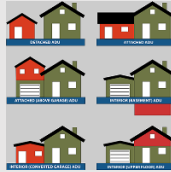


Planning Ethics for Planning Directors and Managers



Washington City & County Planning Directors Conference
Sept. 8, 2021

Steve Butler, FAICP, Planning & Policy Manager, MRSC



Prepared primarily by the American Institute of Certified Planners' Ethics Committee

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Agenda

- Refresher on Key Planning Ethics Documents
- Ethical Scenarios
- Update of the AICP Code of Ethics and Responsibility
- General Q&A
- Some Concluding Comments



The Compliance and Ethics Blog

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Disclaimer

This session has been created to provide general education regarding the *AICP Code of Ethics*.

Although ethical scenarios and question-and-answer sessions are an important part of illustrating the application of the Code's provisions, all certified planners should be aware that only the AICP Ethics Committee is authorized to give formal advice on the propriety of a planner's proposed conduct.

If you have a question regarding a situation in your own professional practice, **Jim Peters, FAICP, AICP Ethics Officer**, you are encouraged to seek informal advice from (ph: 312-786-6360; email: ethics@planning.org).



This AICP Ethics Code certificate is available for downloading from planning.org/ethics. (See https://planning-org-uploaded-media.s3.amazonaws.com/document/AICP-Code-of-Ethics-Certificate_Updated.pdf)

APA's Ethical Principles in Planning

Adopted in 1980 by the American Planning Association; revised in 1992

Guidelines for advisors, advocates, and decision makers in the planning process

1. Serve the public interest

Provide accurate information, provide opportunity for all, protect natural and built environment, pay attention to long-range consequences of action, etc.

2. Maintain high standards of integrity and proficiency

Provide independent judgment, disclose personal interests, seek no gifts or favors, avoid conflicts of interest, don't disclose confidential information, don't misrepresent facts, respect rights of all persons, etc.

3. Improve planning competence

Provide high level of professionalism, commit no wrongful acts, contribute time for groups lacking planning resources, treat other professionals fairly, etc.

AICP's Code of Ethics & Professional Responsibility

Adopted in 1948 by the American Institute of Planners; rev. 1959, 1970, 1978, 1991, 2005, and 2016

A. Aspirational Principles

(See next slides)

B. Rules of Conduct

(See next slides)

C. Advisory Opinions

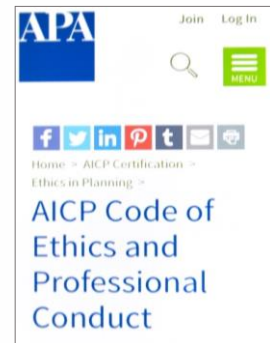
Informal Advice, Formal Advisory Opinions, Annual Report

D. Complaints of Misconduct

Filings, Preliminary Charge/Dismissal, Settlement, Decision, Appeal

E. Discipline of Members

Confidential Letter, Public Censure, Suspension, Revocation

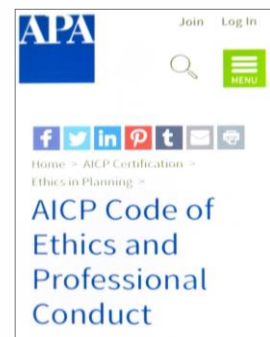


AICP's Code of Ethics & Professional Responsibility

Adopted in 1948 by the American Institute of Planners; rev. 1959, 1970, 1978, 1991, 2005, and 2016

• **TURN ON YOUR PHONE or LAPTOP!**

• **FIND THE CODE at planning.org/ethics/ethicscode/**



Aspirational Principles (the "shoulds")



1. Overall Responsibility to the Public

(Interrelatedness of decisions, Broad participation, Social justice, Fair dealings)

2. Responsibility to Our Clients and Employers

(Independent judgment, Accept decisions of client or employer, Avoid conflicts of interest)

3. Responsibility to Our Profession and Colleagues

(Professional integrity, Contribute to planning knowledge, voluntary activities, and others)

Rules of Conduct (the "shalls" & "shall nots")



26 rules to which planners can be held accountable. General topics:

- Abuse of position
- Conflicts of interest
- False or deceptive statements
- Honest and fair dealing
- Lack of cooperation
- Legal and ethical
- Loyalty to employer
- Private communication
- Respect for confidentiality

Ethical Misconduct Cases in 2020

Eight Cases Dismissed

No preliminary charge filed

Six Cases Dismissed

After preliminary charge and response by planner

Four Cases Settled

Agreements to cease misuses of the AICPP credential

Two Disciplinary Actions

One-Year Suspension for "wrongful conduct" involving emails and social media posts (Rule of Conduct #25)

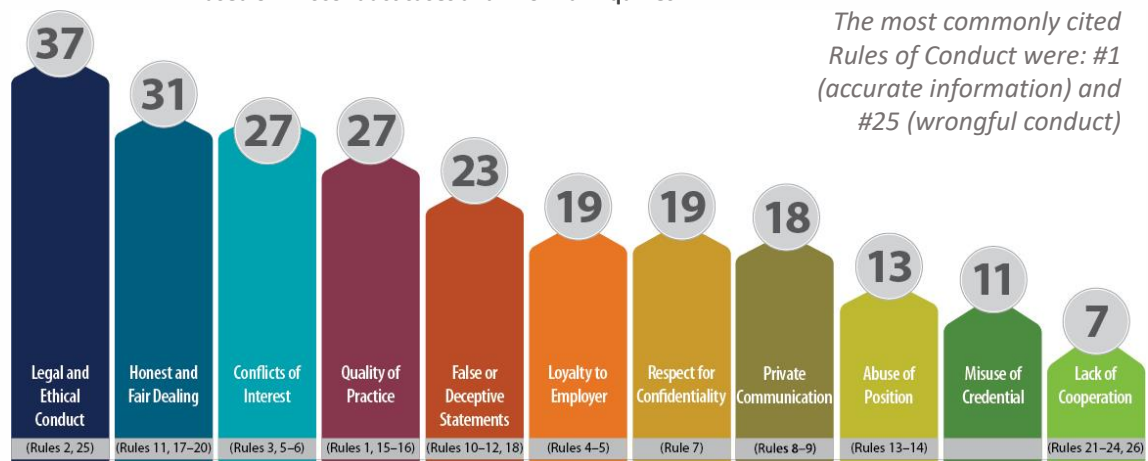
Confidential Letter of Admonition for "wrongful conduct" related to plagiarism (Rule of Conduct #25)



Carol Hu, APA Image Library

Ethics Topics in 2020

Based on misconduct cases and informal inquiries



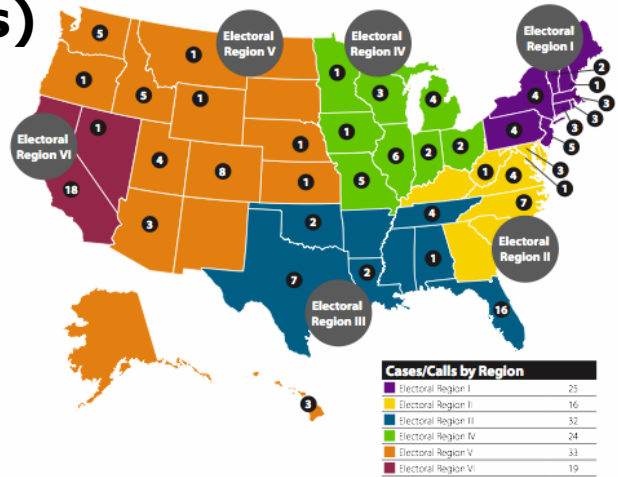
The most commonly cited Rules of Conduct were: #1 (accurate information) and #25 (wrongful conduct)

Cases of the Year(s)

The following scenarios are based on real-life situations, although the names, details, and locations are fictional.

These scenarios were derived from informal inquiries or misconduct complaints reviewed by the Ethics Committee and the Ethics Officer.

Ethics Cases/Calls (2020)—By States/Regions
(Note: If a state is not listed, it had no cases/calls in 2020)



Cast of Characters



Beverly, AICP
 Consultant



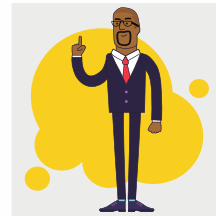
Catherine, AICP
 Public Planner



Norm, AICP
 Public Planner



Odilia, AICP
 Public Planner



Sam, AICP
 Consultant

Scenario 1 Emails/Social Media

Norm, AICP, is planning director of Levintown. At a contentious public meeting, a resident opposes a school expansion project, citing inadequate water service.



Norm

The next day, a contractor applies for a pool permit for Fenn Estates, where the resident lives. Norm responds to the contractor on his city email and uses a derogatory term for the resident. He copies several city officials and the resident on the email.



Alicia Fabbre Daily Southtown

Scenario 1 (contd.)

Later that evening, in a post on his personal Facebook page (under a pseudonym), Norm uses another obscene phrase to describe the same resident.



Jim Weisner, Jr.

The next morning, realizing what he had done, Norm makes several attempts to erase both the social media post and the emails.

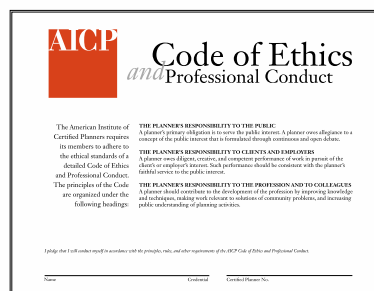


Sheep Boutique

Scenario 1 Questions

Q 1.1:
Has Norm violated the *AICP Ethics Code* in his actions?

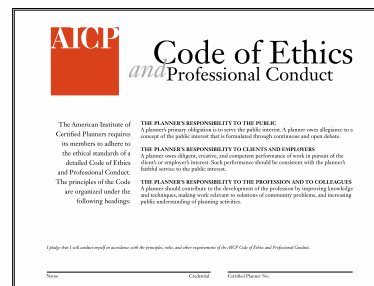
- a) Yes
- b) No
- c) Not Sure



Scenario 1 Questions (contd.)

Q 1.2:
If so, what type of disciplinary measures should be taken by the AICP?

- a) Confidential Letter of Admonition
- b) Public Censure
- c) Suspension of Certification
- d) Revocation of Certification



Scenario 1 Ethical Issues

AICP Ethics Code “Aspirational Principles”

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

1h: We shall **deal fairly** with all participants in the planning process.

3a: We shall **protect and enhance the integrity** of our profession.

3c: We shall describe and comment on the work and views of other professionals in a **fair and professional manner**.

AICP Ethics Code “Rules of Conduct”

Rule 10: We shall neither deliberately, nor with reckless indifference, **misrepresent** the qualifications, views, and findings of other professionals.

Rule 25: We shall neither deliberately, nor with reckless indifference, commit any **wrongful act**, whether or not specified in the Rules, that **reflects adversely on our professional fitness**.

Scenario 1 Outcomes

In the real-life case on which this scenario was based, the AICP Ethics Committee ruled that Norm had committed “wrongful acts” that reflected adversely on his professional fitness (Rule 25).

Norm’s **AICP certification was suspended for one year**, during which time he was directed to meet (i.e., professionally mentor) with a retired FAICP member who lives in the area.



Scenario 2 Equity and ADUs

Two years ago, Sam, 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.



Sam



Scenario 2 (continued)

Recently, in light of equity concerns, Sam 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.

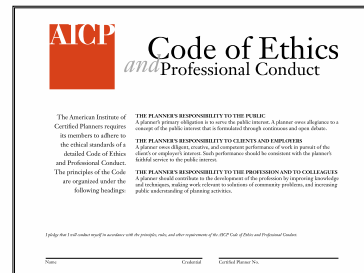
But Sam is concerned that, by doing so, he could be violating Rule of Conduct #3 (of the *AICP Ethics Code*) relating to "changed positions."



Scenario 2 Questions

Q 2.1:
**Should Sam voice his concerns to Odilia,
Cullersville’s planning director?**

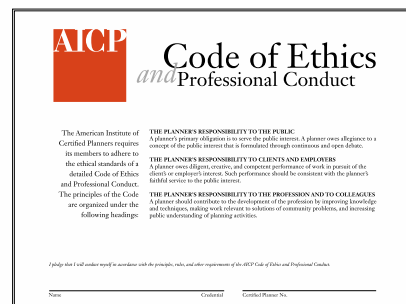
- a) Yes
- b) No
- c) Not Sure



Scenario 2 Questions (contd.)

Q 2.2:
**If Sam works on these revisions, on
behalf of Cullersville, is he violating
Rule of Conduct #3?**

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



Scenario 2 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 2 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 2 Outcomes

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

However, the Ethics Officer also suggested that Sam 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).



Sam

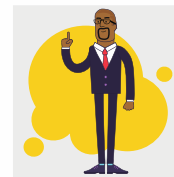


The ABCs of ADUs

Scenario 3 Revolving Door

Sam, AICP, who recently retired as the planning director of Hartford County, has started a private consulting firm.

Six months after his retirement, Sam is approached by a developer who would like his assistance in the permit application process for a new subdivision in Hartford County.



Sam

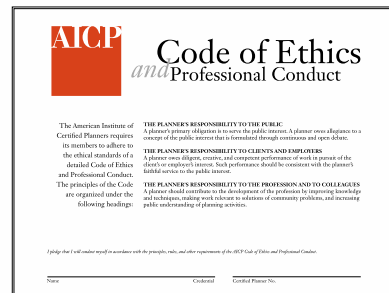


Stephan Schmitz/Science

Scenario 3 Questions

Q 3.1: Would this be a violation of the AICP Ethics Code?

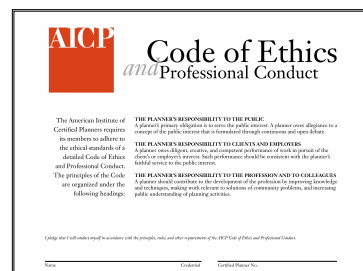
- a) Yes
- b) No
- c) Not Sure



Scenario 3 Questions (contd.)

Q 3.2: What ethical concern(s) should Sam have?

- a) Illegal conduct (Rule #2)
- b) Changed positions (Rule #3)
- c) Confidential information (Rule #7)
- d) Conflict of interest (Principle #2c)
- e) All of the above
- f) None of the above



Scenario 3 Ethical Issues

AICP Ethics Code “Aspirational Principles”

1c: We shall pay special attention to the interrelatedness of decisions.

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

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

3a: We shall **protect and enhance the integrity of our profession**.

Scenario 3 Ethical Issues (contd.)

AICP Ethics Code “Rules of Conduct”

Rule 2: We shall not accept an assignment from a client or employer when the services to be performed involve **conduct that we know to be illegal** or in violation of these rules.

Rule 3: We shall not accept an assignment from a client or employer to publicly **advocate a position** on a planning issue that is **indistinguishably adverse** to a position we publicly advocated for a previous client or employer within the **past three years** unless...

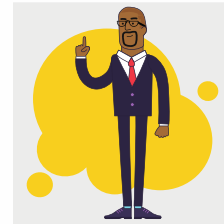
Rule 7: We shall **not use to our personal advantage**, nor that of a subsequent client or employer, **information** gained in a professional relationship that...we should recognize as **confidential** because its disclosure could result in **embarrassment or other detriment** to the client or employer....

Scenario 3 Outcomes

In the real-life informal inquiry on which this scenario was based, the AICP Ethics Officer reminded Sam there are no time limits in the *Code*, except for Rule of Conduct #3 (no changed positions within three years).

However, he urged Sam to check local and state laws regarding “revolving door” policies for former public employees (Rule of Conduct #2).

He also reminded Sam not to reveal any confidential information that could be harmful to his former employer (Rule of Conduct #7).



Sam



Scenario 4 Personal Property

Norman, AICP, a staff planner with Costaville, is working on a rezoning proposal for a transit-oriented development (TOD) corridor, in accordance with a new subarea plan.

A member of the public tells Norman he has a conflict of interest since he lives two blocks from the TOD corridor—and the rezoning could increase the value of his own house.



Scenario 4 (contd.)

Norman asks his supervisor, Lucio, AICP, if another staff planner could work on the project, given the proximity of the proposed TOD district to Norman's house.

Lucio tells Norman that, due to staff constraints, he needs to work on the project. But, he says, Norman should disclose this potential conflict of interest at all public meetings.



Scenario 4 Questions

Q 4.1:
Have both planners behaved in accordance with the *AICP Ethics Code*?

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



AICP Code of Ethics and Professional Conduct

The American Institute of Certified Planners requires its members to adhere to the ethical standards of a fiduciary Code of Ethics and Professional Conduct. The principles of the Code are organized under the following headings:

THE PLANNER'S RESPONSIBILITY TO THE PUBLIC.
 A planner's primary obligation is to serve the public interest. A planner owes allegiance to a concept of the public interest that is formulated through consensus and open dialog.

THE PLANNER'S RESPONSIBILITY TO CLIENTS AND EMPLOYERS.
 A planner must diligently, creatively, and transparently perform the work in pursuit of the client's or employer's interest. Such performance should be consistent with the planner's faithful service to the public interest.

THE PLANNER'S RESPONSIBILITY TO THE PROFESSION AND TO COLLEAGUES.
 A planner should contribute to the development of the profession by expanding knowledge and techniques, making work relevant to solutions of community problems, and increasing public understanding of planning activities.

I pledge that I will conduct myself in accordance with the principles, rules, and other requirements of the AICP Code of Ethics and Professional Conduct.

Name _____ Gender _____ Certified Planner No. _____

Scenario 4 Questions (contd.)

- Q 4.2:
 - Do you agree with the decision of Lucio, Norman's supervisor?
- a) Yes
 - b) No
 - c) Not Sure



Scenario 4 Ethical Issues

AICP Ethics Code "Aspirational Principles"

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

AICP Ethics Code "Rules of Conduct"

#6: We shall not perform work on a project if...there is a possibility for direct personal or financial gain to us...**unless our client or employer, after full written disclosure from us, consents in writing to the arrangement.**

#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.**

Scenario 4 Outcomes

- After being charged with misconduct—based on a complaint by a resident—Norman provided evidence to the Ethics Officer that he had, in advance, notified his supervisor, Lucio, of the potential conflict of interest. Lucio then had told him to: 1) continue to work on the project and 2) fully disclose his ownership interests at all public meetings. Subsequently, the misconduct charge was dismissed.



Norman



Lucio

Catherine

Scenario 5 Showing of Appreciation

After the development has finally been approved, representatives from the developer express their appreciation for the staff’s work by dropping off gift bags for the City Council, City Manager, Catherine and Norm; each gift bag contains a \$50 bottle of wine and two \$25 gift cards.

The City Manager and City Council view the gift bags as a positive action by the retailer.



APA

Scenario 5 Ethical Issues

Q6.1 What should Catherine and Norm do?

AICP Ethics Code "Rules of Conduct"

Rule 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.**

- The simplest and safest answer is to decline the gift.
- The issue is the potential for perception of improper influence, and not the gift's \$ amount.

Discussion about Other Ethical Issues?

Scenario 6 Volunteer Boards

Catherine, AICP, is a staff planner with Bauerville, but she lives in Wurster, 30 miles away.

Wurster’s Mayor asks Catherine if she would be willing to serve on the Wurster Plan Commission. There are no extraterritorial jurisdiction issues between the two communities—and they also are located in two different counties.



Catherine

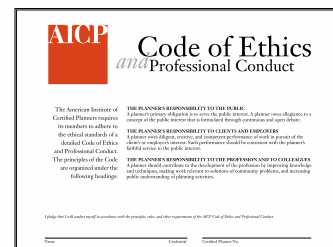


WPTA-TV

Scenario 6 Question

Q 2:
Should Catherine get written permission to serve on the Wurster Plan Commission?

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



Scenario 6 Ethical Issues

AICP Ethics Code “Aspirational Principles”

1c: We shall pay special attention to the [interrelatedness of decisions](#).

2b: We shall accept the decision of our client or employer...unless the course of action is illegal or plainly inconsistent with our [primary obligation to public interest](#).

2c: We shall [avoid a conflict of interest](#) or even the appearance of a conflict of interest in accepting assignments from clients or employers.

3j: We shall [contribute time and effort](#) to groups lacking in adequate planning resources and to [voluntary professional activities](#).

Scenario 6 Ethical Issues (contd.)

AICP Ethics Code “Rules of Conduct”

Rule 4: We shall not, as salaried employees, undertake other [employment in planning or a related profession, whether or not for pay](#), without having made full written disclosure to the employer who furnishes our salary and having received subsequent written permission to undertake additional employment, unless our employer has a written policy which expressly dispenses with a need to obtain such consent.

Scenario 6 Outcomes

In Catherine’s case, a member of the public had filed a misconduct complaint against her. After an investigation, the complaint was dismissed since membership on the plan commission was not considered to be “employment.”



Catherine

Norm

Scenario 7 Plagiarism

Beverly, AICP, a planning consultant, has been hired to prepare a hazard mitigation plan for Greene County, as required by state law.

As part of her research, Beverly finds a plan for Loraine County, a jurisdiction facing similar issues. She decides to use the text of that plan—which she did not write—for the initial draft of the Greene County plan.



Beverly



Scenario 7 (contd.)

After making a few revisions, Beverly and the county supervisor submit the draft plan to the plan commission.

However, neither Beverly nor the supervisor inform the members of the plan commission—either verbally or in writing—that their draft is largely based on another county’s plan.

After several working meetings, the plan commission forwards the revised plan to the county board for adoption.



DispatchLive

Scenario 7 (contd.)

At the next county board meeting, a resident makes a charge of plagiarism, noting that nearly half of the Greene County plan is a word-for-word copy of the Loraine County plan.

Beverly and the board chair defend the plan, noting that copying from other public documents is “standard planning practice.” However, several Plan Commission members complain they weren’t informed about the copied document.



Dane Mark/Stock

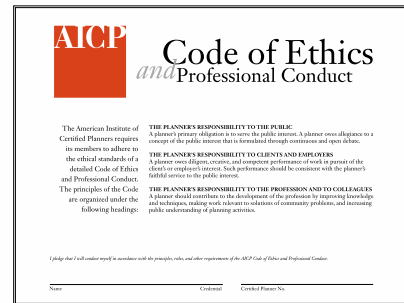


ViperBloc

Scenario 7 Questions

Q 5.1: Is Beverly guilty of plagiarism?

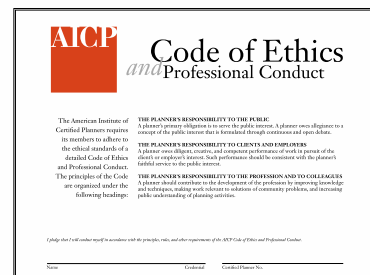
- a) Yes
- b) No
- c) Not Sure



Scenario 7 Questions

Q 5.2: Has Beverly violated the *AICP Ethics Code*?

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



Scenario 7 Ethical Issues

AICP Ethics Code “Aspirational Principles”

2a: We shall exercise [independent professional judgment](#) on behalf of our clients and employers.

3a: We shall protect and enhance the [integrity](#) of our profession.

3e: We shall...not accept the [applicability of a customary solution](#) without first establishing its appropriateness to the situation.

AICP Ethics Code “Rules of Conduct”

Rule 17: We shall not use the product of others’ efforts [to seek professional recognition or acclaim](#) intended for producers of original work.

Rule 25: We shall neither deliberately, nor with reckless indifference, commit any [wrongful act](#), whether or not specified in the Rules, that [reflects adversely on our professional fitness](#).

Scenario 7 Outcomes

In the real-life case, on which this scenario was based, the AICP Ethics Officer felt Beverly should not have copied the text from the other county’s plan without 1) referencing it or 2) disclosing it to the plan commission.

Although Beverly had not sought “acclaim” for another’s work (Rule 17), she had committed a “wrongful act” reflecting adversely on her “professional fitness” (Rule 25).

Beverly received a **Confidential Letter of Admonition**.



Beverly



Scenario 8 Social Equity

Norman, AICP, a staff planner with Costaville, has been assigned to review the site plan for a group home for refugee immigrant children who have been separated from their parents.

The site plan meets all legal requirements, but Norman is concerned about the quality of the operation, as well as the long-term separation of the children from their parents.



Gabriel Honscheidt/Reveal

Scenario 8 (contd.)

Norman voices these concerns to his supervisor, Lucio, AICP, who says he is very sympathetic. But Lucio notes that the Mayor wants to get the approval done as fast as possible—“before the NIMBYs get wind of this,” says the Mayor.

Lucio tells Norman to focus just on the facts of the site plan review process in his staff report—and not to mention any of his social equity concerns.



Norman



Lucio



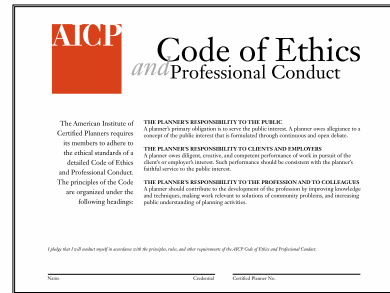
David J. Phillips/The Intercept

Scenario 8 Questions

Q 4.1:

Is Lucio correct, ethically, to tell Norman to only focus the staff report on the facts relevant to the site plan review?

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



Scenario 8 Questions (contd.)

• Q 4.2:

Is there anything else Norman should do or say?

- a) Speak directly to the Mayor
- b) Investigate what other communities have done
- c) Leak the story to the media
- d) Other



Scenario 8 Ethical Issues

AICP Ethics Code "Aspirational Principles"

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.](#)

2b: We shall accept the decision of our client or employer...unless the course of action is illegal or plainly inconsistent with our [primary obligation to public interest.](#)

3e: [We...shall not accept the applicability of a customary solution](#) without first establishing its appropriateness to the situation.

Scenario 8 (contd.)

AICP Ethics Code "Rules of Conduct"

#1: We shall not deliberately or with reckless indifference fail to provide [adequate, timely, clear and accurate information](#) on planning issues.

#2: We shall not accept an assignment from a client or employer when the services to be performed involve [conduct we know to be illegal or in violation of these rules.](#)

#18: We shall not direct or coerce other professionals to make analyses or reach findings not supported by [available evidence.](#)

Scenario 8 Outcomes

- In the real-life case, on which this scenario was based, Norman and Lucio were seeking background information from other communities that had dealt with this group home operator.
- Meanwhile, a local community group was raising its own social concerns about the project in public meetings, media stories, and social media posts.



Gabriel Honschelt/Reveal

Overview of Proposed Changes to the AICP Code of Ethics & Professional Responsibility

- Organized into logical groupings to highlight the planners' role in serving the public interest
- More fully account for the planner's role in social justice and racial equity while accepting our responsibility to eliminate historic patterns of inequality tied to planning decisions
- Respect the rights of others and not discriminate against or harass others
- Increase opportunities for members of underrepresented groups to become professional planners

Code Update Process Schedule



June 9, 2021: Ethics
Town Hall



June 30, 2021:
Comment Deadline



July/August:
Consideration of
comments by AICP
Commission



Fall 2021: Vote by AICP
Commission



Fall/Early Winter 2021:
New AICP Code of
Ethics becomes
effective



Spring 2022: Ethics CM
based on new AICP
Code of Ethics

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Tips

1. Ethical issues don't always have a clear "yes" or "no" answer.

"An ethical judgment often requires a **conscientious balancing, based on the facts and context** of a particular situation and on the precepts of the entire Code."

2. Make time to regularly discuss planning ethics.

Set up a regular time at your workplace, perhaps bi-monthly or quarterly, to discuss the [AICP Code of Ethics and Professional Conduct](#) and different ethical scenarios that planners are likely to face. And don't forget about new employee onboarding/orientation.

3. There will be an increased focus on EDI.

Equity, Diversity, and Inclusion issues will continue a major planning ethics focus for planners.

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Q&A

Final Note

For informal advice regarding ethical conduct, please contact the AICP Ethics Officer, Jim Peters, FAICP, at 312-786-6360 or ethics@planning.org. For more information about ethics, please visit planning.org/ethics

AICP Ethics Committee

Karen Wolf, FAICP, Chair

Robert L. Barber, FAICP

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American Planning Association

Creating Great Communities for All