



PLANNING ETHICS and EQUITY & INCLUSION BEST MANAGEMENT PRACTICES

21st Annual *Alfred B. DelBello Land Use and Sustainable Development Conference:*
Land Use Under Siege: Revisiting Well Grounded

Presented by the Land Use Law Center of Pace University
December 8, 2022

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Continuing Education Credits

CM Credits

Please visit the Certification Maintenance section of APA's website
(www.planning.org/cm) to claim AICP credits.

Agenda

- Required AICP Content
- AICP Ethics Code Overview
- Updates to the AICP Code of Ethics
- APA Cases of the Year
 - Scenario 1. Misrepresenting Public Views
 - Scenario 2. Planning Competence
 - Scenario 3. Equity and Inclusion
 - Scenario 4. Equity and ADUs
- Equity and Inclusion Best Practices
- 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)

Why Talk About Ethics

- 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.
- 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.
- 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
 - Responsibility to Public, to Clients/Employees, and to the Profession/Colleagues
- Rules of Conduct
 - 26 Rules to which AICP Members are held accountable
- Advisory Opinions/Guidance
 - Informal Advice, Formal Advisory Opinions, Annual Report
- Complaints of Misconduct
 - Filings, Preliminary Charge/dismissal, Settlement, Decision, Appeal
- Disciplinary Actions
 - Letter of Admonition (private), Public Censure, Suspension, Revocation

APA's Ethical Principles of Planning

- Adopted in 1980; Revised in 1992
 - **Guidelines** for those who participate in the process of planning as advisors, advocates, and decision makers
1. Serve the public interest
 2. Maintain high standards of integrity / proficiency
 3. Improve planning competence

Updates to the AICP Code of Ethics

(effective January 1, 2022)

AICP Code of Ethics Update

AICP's Superpower: The AICP Code of Ethics

- The AICP Code of Ethics and Professional Conduct guides and inspires ethical decision-making and protects AICP-certified planners when faced with controversial or difficult choices. To reflect our needs as professionals in the evolving planning environment, the Code was updated, effective January 1, 2022.
- The following priorities were identified and incorporated into the updated Code based on feedback from Chapters, Divisions, and members regarding the clarity, efficacy, and relevance of the current Ethics Code. Member input was solicited during multiple presentations and comment periods, including a Town Hall webinar.

Source: American Planning Association: <https://www.planning.org/ethics/update/>

AICP Code of Ethics Update

Principles to Which We Aspire (Section A)

Expanded and reorganized into logical groupings to highlight the planners' role in serving the public interest and to:

- more fully account for the planners' role in social justice and racial equity, while accepting our responsibility to eliminate historic patterns of inequity tied to planning decisions;
- recognize and respect the rights of others and not discriminate against or harass others; and
- increase opportunities for members of underrepresented groups to become professional planners.

Source: American Planning Association: <https://www.planning.org/ethics/update/>

AICP Code of Ethics Update

Rules of Conduct (Section B)

Reorganized into logical groupings to increase clarity for compliance and:

- eliminate geographic inconsistencies on who or how Rules of Conduct are enforced;
- clarify types of additional employment that would create an actual or perceived conflict of interest; and
- require an AICP member to cooperate with the AICP Ethics Officer or AICP Ethics Committee if it is determined that they have information relevant to a charge filed against another AICP member.

Reduced the use of frivolous complaints by an aggrieved member of the public against an AICP member by allowing only AICP members the option to file an appeal of a determination by the Ethics Officer related to a complaint of misconduct.

Source: American Planning Association: <https://www.planning.org/ethics/update/>

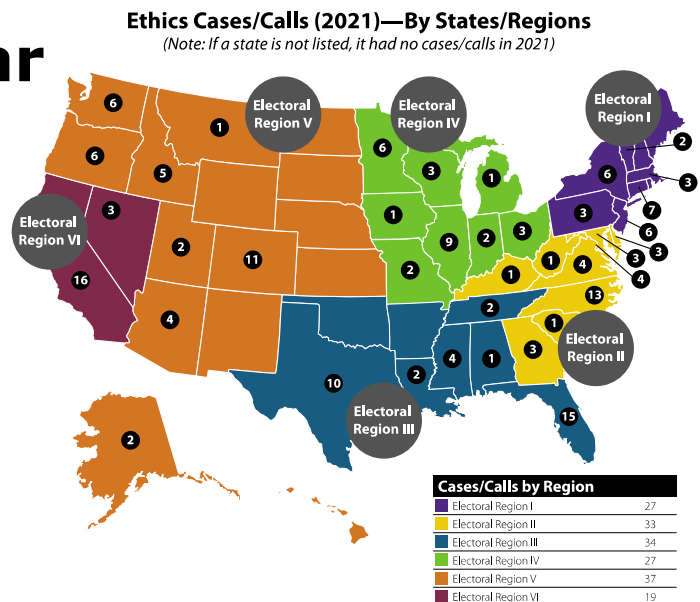
Actual Ethics Cases and Inquiries (2021)



Cases of the Year

The following cases were based on misconduct complaints or informal inquiries reviewed by the Ethics Officer and the Ethics Committee in 2021.

Although the scenarios are based on real-life situations, all of the names, details, and locations are fictional.



Ethical Misconduct Cases in 2021

The most commonly cited Rules of Conduct were:

- #18 (outside employment),
- #1 (accurate information),
- and #13 (confidential information).

Cases of the Year

Adapted from APA 2021-2023 Cases of the Year



Misrepresenting Public Views

Adapted from the 2022/23 AICP Ethics Cases of the Year

Misrepresenting Public Views

Scenario #1:

Joyce, AICP, is a staff planner with Whitley County. Recently, a summary of the public engagement process for a new county land use plan was released.

After reviewing the summary, which was prepared by her supervisor, Joyce doesn't believe it accurately represents many of the issues raised by residents in a series of focus groups and community meetings that were part of the planning process.



Misrepresenting Public Views

Scenario 1 (continued)

Joyce discusses this situation with other staff planners (some of whom are AICP members), as well as her supervisor, who is *not* AICP.

But virtually everyone tells Joyce to forget it, especially given the county's volatile partisan politics. In fact, her supervisor tells her directly: "This is not a fight worth fighting."

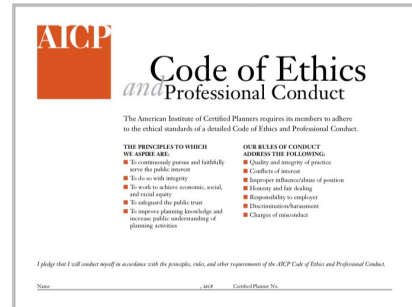


Scenario 1 Questions

Q 1.1:

Does Joyce have an ethical obligation, under the *AICP Ethics Code*, to do something further regarding this issue?

- a) Yes
- b) No
- c) Not Sure

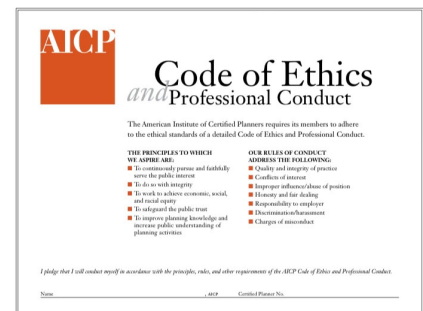


Scenario 1 Questions (contd.)

Q 1.2:

Is Joyce's supervisor guilty of violating the *AICP Ethics Code*?

- a) Yes
- b) No
- c) Not Sure



Scenario 1 Ethical Issues

APA's "Ethical Principles in Planning"

A1: Recognize the rights of citizens to participate in planning decisions.

B11: Not misrepresent facts or distort information for the purpose of achieving a desired outcome.

AICP Ethics Code's "Aspirational Principles"

1f: Systematically and critically analyze ethical issues in the practice of planning....holding individuals and organizations accountable for their conduct.

2a: Provide timely, adequate, clear, accessible, and accurate information on planning issues to all affected persons, to governmental bodies, to the public, to clients and to decision makers.

2b: Facilitate the exchange of ideas and ensure that people have the opportunity for meaningful, timely, and informed participation in the development of plans and programs that affect them.

3a: Create plans that ensure equitable access to resources and opportunities....

4d: Serve as advocates for the public or private sector only when the client's objectives are legal and consistent with the public interest.

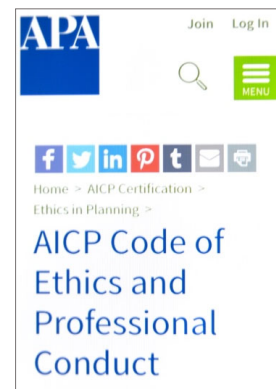
4k: Expose corruption wherever discovered.

Scenario 1 Ethical Issues (contd.)

AICP Ethics Code "Rules of Conduct"

Rule 1: We shall not deliberately fail to provide adequate, timely, clear, and accurate information on planning issues.

Rule 5: We shall not direct or pressure other professionals to make analyses or reach findings not supported by available evidence.



Scenario 1 **Real-Life Outcome**

After contacting the AICP Ethics Officer for informal advice, the Ethics Officer tells Joyce that she has fulfilled part of her ethical obligation by informing her supervisor of her concerns. However, it would be even better if she provided her concerns in writing.

Since Joyce is not personally involved in the misrepresentation, she has acted ethically—even though others have not, including her supervisor.



Joyce, AICP



Wes Booher/Toledo Blade



Planning Competence

Adapted from the 2022/23 AICP Ethics Cases of the Year

Scenario 2

Planning Competence

Olivia, a recent graduate and an AICP candidate, is a planning intern with the City of Suarez. Two months ago, her supervisor, the planning director, resigned.

Since then, at the direction of her city manager, Olivia has taken on most of the planning director's responsibilities, including site plan review. Olivia tells the city manager, however, that site plan review is "way beyond my level of training and experience."



Olivia, AICP candidate



Ryan Scherzinger, AICP, APA Image Library

Scenario 2 (contd.)

Despite Olivia's protestations, Sam tells Olivia that he has been very satisfied with her work.

However, Olivia, is concerned that she may be violating one of the Rules of Conduct (#3) in the *AICP Ethics Code*, which states that "we shall not accept work beyond our professional competence." She is worried this could affect her chances of becoming AICP.

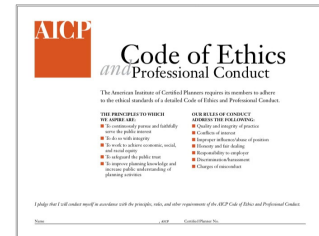


DNE Singapore

Scenario 2 Questions

Q 2.1: Is Olivia guilty of ethical misconduct?

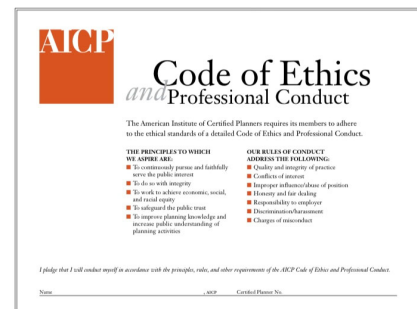
- a) Yes
- b) No
- c) Not Sure



Scenario 2 Questions (contd.)

Q 2.2: Could a Code violation impact Olivia's potential AICP certification, even though she is just an AICP candidate?

- a) Yes
- b) No
- c) Not Sure

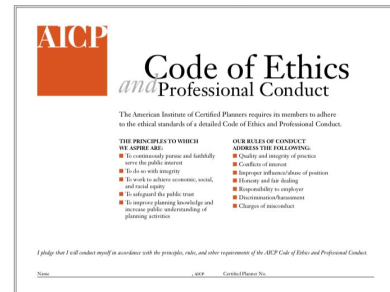


Scenario 2 Questions (contd.)

Q 2.3:

Should Olivia tell her supervisor that someone else needs to be hired to perform some of her planning tasks?

- a) Yes
- b) No
- c) Not Sure



Scenario 2 Ethical Issues

APA's "Ethical Principles in Planning"

B12: Not participate in any matter unless adequately prepared and sufficiently capacitated to render thorough and diligent service.

C5: Accurately represent their qualifications to practice planning as well as their education and affiliations.

AICP Ethics Code's "Aspirational Principles"

4b: Exercise fair, honest, skilled, informed, and independent professional judgement.

4d: Serve as advocates for the public or private sector only when the client's objectives are legal and consistent with the public interest.

4h: Do not participate in any matter unless adequately prepared and able to render thorough and diligent services.

Scenario 2 Ethical Issues (contd.)

When preparing to take the AICP exam, an AICP Candidate agrees that they will abide by the *AICP Code of Ethics*. – planning.org/ethics

AICP Ethics Code's "Rules of Conduct"

Rule 1: We shall not deliberately fail to provide adequate, timely, clear and accurate information on planning issues.

Rule 3: We shall not accept work beyond our professional competence, but may with the understanding and agreement of the client or employer, accept such work to be performed under the direction of another professional competent to perform the work and acceptable to the client or employer.

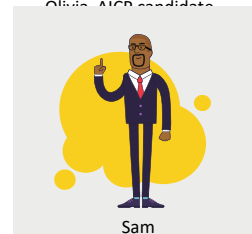
Scenario 2 Real-Life Outcome

The AICP Ethics Officer advises Olivia that, based on her background and the city manager's oversight, she does not appear to have violated the *AICP Ethics Code*. However, the Ethics Officer suggests that Olivia should urge her supervisor, Sam, to hire a replacement planning director (or temporary consultant) as soon as possible.

In the meantime, Olivia should contact her APA Chapter (or "APA Learn") about potential site plan review courses and, possibly, finding an experienced professional mentor.



Olivia, AICP candidate



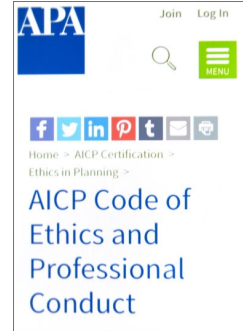
Sam

Scenario 2

Impact of the New Code

Old Rule of Conduct #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.

New Rule of Conduct #3: We shall not accept work beyond our professional competence, but may with the understanding and agreement of the client or employer, **accept such work to be performed under the direction of another professional** competent to perform the work and acceptable to the client or employer.



Equity and Inclusion

Adapted from the 2022/23 AICP Ethics Cases of the Year

Scenario 3

Equity and Inclusion

Jane, AICP, Jacobson County’s planning director, learns that a member of the County Board (non-AICP) has been lobbying members of the County Plan Commission to delete equity/inclusion portions of its new draft Comprehensive Plan—before it is submitted to the County Board for approval.

The County Board Member apparently doesn’t want to make these comments in a public meeting.



Jane, AICP

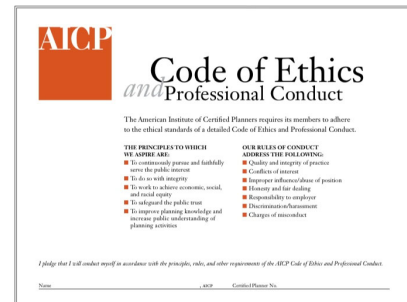


Scenario 3

Questions

Q 3.1:
Does Jane have an ethical obligation to tell her supervisor what she’s heard?

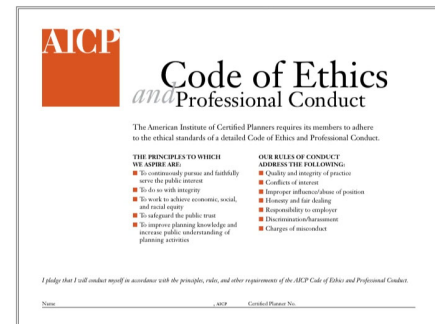
- a) Yes
- b) No
- c) Not Sure



Scenario 3 Questions

Q 3.2:
If her supervisor does nothing, does Jane have an ethical obligation to do something else about this?

- a) Yes
- b) No
- c) Not Sure



Scenario 3 Ethical Issues

APA's "Ethical Principles in Planning"

A3: Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons.

AICP Ethics Code's "Aspirational Principles"

Preamble: All those who participate in planning should commit themselves to making ethical judgments in the public interest balancing the many competing agendas with careful consideration of the fact and context, informed by continuous open debate.

1e: Incorporate equity principles and strategies as the foundation for preparing plans and implementation programs...

3a: Create plans that ensure equitable access to resources and opportunities....

4d: Serve as advocates for the public or private sector only when the client's objectives are legal and consistent with the public interest.

Scenario 3 Ethical Issues (contd.)

AICP Ethics Code “Rules of Conduct”

Rule 9: As public officials or public employees, we shall not 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.

Rule 10: We shall not engage in private communications with decision makers in the planning process in any manner prohibited by law or by agency rules, procedures, or customs.

Scenario 3 Real-Life Outcome

After Jane requests informal advice, the AICP Ethics Officer suggests that she should discuss this matter with: 1) her supervisor (the county administrator) and 2) the chair of the county plan commission, as this lobbying activity could be a violation of state or local laws.

The *ICMA Code of Ethics*, which would govern the county administrator, has language addressing this issue (“Tenet 4” re: Inclusion). Furthermore, although none of the Plan Commission members are AICP members, APA’s “Ethical Principles in Planning” would apply to those “who participate in the process of planning as advisors, advocates, and decision makers.”



Jane, AICP



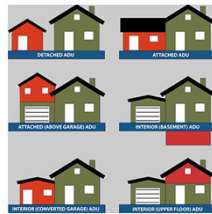
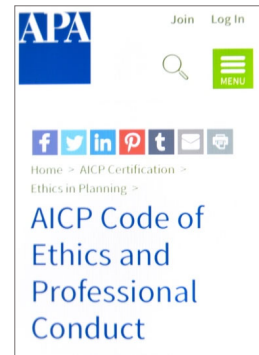
Scenario 3

Impact of the New Code

Several “Aspirational Principles” have been added to the *AICP Ethics Code* to better address issues involving “equity and inclusion.” For instance:

Principle 1e: “Incorporate equity principles and strategies as the foundation for preparing plans and implementation programs....”

Principle 3: “People who participate in the planning process shall work to achieve economic, social, and racial equity.”



Equity and ADUs

Adapted from the 2021/22 AICP Ethics Cases of the Year

Scenario 4

Equity and ADUs

Two years ago, Henry, AICP, a planning consultant, worked on an accessory dwelling unit (ADU) ordinance for the town of Cullersville.

The ordinance, which was approved by city council, limited ADUs to the city's more-densely populated sections, which also is where a large percentage of the city's minority residents reside.



Henry, AICP



Scenario 4 (contd.)

Recently, in light of equity concerns, Henry has been reconsidering his work on the ordinance. He now would like to recommend to Odilia, AICP, Cullersville's planning director, that the city should revise the ADU ordinance to be much more inclusive.

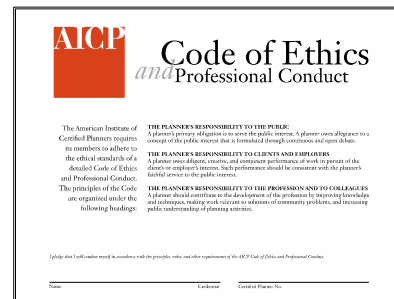
But Henry is concerned that, by doing so, he could be violating Rule of Conduct #3 (of the *AICP Ethics Code*) relating to "changed positions."



Scenario 4 Questions

Q 4.1:
Should Henry voice his concerns to Odilia, Cullersville's planning director?

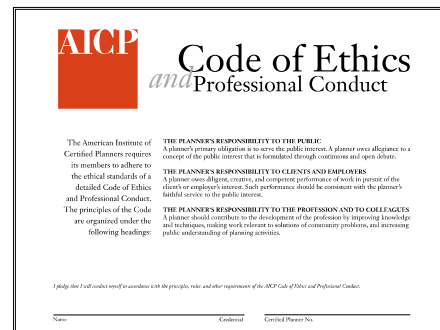
- a) Yes
- b) No
- c) Not Sure



Scenario 4 Questions (contd.)

Q 4.2:
If Henry works on these revisions, on behalf of Cullersville, is he violating Rule of Conduct #3?

- a) Yes
- b) No
- c) Not Sure



Scenario 4 Ethical Issues

AICP Ethics Code “Aspirational Principles”

1a: We shall **always be conscious** of the rights of others.

1b: We shall have special concern for the **long-range consequences** of present actions.

1f: We shall seek social justice by working to **expand choice and opportunity for all persons**, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. **We shall urge the alteration of policies, institutions, and decisions that oppose such needs.**

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

3e: We shall...not accept the **applicability of a customary solution** without first establishing its appropriateness to the situation.

3j: We shall **contribute time and effort** to groups lacking in adequate planning resources and to **voluntary professional activities.**

Scenario 4 Ethical Issues (contd.)

AICP Ethics Code “Rules of Conduct”

Rule 3: We shall not accept an assignment from a client or employer to publicly **advocate a position** on a planning issues that is **indistinguishably adverse** to a position we publicly advocated for a **previous client or employer** within the **past three years** unless (1) we determine in good faith after consultation with other qualified professionals that our change of position **will not cause present detriment to our previous client or employer**, and (2) we make full written disclosure of the conflict to our current client or employer and receive written permission to proceed with the assignment.

Scenario 4 Outcomes

In the real-life informal inquiry, on which this scenario was based, the AICP Ethics Officer said Henry’s concerns were supported by several of the *Code’s* “Aspirational Principles.”

However, the Ethics Officer also suggested that Henry raise this issue with Odilia in private—rather than in a public meeting—so that his “change in position” would not “cause detriment” to his client (the city of Cullersville).



Henry, AICP



Equity & Inclusion Best Management Practices

*Adapted from American Planning Association
Planning for Equity Guide (2019)*

Equity & Inclusion Best Management Practices

American Planning Association *Planning for Equity Guide* (2019).

- Institute Principles of Effective Community Engagement and Use Targeted Community-Specific Strategies: Targeted meeting strategies based on community-specific needs.
- Implement Principles of Participatory Planning: Community members have a clear and meaningful voice in decisions and outcomes.
- Build Trust Through Outreach: Building community trust is central to all outreach efforts.
- Create Space to Listen and Heal Old Wounds; and Avoid Duplication of Engagement Efforts: Develop a collaborative process that brings together different perspectives and prioritizes the data collection goals of local residents and partner voices, particularly those representing marginalized populations.

Equity & Inclusion Best Management Practices

- Create ground rules for discussions.
- Plan opportunities for less dominant participants to participate (direct questions, polls, readings, Zoom chats, whiteboarding, etc.).
- Avoid allowing a few people to dominate the discussion and give everyone a chance to participate.
- Keep all chat comments respectful and treat them as if they could be read by anyone.
- Create a safe space and allow for people to voice their differing opinions.

Equity & Inclusion Best Management Practices for In-Person Public Meetings

- Provide a means for the public to request accommodations for any public outreach event or public outreach materials.
- All in-person public meetings should be held at locations that meet the ADA barrier free and space requirement standards.
- All meeting materials should be clear and in large enough font that will be easily readable.
- Have all presentation materials available in print for attendees and post materials ahead of the meeting.
- All meeting materials should be translated into another language, if it is determined that translation services are needed.
- Any in-person meetings should have appropriate public address systems and microphones.

Equity & Inclusion Best Management Practices for Virtual Meetings

- Use platforms that allow for auto-generated captioning.
- Use platforms that allow people to translate material or listen to meetings through a translated caption.
- Record meetings for future viewing.
- Use a platform that allows ASL Interpreters to stay visible throughout the event
- Use a platform that allows for computer-based and phone-based audio listening/speaking.

Equity & Inclusion Best Management Practices for Virtual Meetings

- Presenters should have cameras on.
- Add pronouns and organization and encourage the audience to do the same.
- Read all comments in the chat out loud, before speaking.
- Announce speaker's name.
- Mute microphones when someone is not an active speaker.
- Describe any visuals that are being shown on the screen.
- No flashing or strobe lights.
- Have materials posted ahead of time.

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

- *Socrates*



QUESTIONS

21st Annual Alfred B. DelBello Land Use and Sustainable Development Conference:
Land Use Under Siege: Revisiting Well Grounded

Presented by the Land Use Law Center of Pace University
December 8, 2022

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