

Ethics Cases of the Year: 2017-18



Location, Date

Panelists

Agenda

Refresher on Planning Ethics

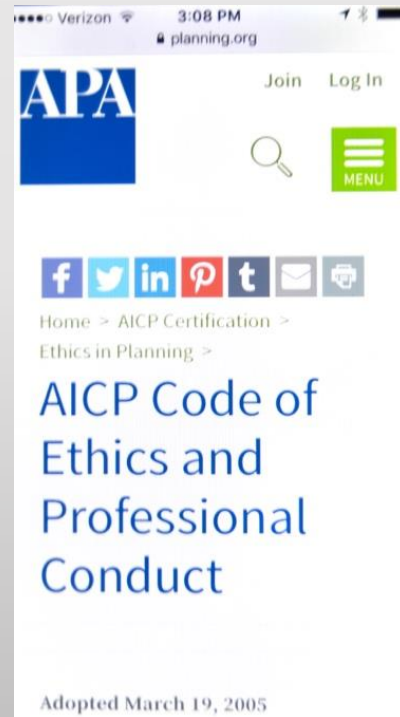
Ethical Scenarios

1. Special Advantages
2. Supplemental Salary
3. Social Media
4. Plagiarism
5. Charitable Gifts
6. Incomplete Information
7. Conference Attendance

Ethical Principles and Rules

(Please turn **on** your cell phones: planning.org/ethics)

- **“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*)
- **“Ethical Principles of Planning”**
(For those involved in the planning process)



Dealing with Ethical Issues

- **Seek Informal Advice from the Ethics Officer**
Via a phone call—nonbinding and not in writing (106 in 2017)
- **Seek an Advisory Opinion from Ethics Committee**
Provided in writing on selected, unresolved issues (One in 2017)
- **File a Complaint of Ethical Misconduct**
Can be filed by anyone—but only *against* an AICP member—for having allegedly violated a “Rule of Conduct” (19 in 2017)



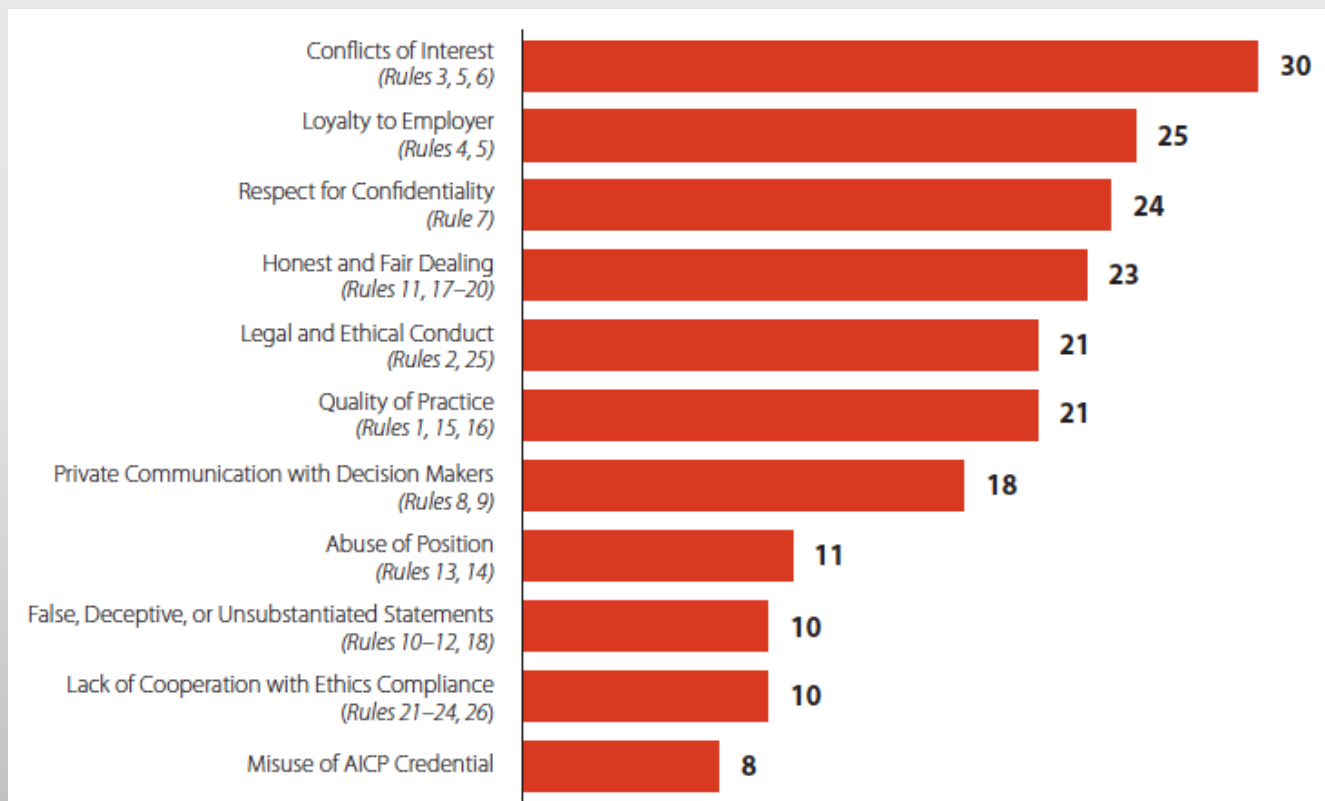
The form is titled "AICP Code of Ethics and Professional Conduct Complaint of Misconduct Form". It includes the AICP logo and the text "The American Planning Association's Professional Institute American Institute of Certified Planners Making Great Communities Happen". The form is divided into several sections: "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 E):", "Actions of the charged individual regarding the specific ways in which this particular rule was violated: Action 1, Action 2, Action 3, Action 4.", and "If additional space is needed, additional sheets may be attached, referencing 'Charge __, Action __.'". At the bottom, it states "Please attach any documentation or evidence of charges above, labeled according to the relevant charge, ex. 'Charge 1', or 'Charge 1, Action 2'."

Ethical Misconduct Cases in 2017

- **Cases Dismissed (10)**
- **Cases Settled (9)**
 - **Misuse of AICP credential (5)**
 - **Confidential Letters of Admonition (2)**
 - Rule of Conduct #25 (wrongful act)
 - Rule of Conduct #25 (wrongful act)
 - **One-Year Suspension of AICP Certification**
 - Rules of Conduct #4 (other employment) and #6 (inappropriate financial gain)
 - **Revocation of AICP Certification**
 - Rule of Conduct #26 (serious crime)



Ethics Topics (misconduct cases and informal inquiries from 2017)



Cases of the Year...these are true stories

- All “cases” based on real situations taking place during 2016-17.
- Scenarios derived from informal inquiries or complaints of ethical misconduct.



Cast of Characters

Small Town Planner

Catherine, AICP



Catherine, AICP

Large City Planner

Dan, AICP



Dan, AICP

Plan Commissioner

Harland



Harland

Regional Planner

Jane, AICP



Patrick, AICP

Planning Consultant

Patrick, AICP



Jane, AICP

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.



Steve Snodgrass, Flickr/Creative Commons

Scenario 1

- Shortly thereafter, Catherine asks the garage owner if she can store an antique car she owns in the garage.
- Catherine agrees to pay the operator a monthly storage fee.



Jim Peters

Scenario 1

Question

Did Catherine, AICP, violate any ethical principles or rules?



Scenario 1

Ethical Issues

Did Catherine receive a
“special advantage,” despite
having paid the garage owner?



(For Code excerpts, see next page)

Scenario 1

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

Ethics Code 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.”

Ethics Code 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.



Credit: Christart.com

Scenario 2

- The building inspector job currently is contracted out to a consultant.
- The building inspector salary 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?



Scenario 2

Ethical Issue

- 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)



Postcard collection of Jim Peters

Scenario 2

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

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

Ethics Code 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.”

(See next slide for another Ethical Issue)

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.

Ethics Code 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.”



Jim Peters (Evansville, Ind.)

Scenario 3

Social Media

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

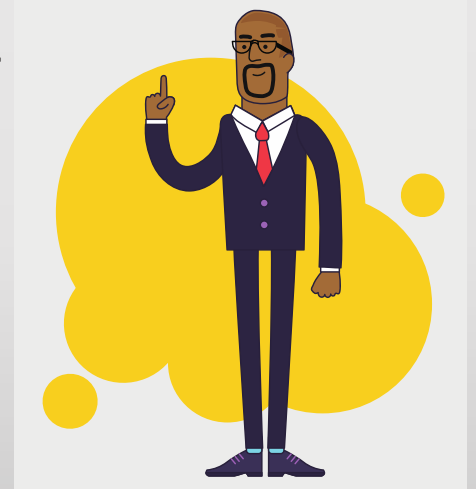


Montgomery County Plan Commission



Scenario 3

- 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, the planning director of Hudson, sees the Facebook posts. He has some concerns, especially since some planning staff members have made comments in the thread.



Dan, AICP

Scenario 3

Questions

Q: What, if any, ethical concerns should an AICP member have?

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



Harland

Scenario 3

Ethical Issues

- Dan may want to tell staff—especially AICP members—to stop posting Facebook comments relating to local projects.
- Dan could suggest that City's Facebook page might be the appropriate place for postings on projects.

Ethics Code Rule of Conduct #8: "We shall not, as public officials or employees, engage in private communications with planning process participants if the discussions relate to a matter over which we have authority to make a binding, final determination..."

Ethics Code Rule of Conduct #9: "We shall not engage in private discussions with decision makers in the planning process in any manner prohibited by law or by agency rules, procedures, or custom."

(Continued next slide)

Scenario 3

Dan, AICP, may want to brief Harland—and other Commission members—about citizen participation.

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

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

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

(Continued next slide)



Scenario 3

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

(See next slide for an additional question)

A. Open Meetings Act

The Open Meetings Act (the “Act”) v accessible to the public. It requires mee for expressly authorized closed sessions subject matter of the meeting. “The p construed in favor of open government

Scenario 3

Questions

Q. Are Facebook (or other social media sites) adequate and appropriate forums for public engagement?

Q. And are there any other potential problems—and advantages?



Scenario 3

Ethical Issues

- Social media can be one of the citizen participation tools used—particularly for those who don't or can't attend public meetings.
- But it can't be relied on exclusively, especially since many people don't use it, particularly various age groups and cultures.

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 4

Plagiarism

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



Scenario 4

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



Jane, AICP



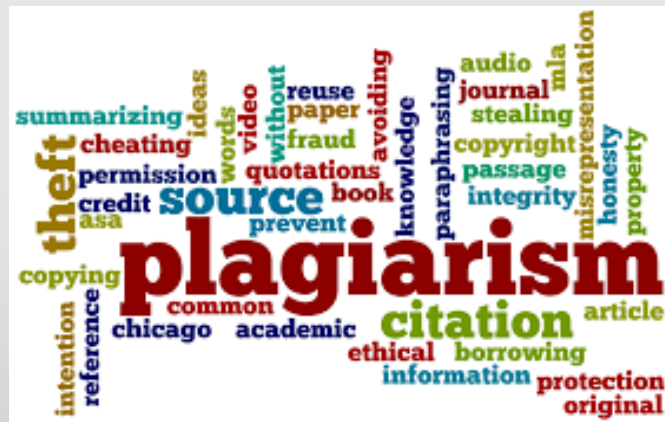
Patrick, AICP

Scenario 4

Questions

Q: Is this an “acceptable” practice by Patrick?

Q: If not, what—if anything—should Jane do to comply with her ethical requirements under the AICP Code?



Credit: images.png

Scenario 4

Ethical Issues

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

Ethics Code 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.

(“Ethical Issues” continued next slide)



The American Planning Association's
Professional Institute
American Institute
of Certified Planners
Making Great Communities Happen

**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 __, Action __".

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

Scenario 4

If Patrick does not agree to make changes, should Jane inform the community so *it* can revise the draft plan?

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

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

(See additional question, next slide)

Scenario 4

Questions

Q: How far does this extend?

Q: What about copying or borrowing definitions and language from other codes, etc.?

Principle #3e: “We shall examine the applicability of planning theories, methods, research...of each particular situation and shall not accept the applicability of a customary situation without first establishing its appropriateness to the situation.”



Credit: thedroneporter.com

Scenario 5

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 has chosen a charity in a different city—with no known affiliation to Dan.



© kameshkov/stockphoto

Scenario 5

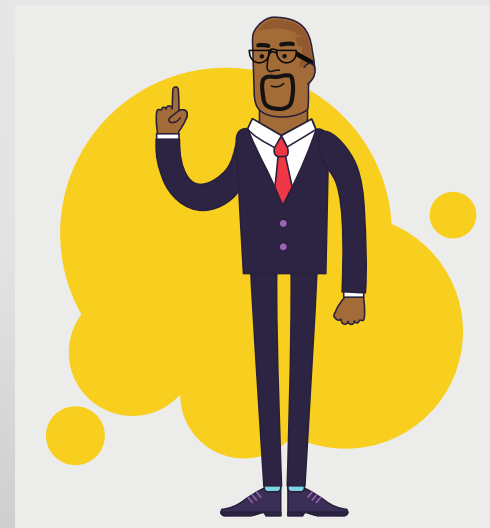
- Dan, AICP, asks the City Attorney for an opinion. After checking with the state ethics board, the City Attorney says there are no ethics violations.
- The City Attorney recommends that Dan simply thank the land use attorney for his generous charitable donation.



Scenario 5

Question

**Is this an acceptable solution
for Dan, an AICP member?**



Dan, AICP

Scenario 5

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 that the attorney not make any future donations on behalf of the department or its employees.

Ethics Code 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 6

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 more "streamlined" staff reports.
- The ZBA chair, an attorney, says he would like to eliminate references to a parcel's history (i.e., previous denials, etc.), as well as any percentage figures for zoning variances.



Jim Peters

Scenario 6

- The city manager, who is not a planner, tells Dan to simplify the reports. Dan, who co-signs 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.

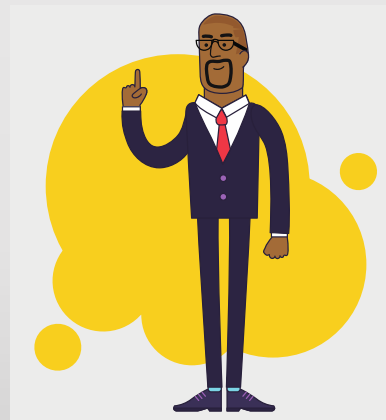


Credit: evagregory.com

Scenario 6

Question

What, if anything, should Dan do?



Dan, AICP

Scenario 6

Ethical Issues

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

(see Code excerpts on next slide)



Scenario 6

Ethical Principles in Planning: “Strive to give citizens . . . full, clear, and accurate information on planning issues . . .”

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

Ethics Code 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.”

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

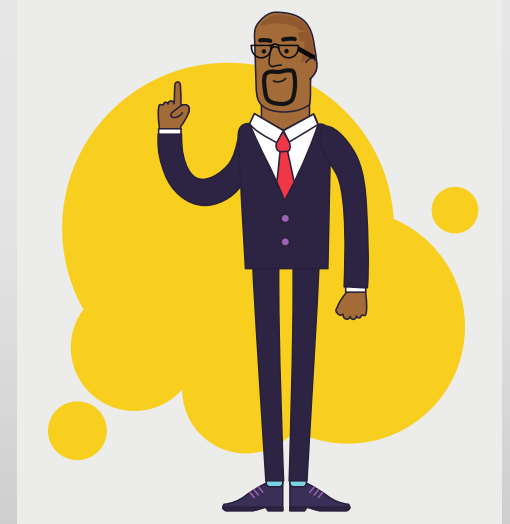
(See additional question on next slide)

Scenario 6

Questions

Q. What if the city manager *was* an AICP planner?

Q. Would that alter his or Dan's response?



Dan, AICP

Scenario 6

Ethical Issue

- By submitting “less information,” has the city manager directed Dan to make analyses or reach findings not supported by available evidence?
- Then again, do you diminish the ZBA’s ability to make a decision when you provide too much information?

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



Scenario 7

Conference Attendance

- While attending an APA chapter session on ethics, Jane notes that the planner in front of her is 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.



Joe Szurzewski: APA Image Library, 2015

Scenario 7

Questions

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

Q: What, if anything, should Jane do?



Jane, AICP

Scenario 7

Ethical Issues

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

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

Ethics Code 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.”

(Continued next slide)

Scenario 7

Jane could inform the Ethics Officer so this can become a scenario for the “Ethics Cases of the Year.”

Ethics Cases of the Year: 2017-18



**National Planning Conference
April 22, 2018, New Orleans, La.**



Created by the Ethics Committee, American Institute of Certified Planners

Final Note

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

AICP Ethics Committee

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