

Ethics Cases of the Year: 2018-19



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



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

Agenda

Refresher on Planning Ethics

Ethical Scenarios

1. Employee Ownership
2. Soliciting Donations
3. Spousal Job Conflicts
4. Personal Interests
5. Political Involvement
6. Public to Private Sector
7. Sports Tickets

AICP's Ethics Code

(Adopted by AICP Commission, 2005; revised 2016)

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

A. Aspirational Principles

Responsibility to: the Public, Clients/Employees, and Profession/Colleagues

B. Rules of Conduct

Twenty-Six Rules to Which AICP Members Are Held Accountable

C. Advisory Opinions

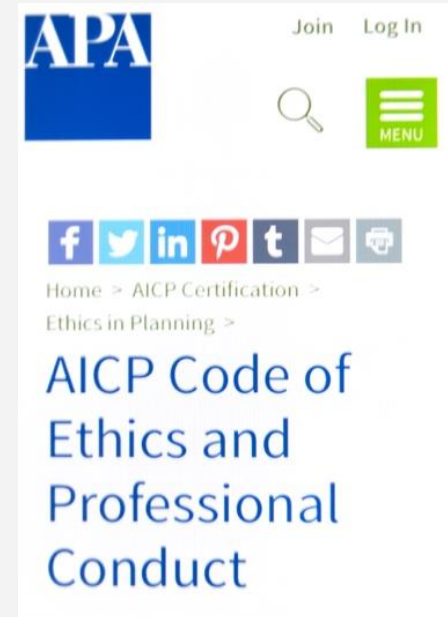
Informal Advice, Formal Advisory Opinions, Annual Report

D. Complaints of Misconduct

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

E. Discipline of Members

Confidential Letter, Public Censure, Suspension, Revocation



APA's Ethical Principles of Planning

Guidelines for those who participate in the process of planning as advisors, advocates, and decision makers.

(Adopted by APA Board of Directors, 1992)

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/proficiency

Provide independent judgement, 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.

Ethical Misconduct Cases (in 2017)

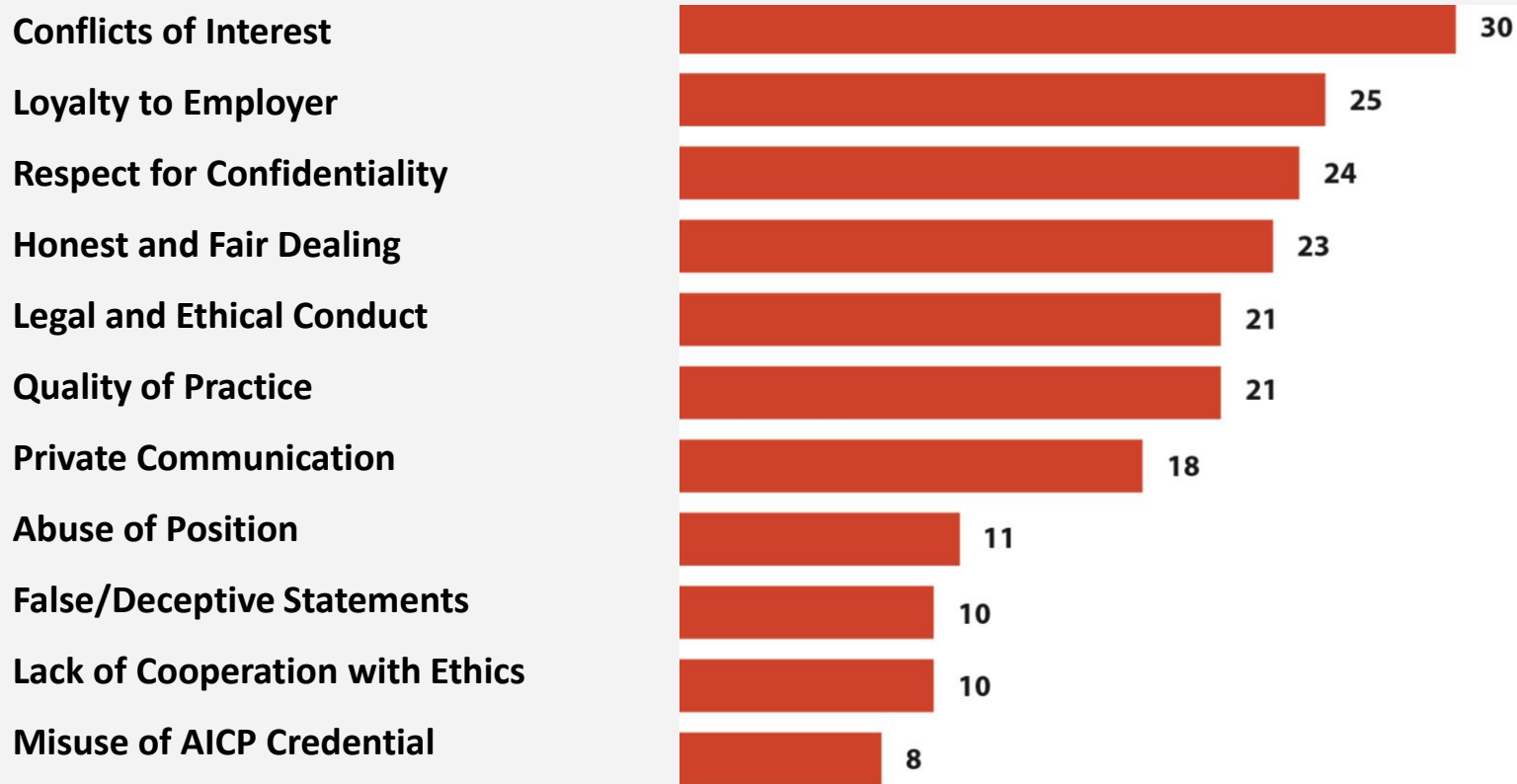
- **Cases Dismissed (10)**
- **Cases Settled (9)**
 - **Misuse of AICP Credential (5)**
 - **Confidential Letters of Admonition (2)**
 - Rule of Conduct #25 (wrongful act)
 - Rule of Conduct #25 (wrongful act)
 - **One-Year Suspension of AICP Certification**
 - Rules of Conduct #4 (other employment)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



Credit: abovethelaw.com

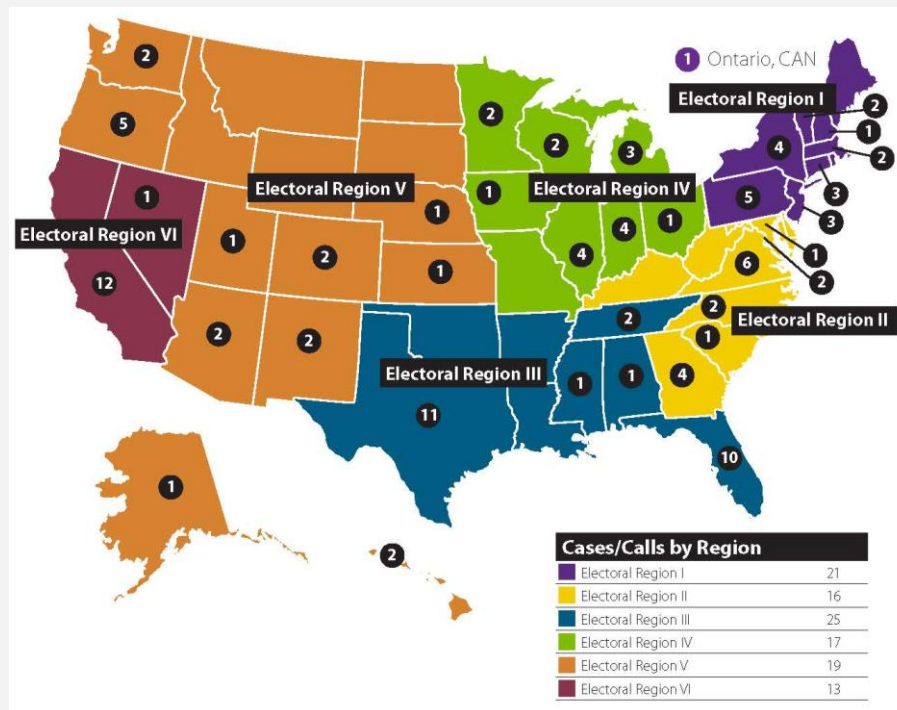
Ethics Topics

(Misconduct cases and informal inquiries from 2017)



Cases of the Year (*these are true stories*)

- All case scenarios are based on real situations from 2017-18.
- These scenarios were derived from informal inquiries or complaints of ethical misconduct reviewed by AICP's Ethics Committee.



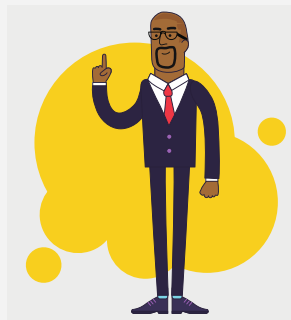
Cast of Characters



Small-Town Planner
Jane, AICP



Large-City Planner
Harland, AICP



County Planner
Dan, AICP



Planning Consultant
Catherine, AICP



Planning Consultant
Patrick, AICP

Scenario 1

Employee Ownership

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

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

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



Patrick, AICP



Credit: canstockphoto.com

Scenario 1

Question

Q: If Patrick takes the job with Geddesville, can he still retain his employee stock—while allowing the firm to pursue planning contracts with the city?



Credit: alamy.com

Scenario 1

Ethical Issues

AICP Ethics Code—Principles

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

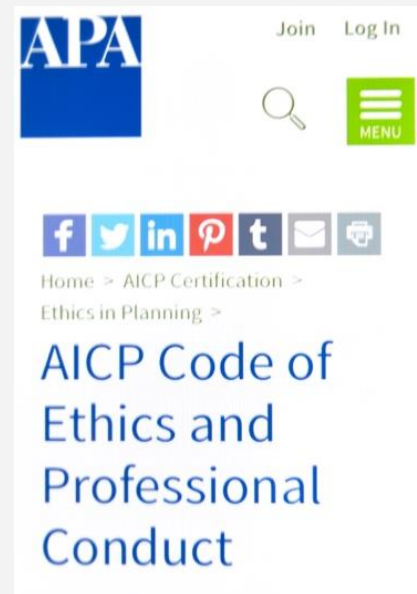
#1h: “We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal evenhandedly with all planning process participants.”

#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 employees.”

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

(For more Code excerpts, see next slide)



Scenario 1

AICP Ethics Code—Rules of Conduct

#4: “We shall not, as salaried employees, undertake [other employment](#) in planning... without having made full written disclosure to the employer who furnishes our salary and having received subsequent written permission....”

#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.”

#6: “We shall not perform work on a project for a client or employer if, in addition to the agreed upon compensation...there is a [possibility for direct personal or financial gain](#) to us, our family members, or persons living in our household, unless our client or employer... 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.”

#19: “We shall not fail to [disclose the interests](#) of our client or employer when participating in the planning process. Nor shall we participate in an effort to conceal the true interests of our client or employer.”

Scenario 2

Soliciting Donations

Jane, a senior planner with the City of Jacobsville, is a graduate of a planning program in her state. The school's alumni group is raising money for a scholarship fund.

The group has asked Jane to solicit donations from consulting firms, many of which have worked on city projects with her department.



Jane, AICP



Credit: ced.berkeley.edu

Scenario 2

Question

Q: Should Jane have any ethical concerns about asking consulting firms for donations to the scholarship fund?



Jane, AICP



SCHOLARSHIPS

Scenario 2

Ethical Issues

Jane might suggest that the alumni group ask another alum—perhaps someone in the private sector (or a retired planner)—to solicit donations from consulting firms.

AICP Ethics Code—Principles

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

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

#1h: “We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal evenhandedly with all planning process participants.”

#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.”

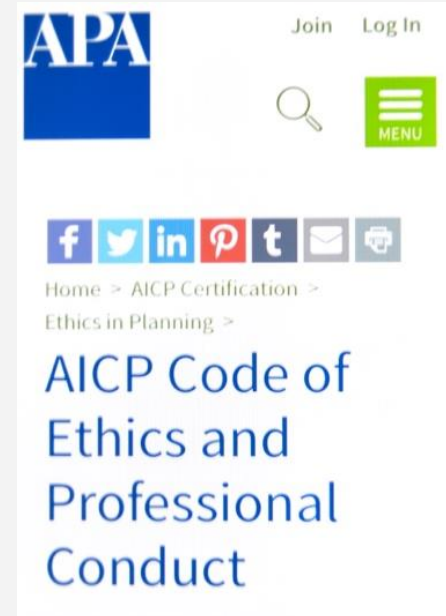
(More Code excerpts, see next slide)

Scenario 2

AICP Ethics Code—Rules 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.”

#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

Question

Q: Would there be a difference if Jane, as a member of the APA chapter board, asked those same firms—or planning schools—to help sponsor the state planning conference?



Unity, Inc.

Scenario 2

Ethical Issues

Again, Jane might want to request that the chapter ask someone in the private sector (or a retired planner) to solicit these conference sponsorships.

AICP Ethics Code—Principles

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

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

#1h: “We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal evenhandedly with all planning process participants.”

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

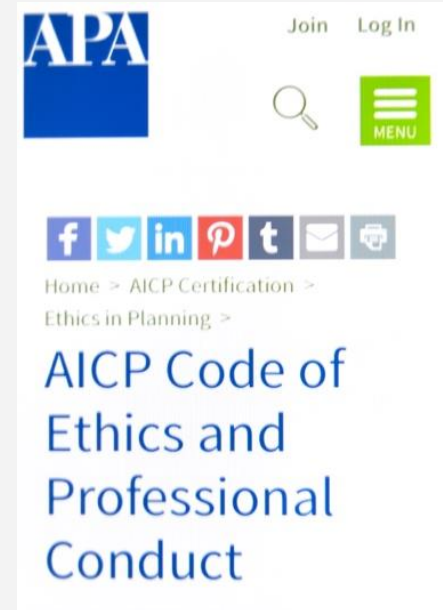
(More Code excerpts, see next slide)

Scenario 2

AICP Ethics Code—Rules 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 to our public office or employment.](#)”

#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 3

Spousal Job Conflicts

Harland, AICP, is the planning director of Bartholomew. His spouse (also AICP) is a transportation planner with a consulting firm that has submitted a proposal to the city to prepare a corridor transit study.

The firm's attorney says there are no ethical concerns, provided the spouse does not work on the study.



Credit: njdot

Scenario 3

Questions

Q: Is the attorney's opinion consistent with the *AICP Ethics Code*?

Q: Should any precautions be taken during the interview process?

Q: If the firm is selected, what precautions should be taken?



Credit: Castrolegal.com

Scenario 3

Ethical Issues

Harland should provide full disclosure up front—and his spouse should not work on the study.

AICP Ethics Code—Principles

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

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

#1h: “We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal evenhandedly with all planning process participants.”

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

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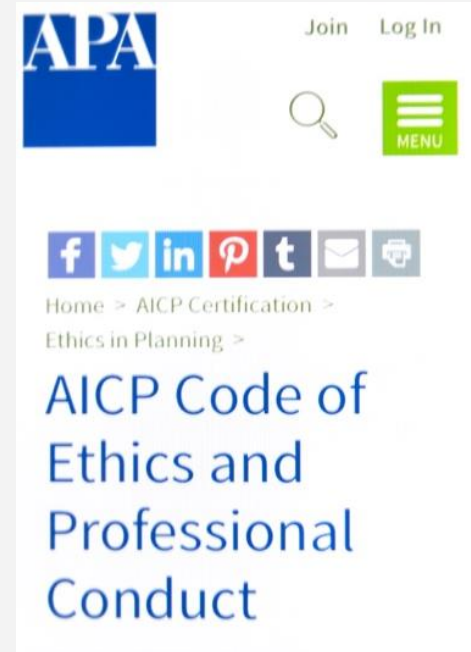
Harland, AICP

Scenario 3

AICP Ethics Code—Rules of Conduct

#6: “We shall not perform work on a project for a client or employer if, in addition to the agreed upon compensation from our client or employer, there is a [possibility for direct personal or financial gain to us, our family members, or persons living in our household...](#)”

#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.”

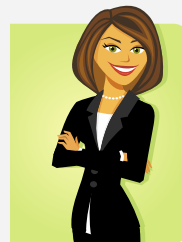


Scenario 4

Personal Interests

Catherine, AICP, a planning consultant, would like to purchase a strip of land next to her personal residence from the property owner. The purpose would be to create a buffer to the neighbor's proposed redevelopment.

She offers to assist the property owner with their rezoning application, as full or partial payment for the buffer strip.



Catherine, AICP



Photo by Marya Morris (CC BY-NC 4.0). Copyright [1992] American Planning Association

Scenario 4

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

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

The neighbor objects that Catherine has used her professional knowledge and status as a city planner to further her personal interests.



Scenario 4

Question

Q: Has Catherine violated any aspects of the *AICP Ethics Code* in her actions?



Catherine, AICP

Scenario 4

Ethical Issues

Catherine may have called into question her professional objectivity by testifying as a planner in support of her personal interests.

In the process, she also may have blurred the roles of private citizen and planning consultant in a public forum.

(For Code excerpts, see next slide)



Postcard collection of Jim Peters

Scenario 4

AICP Ethics Code—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](#).”

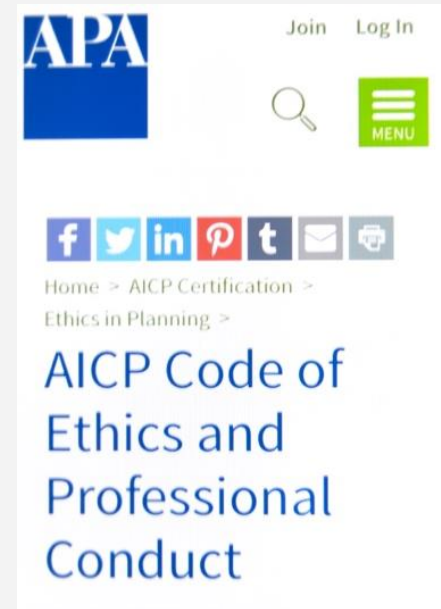
(For more Code excerpts, see next slide)

Scenario 4

AICP Ethics Code—Rules of Conduct

#7: “We shall not [use to our personal advantage...information gained](#) in a professional relationship that the client or employer has requested be held inviolate or that we should recognize as [confidential](#) because its disclosure could result in embarrassment or other detriment to the client or employer...”

#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.](#)”

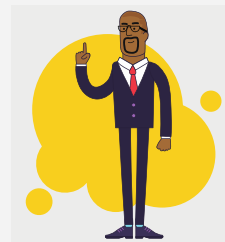


Scenario 5

Political Involvement

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

Dan's boss, the county manager, says this is inappropriate and she discourages Dan from being involved—in any formal way—with the party. As evidence, she notes the Code of Ethics of the International City/County Management Association (ICMA).



Dan, AICP



Uschamber.com

Scenario 5

Question

Q: Is the county manager correct? Are political activities not allowed by the *AICP Ethics Code*?



Scenario 5

Ethical Issues

Some city and county governments do require that all department heads—whether they are members of ICMA or not—adhere to the *ICMA Code of Ethics*.

ICMA Tenet #7:

“Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participating in the election of the members of the employing legislative body.”



Scenario 5

However, the *AICP Ethics Code* does not prohibit political involvement. Nonetheless, it may make sense to notify your employer anyway.



AICP Ethics Code—Principles

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

#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."

#3j: "We shall contribute time and effort to groups lacking in adequate political resources and to voluntary professional activities."

Scenario 6

Public to Private Sector



Jane, AICP

Jane, AICP, retired six months ago as a planner with the City of Jacobsville.

A developer, whose projects Jane formerly reviewed as a city planner, asks her to work for him on a proposed mixed use project in Jacobsville.

Jane checks with the city attorney, who says there are no laws restricting the employment of former employees.



Photo by Meghan Stromberg (CC BY-NC 4.0).
Copyright [2015] American Planning Association

Scenario 6

Questions

Q: Should Jane accept the job offer?

Q: If so, what—if any—concerns should she have under the *AICP Ethics Code*?



Jane, AICP

Scenario 6

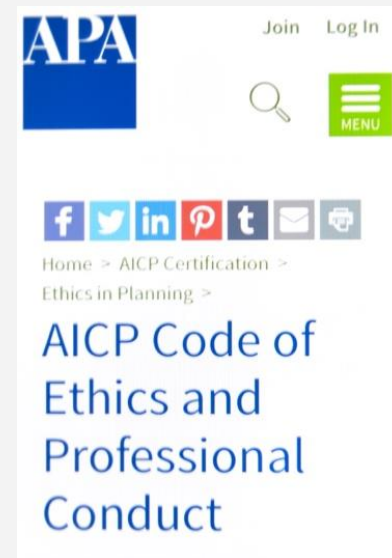
Ethical Issues

Unless there are local or state laws prohibiting such employment, Jane should consider accepting the job. But she should be careful of any potential conflicts of interest or other concerns.

AICP Ethics Code—Principle

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

(For more Code excerpts, see next slide)



Scenario 6

AICP Ethics Code—Rules of Conduct

#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 [information within the past three years](#) unless...it will not cause present detriment to our previous client or employer and we make full written disclosure of the conflict...”

#7: “We shall not use to our personal advantage, nor that of a subsequent client or employer, information gained...that we should recognize as [confidential](#) because its disclosure could result in embarrassment or other detriment to the client or employer...”

Scenario 7

Sports Tickets

A private utility has offered Harland, AICP, the planning director for the City of Bartholomew, a ticket to one of his alma mater's football games.

Bartholomew's planning department has never had a review role regarding the utility or any of its properties. Consequently, Harland believes there are no problems in accepting the ticket.



Harland, AICP



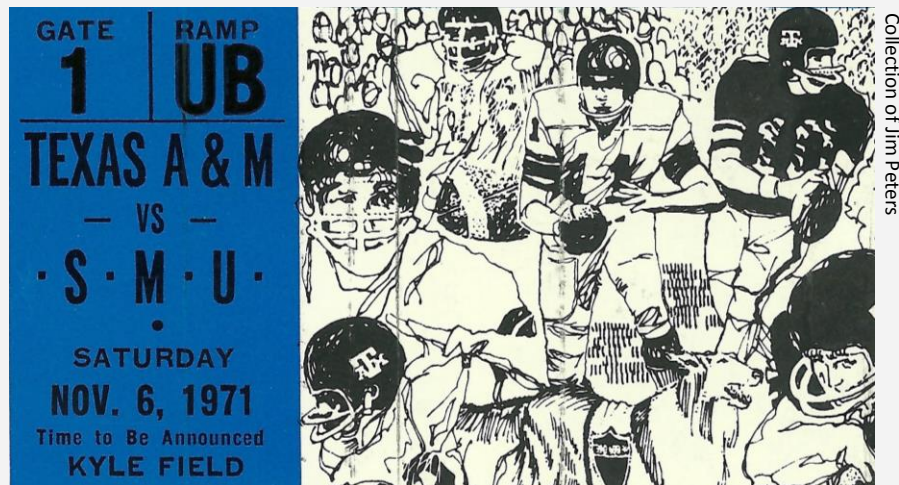
Jim Peters

Scenario 7

Questions

Q: Is Harland correct? Are there no *AICP Ethics Code* concerns in accepting the ticket?

Q: Are there any situations in which Harland could accept the ticket?



Scenario 7

Ethical Issues

Harland should not accept the ticket. However, there could be some situations (such as those involving a close friend) where he could attend the game—while paying for the ticket.

AICP Ethics Code—Rules 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.”

#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.”

Questions?

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, please visit planning.org/ethics.

AICP Ethics Committee

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