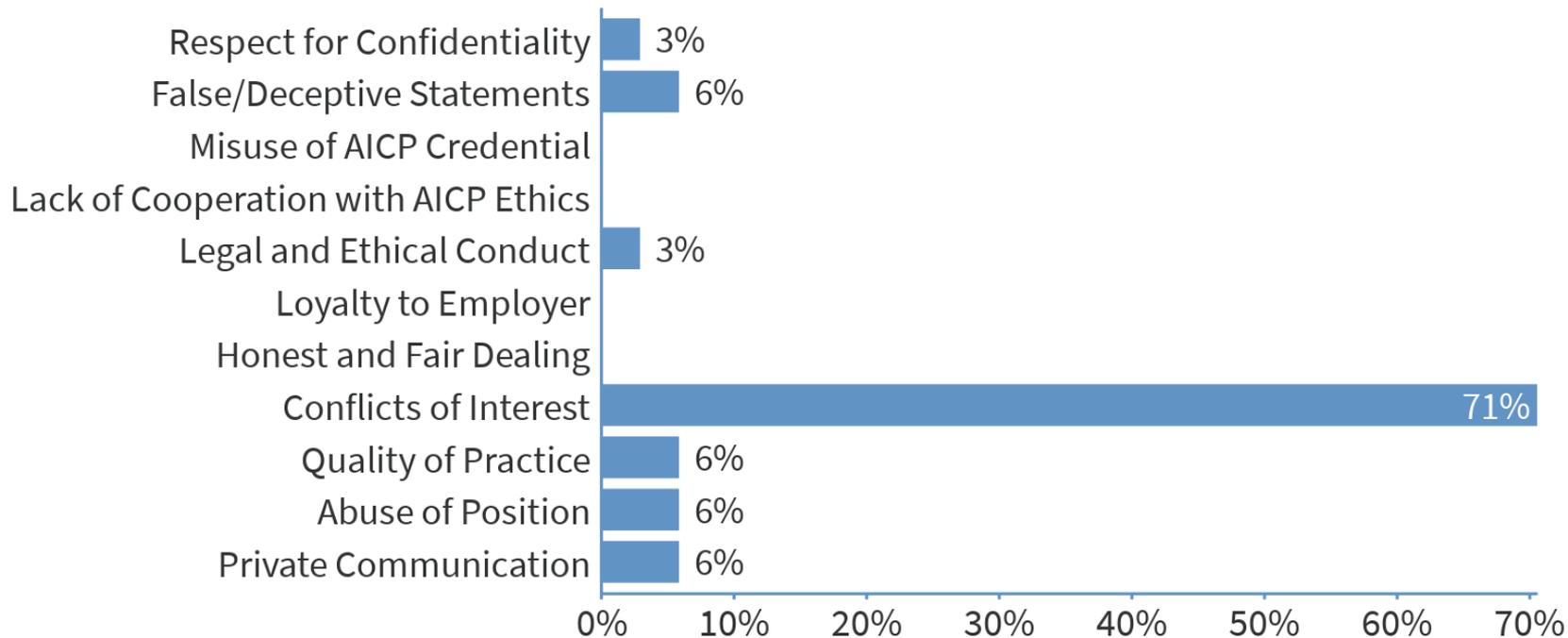
AICP

Overview of AICP Code of Ethics

- Aspirational Principles (Ideals)
 - “Primary Obligation is to Serve the Public Interest”
 - “Diligent, Creative, Competent Performance”
 - “Contribute to the Development of, and Respect for, our Profession”
- Rules of Conduct (Standards)
- Procedures for Obtaining Guidance
- Procedures for Investigating Complaints
- Disciplinary Actions

What issue do you think was the subject of the most ethics cases and inquiries last year?

When poll is active, respond at PollEv.com/peterferoe311 Text **PETERFEROE311** to **22333** once to join



Actual Ethics Cases and Inquiries (2017)



What Do You Want to Discuss if We Have Extra Time?

Respond at [PollEv.com/peterferoe311](https://www.poll-ev.com/peterferoe311) Text **PETERFEROE311** to **22333** one to join, then **A, B, C, D, E...**

■ Principles

- A. 1.b – We shall have special concern for the long-range consequences of present actions.
- B. 1.f – We shall seek social justice, expand opportunity, urge alterations of policies that oppose such needs.
- C. 3.c – We shall describe and comment on other professionals' work in fair/professional manner

■ Rules

- D. 10 – We shall not misrepresent the qualifications, views, and findings of other professionals
- E. 13 – We shall not sell services by implying ability to influence decisions by improper means
- F. 18 – We shall not direct or coerce other professionals to make analyses or reach findings not supported by evidence



Experience Required?

Adapted from *The Ethical Planning Practitioner*, by Weitz, Billingsley, and Merriam.



Experience Required?

A small, struggling consulting firm is pursuing projects at the margins, or maybe beyond, its core competencies. The firm has no experience completing fiscal analyses, but in preparing a proposal, the firm describes previously completed work in a manner that claims it has experience in fiscal analyses.





Experience Required?

- Is this a misleading claim or misstatement of qualifications?
- If the work is won and completed, is this work beyond professional competence?

Relevant AICP Code Provisions

- Aspirational Principles
 - 1.c – Adequate information
 - 2 – Competent performance
 - 3.a – Protect integrity of profession
- Rules of Conduct
 - 11. Solicitation via false claims
 - 12. Misstatement of qualifications
 - 15. Work beyond professional competence



Employee Ownership

Adapted from the 2018/19 AICP Ethics Cases of the Year



Employee Ownership

Olaf, AICP, a consultant, has been offered the position of planning director in Arendelle, where his firm currently provides planning services.

Olaf is interested in the job, but he owns stock in the consulting firm—which he hopes to retain to help pay for his kids' college tuition.

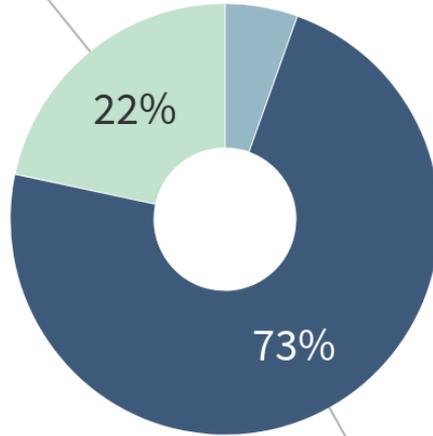
But he doesn't want to prevent the firm from continuing to work for Arendelle, since it is one of the few planning consulting firms in the area.

What do you think about Olaf and his firm?

When poll is active, respond at PollEv.com/peterferoe311 Text **PETERFEROE311** to **22333** once to join

Former firm can't be that good **A** Having cake and eating it, too **B** Trying to do the right thing **C**

Trying to do the right thing



Having cake and eating it, too



Employee Ownership

- If Olaf takes the job, can he retain his stock and allow his firm to pursue city contracts?

Relevant AICP Code Provisions

- Aspirational Principles
 - 1.h – Fair dealings
 - 2.c – Avoid (appearance) of conflict
 - 3.a – Protect integrity of profession
- Rules of Conduct
 - 5. Public employees – no compensation or advantage perceived as related to our public employment
 - 6. No ulterior financial motive without written consent
 - 14. Public sector – no special advantage not in public record and public interest
 - 19. Disclose interest of our client/employer



Personal Interests

Adapted from the 2018/19 AICP Ethics Cases of the Year





Personal Interests

Anna, AICP, a planning consultant, would like to purchase a strip of land next to her personal residence from her neighbor, Hans of the Southern Isles. The purpose would be to create a buffer to Hans' proposed redevelopment.

Anna offers to assist Hans with his rezoning application, as full or partial payment for the buffer strip.

When Hans refuses to sell, Anna decides to testify—as a private citizen—against the proposed rezoning application.

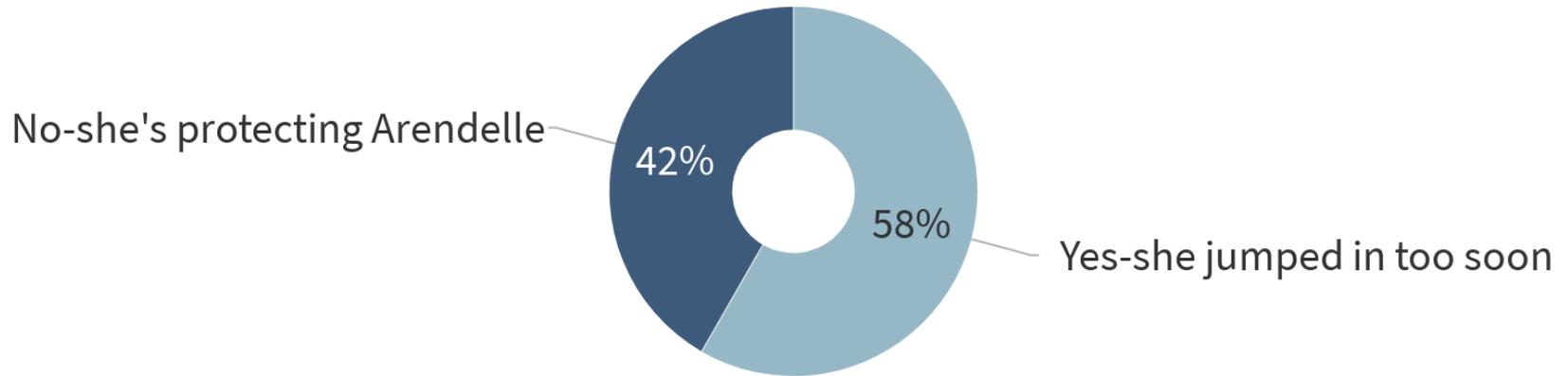
In her testimony, Anna cites the negative impact of the proposed commercial use on her property.

Hans objects that Anna has used her professional knowledge and status as a city planner to further her personal interests.

Has Anna called into question her professional objectivity by testifying in support of her personal interests?

Respond at [PollEv.com/peterferoe311](https://poll-ev.com/peterferoe311) Text **PETERFEROE311** to **22333** once to join, then **A or B**

Yes-she jumped in too soon **A** No-she's protecting Arendelle **B**





Personal Interests

- Has Anna called into question her professional objectivity by testifying, as a planner, in support of her personal interests?
- Has Anna blurred the roles of private citizen and planning consultant in a public forum?

Relevant AICP Code Provisions

- Aspirational Principles
 - 1.c – Interrelatedness of decisions
 - 1.e – People directly affected should have opportunity for meaningful impact
 - 2.a – Independent professional judgement on behalf of clients/employers
 - 2.c – Avoid (appearance) of conflict
 - 3.a – Protect integrity of profession
- Rules of Conduct
 - 7. Shall not use information gained in a professional relationship that client/employer has requested be held inviolate or that we should recognize as confidential because it could embarrass or harm client/employer
 - 14. Public sector – no special advantage not in public record and public interest
 - 25. No deliberate or reckless “wrongful act”, that reflects adversely on our professional fitness



Public to Private Sector

Adapted from the 2018/19 AICP Ethics Cases of the Year





Public to Private Sector

Kristoff, AICP, retired six months ago as a planner with the City of North Mountain.

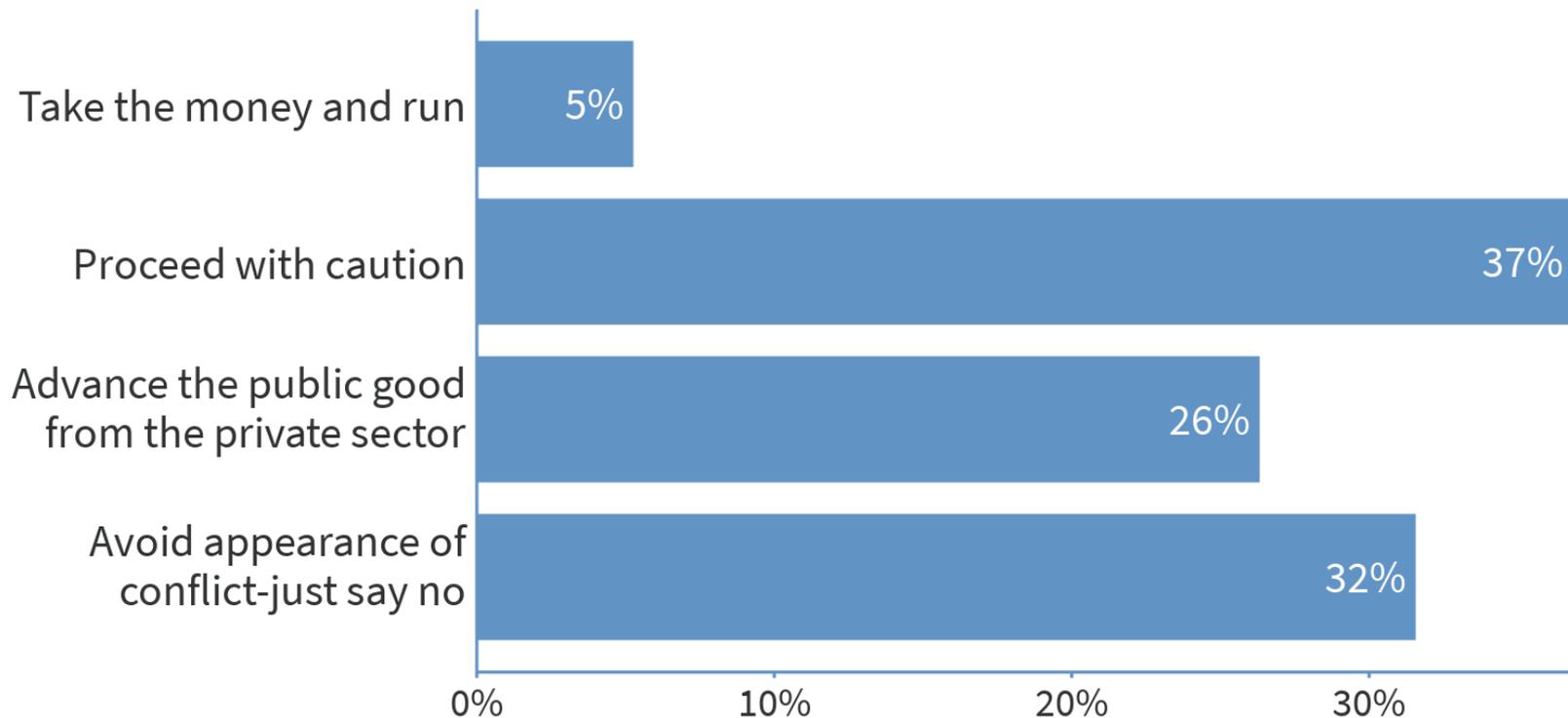
A developer, whose projects Kristoff formerly reviewed as a city planner, asks him to work on behalf of a proposed mixed use project in North Mountain.

Kristoff checks with the city attorney, who says there is no legal or ethical conflict from the City's perspective.



What should Kristoff do?

🗳️ When poll is active, respond at PollEv.com/peterferoe311 📱 Text **PETERFEROE311** to **22333** once to join





Public to Private Sector

- Should Kristoff accept the job?
- What up-front and/or on-going steps should Kristoff take to avoid adverse ethical considerations?

Relevant AICP Code Provisions

- Aspirational Principles
 - 2.a – Independent professional judgement on behalf of clients/employers
 - 2.c – Avoid (appearance) of conflict
 - 3.a – Protect integrity of profession
- Rules of Conduct
 - 3. Shall not publicly advocate a position adverse to one publicly advocated for a previous client/employer within three years unless it will not cause detriment and we disclose conflict to current employer
 - 7. Shall not use information gained in a professional relationship that client/employer has requested be held inviolate or that we should recognize as confidential because it could embarrass or harm client/employer.



Political Involvement

Adapted from the 2018/19 AICP Ethics Cases of the Year





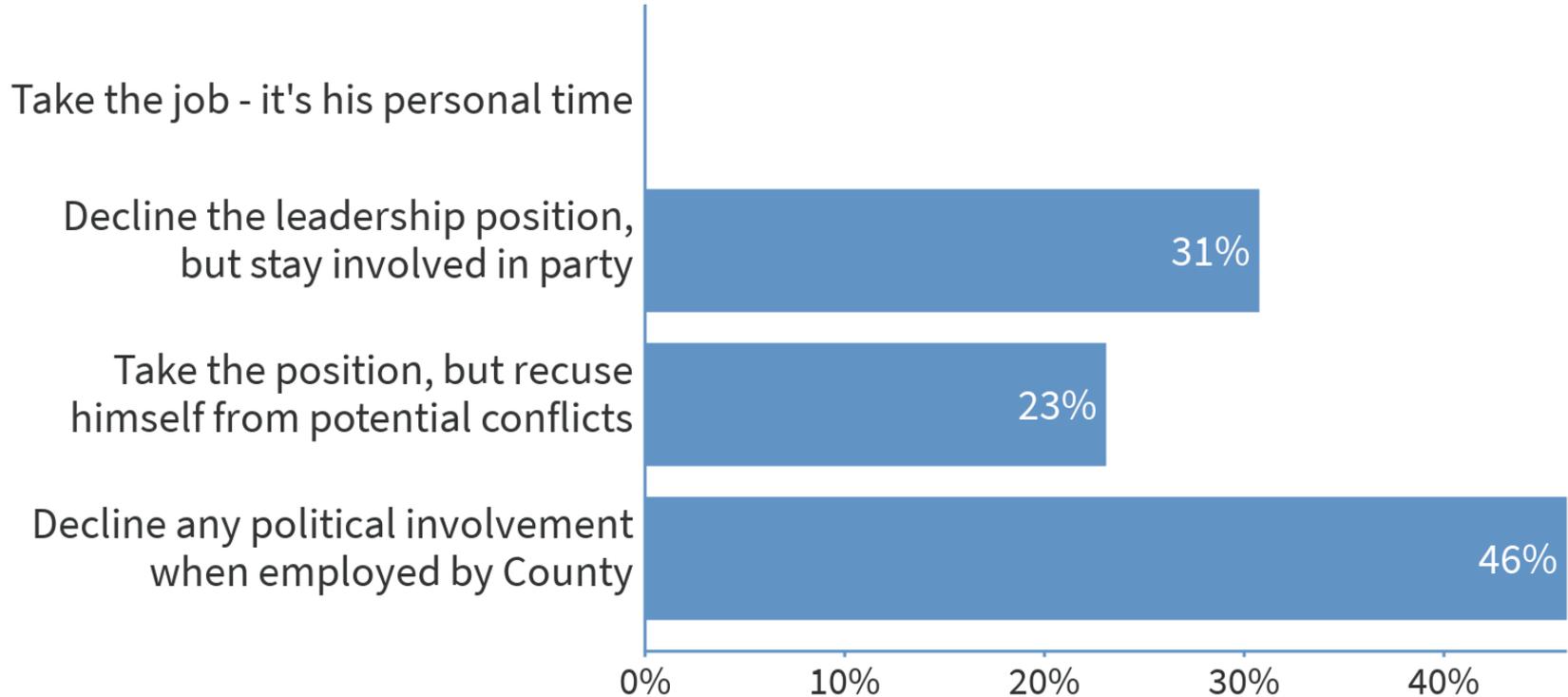
Political Involvement

Sven, AICP, the planning director of Habsburg County, has been offered a leadership position in a local political party.

Sven's boss, the county manager, says this is inappropriate and she discourages Sven from being involved—in any formal way—with the party. As evidence, she notes the Code of Ethics of the International City/County Management Association (ICMA), with which some city and county governments require compliance for all department heads.

In light of the County Manager's concerns, Sven should....

 When poll is active, respond at PollEv.com/peterferoe311  Text **PETERFEROE311** to **22333** once to join





Political Involvement

- In what context are political activities not allowed by the AICP Code of Ethics?

Relevant AICP Code Provisions

- Aspirational Principles
 - 1.c – Interrelatedness of decisions
 - 1.h – Fair dealings with all planning participants
 - 2.a – Independent professional judgement on behalf of clients/employers
 - 2.b – Accept decisions of client/employer concerning objectives and nature of services unless illegal or against public interest
 - 2.c – Avoid (appearance) of conflict
 - 3.j – Contribute to groups lacking adequate planning resources
- Rules of Conduct
 - None specifically on political involvement



Firm vs. Individual Experience

Adapted from the 2017 National Planning Conference: *RFP's and Responses for Successful Projects* by Shelby Powell, AICP and David Fields, AICP



Firm vs. Individual Experience

The Weselton housing authority receives two responses to an RFP that both list the same, large project as a key qualification and reference.

During the interviews, it is clear that Elsa, a staff member with key expertise applicable to Weselton's RFP, had left one firm and joined the other after completion of the project and before the RFP.



Firm vs. Individual Experience

- Should project work ‘stay’ with the firm or can Elsa take it with her?
- (How) should qualifications and experiences be modified?
- What practices should the housing authority implement to enhance clarity in these situations?

Relevant AICP Code Provisions

- Aspirational Principles
 - 1.d – Adequate, clear, accurate information
- Rules of Conduct
 - 1. Adequate, clear, accurate information on planning issues
 - 7. Shall not use information gained in a professional relationship that client/employer has requested be held inviolate or that we should recognize as confidential because it could embarrass or harm client/employer
 - 11. Shall not solicit clients through false/misleading claims
 - 12. Shall not misstate education, experience, training



Audience Choice

Time to help lead the discussion



What Did You Choose?

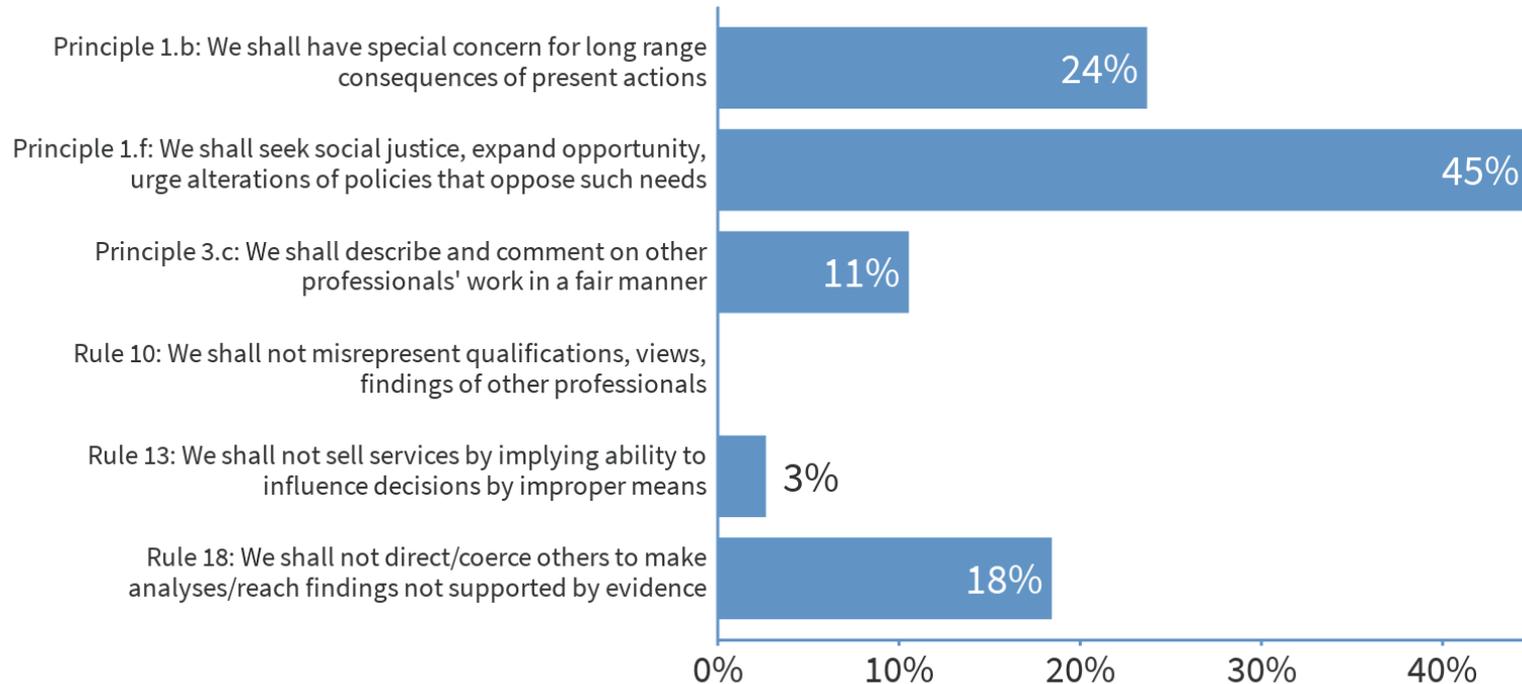
What principle or rule would you like to discuss (time permitting)?



When poll is active, respond at [PollEv.com/peterferoe311](https://poll-ev.com/peterferoe311)



Text **PETERFEROE311** to **22333** once to join



“By far the greatest and most admirable form of wisdom is that needed to plan and beautify cities and human communities.”

- *Socrates*

*Planning Ethics at the 17th Annual Alfred B. DelBello Land Use and Sustainable Development Conference:
Sustainable Development as a Market Driver*

Presented by the Land Use Law Center of Pace University
December 6, 2018



Peter Feroe, AICP
Technical Director | Planning



Gina Martini, AICP
Senior Project Manager



Bonnie Von Ohlsen, AICP,
RLA, LEED Green Associate
Planning Practice Builder