

Ethics Case of the Year

2017-2018



The American Planning Association's
Professional Institute



**American Institute
of Certified Planners**

Making Great Communities Happen



American Planning Association
Florida Chapter

*Created by the Ethics Committee,
American Institute of Certified Planners*



American Planning Association
Making Great Communities Happen

Panel Members

❖ **Merle Bishop, FAICP**

Growth Management Department Director
City of Winter Haven, FL

❖ **Mary Kay Peck, FAICP**

Founder, MKPeck Associates
Clearwater, FL

❖ **Valerie Hubbard, FAICP**

AICP Commission Immediate Past President
Director of Planning Services
Akerman, LLP
Tallahassee, FL

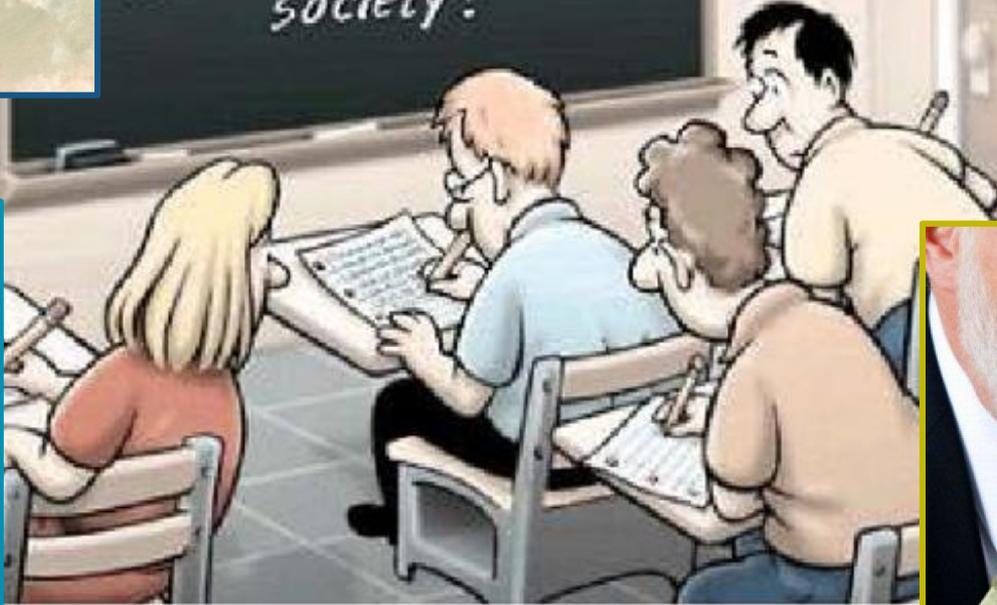
❖ **Silvia Vargas, AICP, LEED AP**

AICP Commissioner for Region III
President/Owner
Silvia Vargas Community Planning, LLC

Why Talk About Ethics?



How important are ethics in today's society?



Why Talk About Ethics?

- ❖ Different people have different beliefs about what constitutes ethical behavior.
- ❖ Distinctions between right and wrong are not always clear.
- ❖ Situations where the line between right and wrong is blurred can result in an ethical dilemma.



Why Talk About Ethics?

- ❖ **Develop attitudes and reasoning skills that can be applied in everyday situations.**
- ❖ **Citizens have a right to expect ethical conduct in the planning process.**
- ❖ **Professional planners have ethical responsibilities to the public, their colleagues, their clients, their employers and their communities.**
- ❖ **AICP planners must practice in accordance with standards of practice, including the AICP's Code of Ethics and Professional Conduct.**
- ❖ **Planners are guided by both local, and sometimes state, ethics provisions. But frequently none exist, and planners must exercise common sense, especially with consideration given to the guidance of the aspirational principles in the Code.**
- ❖ **Resources and helps available through APA, the AICP Commission and the Ethics Officer.**

Ethical Environment for Planners

“Ethical judgment often requires a conscientious balancing, based on the facts and context of a particular situation and the precepts of the entire Code of Ethics and Professional Conduct.”



Ethical Principles and Rules

Please turn “on” your cell phones:
www.planning.org/ethics

❖ **“AICP Code of Ethics and Professional Conduct”**
(includes a link to Code revisions adopted April 2016)

❖ **“Ethical Principles of Planning”**
(Ethics website—for non-professional planners)

❖ **“Ethics in Planning Toolkit”**
(A toolkit for conducting Ethics Sessions revised July 2012)



Ethical Principles and Rules

Please turn “on” your cell phones: www.planning.org/ethics

Select: “AICP Code of Ethics and Professional Conduct”

❖ “Principles to Which We Aspire”

(Section A, AICP Code of Ethics and Professional Conduct)

❖ “Our Rules of Conduct”

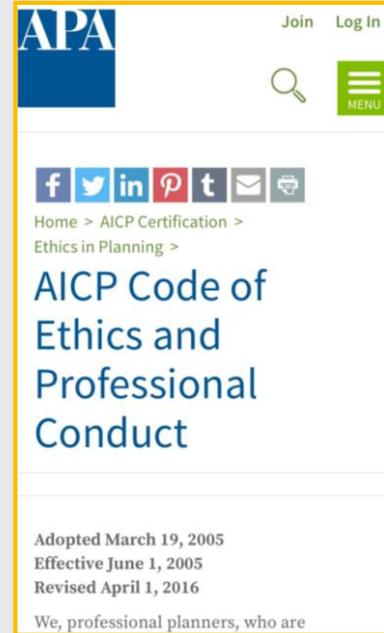
(Section B, AICP Code of Ethics and Professional Conduct)

❖ “Procedural Provisions”

(Section C, Describes how to obtain a formal or informal advisory ruling)

(Section D, How a complaint is filed, investigated and adjudicated)

(Section E, Forms of disciplinary action, including conviction of a serious crime or other conduct inconsistent with the responsibilities of an AICP planner)



Ethical Principles and Rules

Please turn “on” your cell phones: www.planning.org/ethics

Select: “**Ethical Principles in Planning**”

- ❖ A set of principles to be held in common by everyone engaged in the planning process.
- ❖ “The planning process must continuously pursue and faithfully serve the public interest.”
- ❖ “Planning process participants continuously strive to achieve high standards of integrity and proficiency so that public respect for the planning process will be maintained.”
- ❖ “APA members continuously pursue improvements in their planning competence as well as in the development of peers and aspiring planners. They recognize that enhancement of the planning profession leads to greater public respect for the planning process and thus serves the public interest.”



Actions Regarding Ethical Conduct

Go back to www.planning.org/ethics - “Ethics in Planning”

Scroll down to: “Actions Regarding Ethical Conduct”

❖ Filing a complaint of misconduct.

Can be filed by anyone—but only against an AICP member—for having allegedly violated a “Rule of Conduct”

❖ Seeking informal advice.

Non-binding and not in writing
James Peters, FAICP – Ethics Officer
(312)-786-6360

❖ Seek an Advisory Opinion from Ethics Committee

Provided in writing—but only on selected, unresolved issues

Actions Regarding Ethical Conduct

FILE A COMPLAINT OF MISCONDUCT, SEEK INFORMAL ADVICE, ACCESS ANNUAL REPORTS

All communications regarding specific ethics situations should occur either in letters or phone conversations with APA's Ethics Officer in his or her capacity as the ethics officer. Because of issues of reliability and confidentiality, email communication is not to be used.

- **Filing a complaint of misconduct.** If you believe an AICP member has violated the AICP Code of Ethics and Professional conduct, consider submitting this [AICP Ethical Conduct Complaint Form](#).
- **Seeking informal advice.** Contact APA's Ethics Officer at [312-786-6360](tel:312-786-6360) if you would like to

Actions Regarding Ethical Conduct

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- **Seeking informal advice.** Contact APA's Ethics Officer at 212-786-6969 if you have a 11/11/11



AICP Code of Ethics and Professional Conduct Complaint of Misconduct Form

Complainant (see Ethics Code, Section D1, regarding requests for confidentiality)
Name and Contact Information:

Individual Charged
Name and Address:

Charge 1

Ethics rule allegedly violated (from Ethics Code, Section B):

Actions of the charged individual regarding the specific ways in which this particular rule was violated:

Action 1.

Action 2.

Action 3.

Action 4.

(If additional space is needed, additional sheets may be attached, referencing "Charge __, Actions __".)

Please attach any documentation or evidence of charges above, labeled according to the relevant charge (ex. "Charge 1", or "Charge 1, Action 2").

Charge ____ (If additional charges are being filed, please submit copies of this page as needed, with all charges number sequentially).

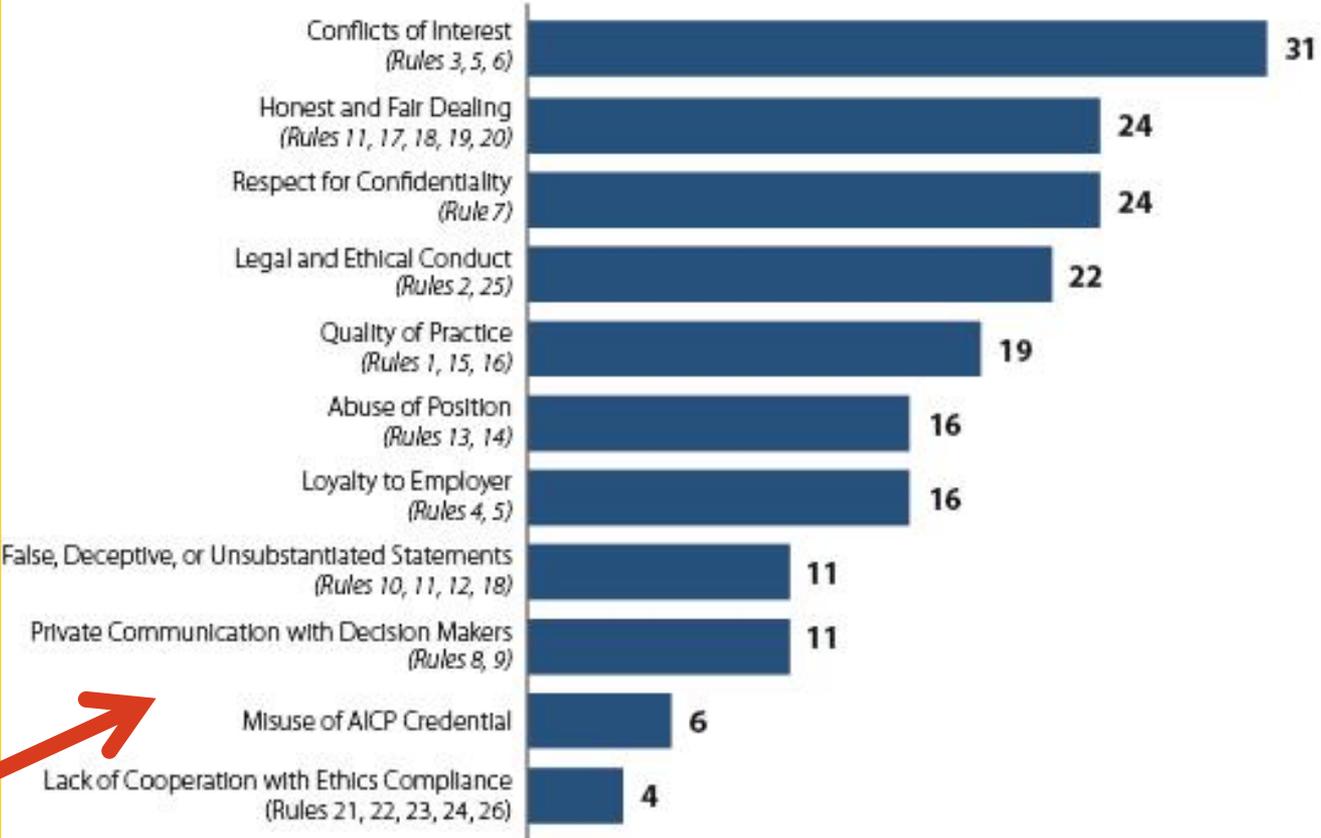
Ethics rule allegedly violated (from Ethics Code, Section B):

2016 Ethics Cases and Inquiries

MISCONDUCT, SEEK INFORMAL ADVICE, ACCESS ANNUAL REPORTS

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- **Filing a complaint of misconduct.** If you believe an AICP member has violated the AICP Code of Ethics and Professional conduct, consider submitting this AICP Ethical Conduct Complaint Form.
- **Seeking informal advice.** Contact APA's Ethics Officer at 312-786-6360 if you would like to discuss a matter involving your own professional conduct or matters involving other planners
- **Access the Annual Reports on Case Activity and Requests**

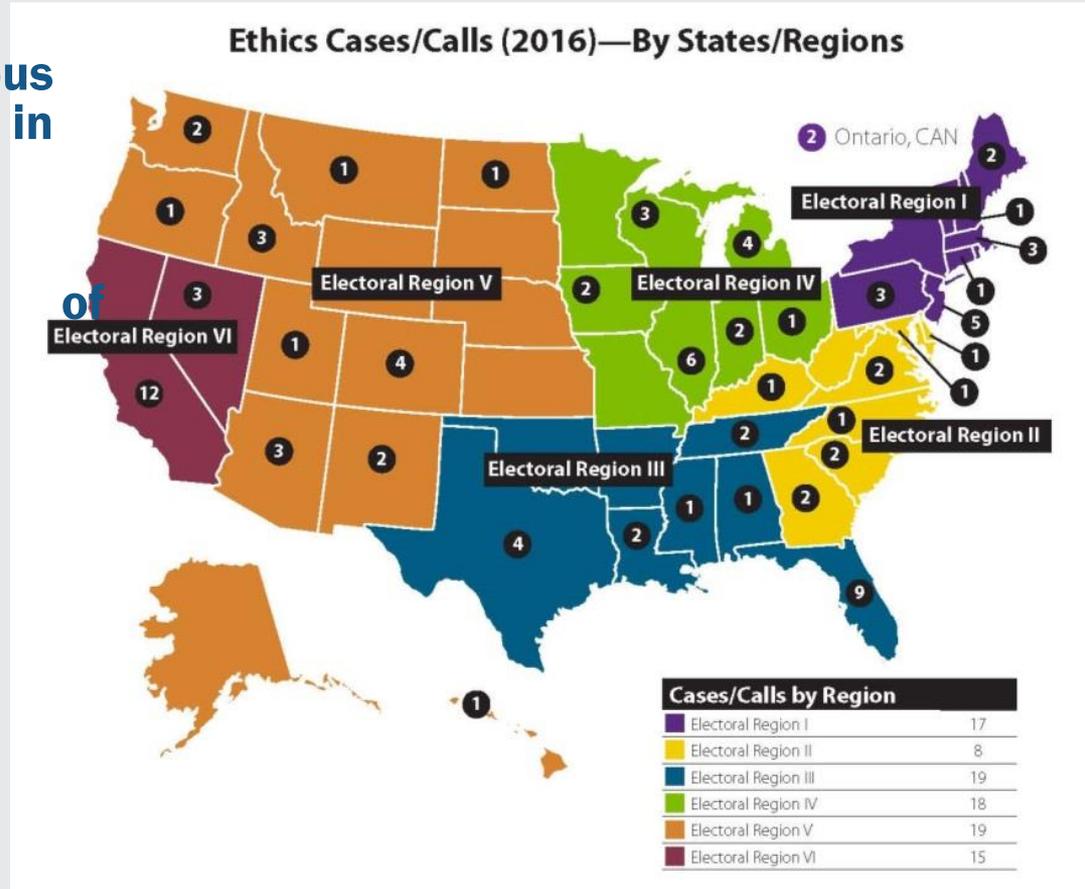


Ethics Case of the Year

- ❖ Created by AICP's Ethics Committee to provide general education materials regarding the AICP Code of Ethics and Professional Conduct.
- ❖ Scenarios, sample problems, and Q&A sessions are an important part of identifying various code provisions, please note that only the Ethics Committee is authorized to give a “formal advisory opinion” on the propriety of a planner's proposed conduct (*Ethics Code, Section C.3*)
- ❖ Please direct any queries or suggestions regarding this “Case of the Year” to AICP's Ethics Officer at ethics@planning.org

These are True Stories

- ❖ The scenarios are based on real situations that took place in various communities in the United States in 2016-2017.
- ❖ The scenarios are derived from informal inquiries or actual cases of ethical misconduct.
- ❖ 7 different "cases" address current topics:
 - ✓ special advantages,
 - ✓ supplemental salary,
 - ✓ social media,
 - ✓ plagiarism,
 - ✓ incomplete information,
 - ✓ charitable gifts, and
 - ✓ Conference attendance.



Meet the Cast of Characters



Catherine, AICP
Small Town Planner



Harland
Realtor &
Planning Commissioner



Jane, AICP
Planning Consultant



Dan, AICP
Large City Planner



Patrick, AICP
Regional Planner

Scenario 1

Special Advantages

- ❖ Catherine, AICP, is zoning staff for Wurster. A home owner requests a special-use permit to repair cars in his garage, located in an area of single-family houses.
- ❖ Despite opposition, Catherine approves the permit, with limits on the number of cars on the premises and on nearby streets.



AUTO REPAIR PRICE LIST	
Ping-Ping-Ping	35.00
Plunk-Ping-Plunk	50.00
Klunk-Ping-Klunk	125.00
Thud-Klunk-Thud	200.00
Clank-Thud-Klank	325.00



Scenario 1 continued

Special Advantages

- ❖ Shortly thereafter, Catherine asks the garage owner if she can store an antique car she owns in the garage.



- ❖ Catherine agrees to pay the owner a monthly storage fee.

Scenario 1

Questions:

- ❖ Has Catherine, AICP, violated any ethical principles or rules?
- ❖ Has Catherine received a “special advantage,” despite having paid the garage owner?



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

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 #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 2

Supplemental Salary

- ❖ Catherine, AICP, has applied for a planning director's job with a rural county.
- ❖ In order to supplement the small salary, the county supervisor has offered Catherine an additional position—as the county's building inspector.



Scenario 2 - continued

Supplemental Salary

- ❖ The building inspector job currently is contracted out to a consultant.
- ❖ The pay for the inspector job is based on the amount of fees generated by building permits.



Scenario 2

Questions:

Q: Should Catherine, AICP, have any concerns about this arrangement?

Q: If so, what response should she give to the county supervisor?



Ethical Issues:

- ❖ Catherine's actions as county planner (e.g., rezonings) could result in more building permits—and, consequently, a higher salary.
- ❖ It might be preferable if Catherine asked for a set salary for the building inspector's job.

(For Code excerpts, see next slide)

Scenario 2

Code Excerpts:

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

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

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



Scenario 2

Ethical Issue:

Unless Catherine already has experience as a building inspector, she should not agree to begin that job until she has received sufficient training.



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.”

Scenario 3

Social Media

- ❖ Harland, a realtor, is one of five members on the Hudson Planning Commission.
- ❖ After a Commission meeting, he posts an item on his Facebook page about a development proposal.
- ❖ He hopes to get some reactions from Facebook “friends” in Hudson.



Scenario 3 - continued

Social Media

- ❖ Included in the long thread of comments on Harland's Facebook page are some from two of his fellow Commission members.
- ❖ Harland replies to these comments and a back-and-forth exchange ensues.
- ❖ Dan, AICP, the planning director of Hudson, sees the Facebook posts.



Dan, AICP

Scenario 3 - continued

Questions:

Are there any ethical concerns that Dan should have?

What should Dan, AICP, say to Harland, even though he is not a planner?

Ethical Issues:

Dan may want to brief Harland—and his fellow Commission members—about citizen participation issues.

Ethical Principles for Planning (for planning process participants): “Strive to give citizens (including those who lack formal organization or influence) full, clear, and accurate information on planning issues.”

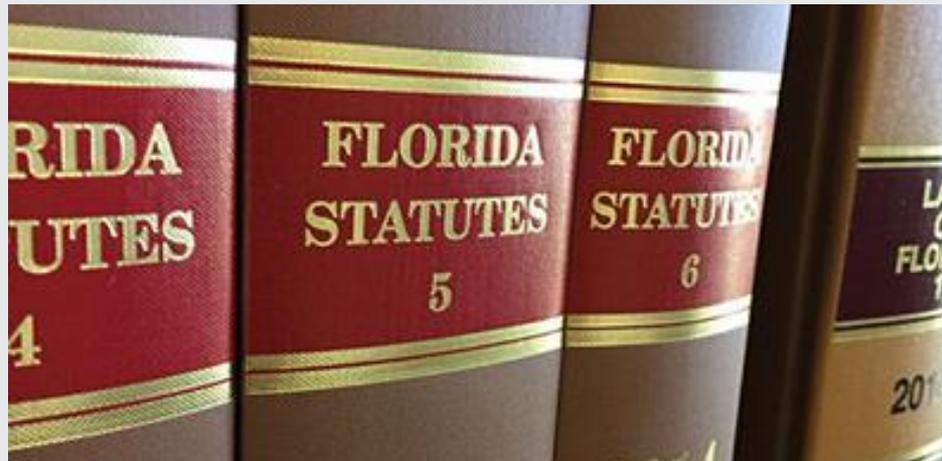
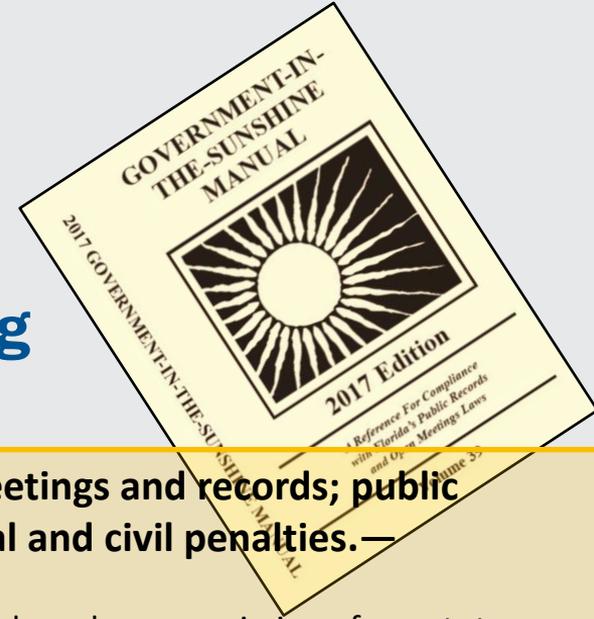
Principle #1e: “Participation should be broad enough to include those who lack formal organization or influence.”

Principle #1h: “We shall deal fairly with all participants in the planning process.”



Scenario 3 - continued

Dan should check state and local “Open Meetings” laws, since three Commission members, including himself, were commenting about a project outside of a public meeting.



286.011 Public meetings and records; public inspection; criminal and civil penalties.—

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

Scenario 3 – continued

Questions:

Is Facebook an adequate and appropriate forum for public engagement?

Are there any potential problems—and advantages?



Scenario 4

Plagiarism

- ❖ **Patrick, AICP, is senior planner with a regional planning agency. One of his duties is to review draft comp plans.**
- ❖ **After reviewing a draft plan for Geddesville, he sees that large portions of the text also appear—verbatim, including typos—in another community’s adopted plan.**



Patrick, AICP
Regional Planner



Scenario 4 - continued

Plagiarism



Patrick, AICP

- ❖ Patrick phones Jane, AICP, the consultant who prepared the draft plan. After discussing the plan’s review process, Patrick asks Jane about the copied text.
- ❖ Jane defends this as “acceptable practice,” noting that she has listed the other community’s plan—prepared by a different consulting firm—in her bibliography.



Jane, AICP

Scenario 4 - continued

Questions:

Is this “acceptable” practice by Jane, AICP?

If not, what—if anything—should Patrick, AICP, do to comply with ethics requirements?

Ethical Issues:

If Jane does not agree to change the document, Patrick could consider filing an ethical misconduct charge.

Rule of Conduct #17: “We shall not use the product of others’ efforts to seek professional recognition or acclaim intended for producers of original work.”



Jane, AICP

Scenario 4 - continued

Question:

- ❖ If Jane does not agree to change the document, should Patrick inform the community so it can amend the draft plan?



Ethical Issues:

Principle #3a: “We shall protect and enhance the integrity of our profession.”

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

Scenario 4 - continued

Question:

If Jane copied from another plan—but one she had prepared—would that be more acceptable?



Scenario 5

Incomplete Information

- ❖ Dan, AICP, prepares staff reports for the Zoning Board of Appeals. Following a meeting, the ZBA's chair tells the city manager (Dan's boss) he wants to see more "streamlined" staff reports.
- ❖ The chair, an attorney, wants to eliminate references to a parcel's history (i.e., previous denials, etc.), as well as any percentage figures for zoning variances.

Dan, AICP
Large City Planner



Scenario 5 - continued

Incomplete Information

Dan, AICP
Large City Planner



- ❖ The city manager, who is not a planner, tells Dan to simplify the reports. Dan, who cosigns the reports, is concerned these changes will “sugarcoat” the application process for zoning variances.
- ❖ Dan believes less information will make it easier for the ZBA to approve zoning variances, since the public won’t be able to discern the relative scale of these changes for building heights and setbacks.



Scenario 5 – continued

Question:

What, if anything, should Dan, AICP, do?

Ethical Issues

- ❖ Dan could talk to his supervisor about his concerns. He then could follow up with a memo, noting his ethical concerns—as an AICP member—about providing less-accurate information.
- ❖ Dan could propose to the city manager that he (Dan) not cosign the staff reports.
- ❖ Dan also could propose a more “streamlined” memo, but with an addendum containing additional details.

Dan, AICP
Large City Planner



Scenario 5 – continued

Ethical Principles in Planning (for participants in the planning process): “Strive to give citizens . . . full, clear, and accurate information on planning issues . . .”

Principle #1d: “We shall provide timely, adequate, clear, and accurate information on planning issues to all affected persons and to governmental decision makers”

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

Scenario 5 – continued

Questions:

What if the city manager was an AICP planner?

Would that alter his or Dan's response?

Ethical Issues:

- ❖ By submitting “less information,” has the city manager directed Dan to make analyses or reach findings not supported by available evidence?

Rule of Conduct #18: “We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.”

Scenario 6

Charitable Gifts

- ❖ Following a Plan Commission meeting, a land-use attorney tells Dan, the city's planning director, that he has made a cash donation—in Dan's name—to a charity.
- ❖ The attorney knows holiday gifts are not allowed by local ethics rules, so he chose a charity in a different city—with no affiliation to Dan.



Scenario 6 - continued

Charitable Gifts

- ❖ Dan, AICP, asks the City Attorney for an opinion. After checking with the state ethics board, the City Attorney says there are no ethics violations.
- ❖ The City Attorney recommends that Dan simply thank the land use attorney for his generous charitable donation.



Scenario 6 – continued

Question:

Is this an acceptable solution for Dan?

Ethical Issues:

- ❖ Dan should thank the land use attorney, but he should ask that his name not be identified with the donation.
- ❖ Dan also should request the attorney not make any future donations on behalf of the department or its employees.

Rule of Conduct #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 7

Conference Attendance

- ❖ While attending an APA chapter session on ethics, Jane notes the planner in front of her spending the entire time on his cell phone, responding to emails and checking his Pinterest site.
- ❖ Jane also sees several planners leaving the ethics session well before its conclusion.



Scenario 7 – continued

Questions:

If these planners include the session on their CM credit logs, are they violating the Ethics Code?

What, if anything, should Jane do?

Ethical Issues:

- ❖ An “absent” planner who includes this session on his/her CM log may be violating an ethical rule of conduct.

Rule of Conduct #12: “We shall not misstate our education, experience, training, or any other facts which are relevant to our professional qualifications.”

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



Scenario 7 – continued

Jane should inform the Ethics Officer so this can become a scenario for next year’s “Ethics Cases of the Year.”



Final Note

- ❖ For informal advice regarding ethical conduct, contact AICP's Ethics Officer, Jim Peters, FAICP, at 312-786-6360.

AICP Ethics Committee

Denise M. Harris, AICP, Chair

Graham S. Billingsley, FAICP

Stephen C. Butler, FAICP

Philip T. Farrington, AICP

Kimberly C. Porter, AICP

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