

# Ethics Cases of the Year: 2024



**Idaho APA Panning Conference – October 4, 2024**

**Moscow, Idaho**

*Prepared by the Ethics Committee of the American Institute of Certified Planners*

# Agenda

- **Refresher on Planning Ethics**
- **Overview of 2023 Case/Inquiry Activity**
- **Ethical Scenarios**
  - Conflict of Interest/Responsibility to Employer
  - Planners in Difficult Positions
  - Planners as Community Volunteers
  - Gentrification/NIMBY
- **Q & A**



# Panelists

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Daren Fluke, AICP, Jacobs

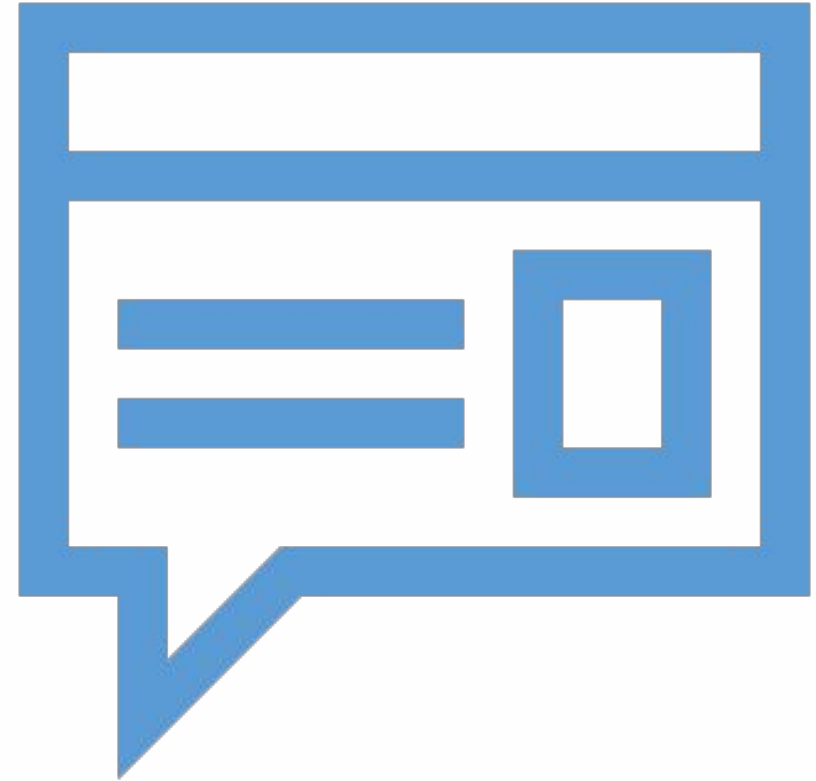
Mary Huff, AICP, Owyhee County

Wade Sanner, AICP, City of Idaho Falls

Moderator: Brad Cramer, AICP, Idaho National  
Laboratory

# Test Question!

- What sector do you work in?



# 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, you are encouraged to seek informal advice from the **AICP Ethics Officer, Ralph Willmer, FAICP** (ph: **312-786-6360**; email: **ethics@planning.org**).



# AICP Code of Ethics Pledge



## Code of Ethics *and* Professional Conduct

The American Institute of Certified Planners requires its members to adhere to the ethical standards of a detailed Code of Ethics and Professional Conduct.

**THE PRINCIPLES TO WHICH WE ASPIRE ARE:**

- To continuously pursue and faithfully serve the public interest.
- To do so with integrity
- To work to achieve economic, social, and racial equity
- To safeguard the public trust
- To improve planning knowledge and increase public understanding of planning activities

**OUR RULES OF CONDUCT ADDRESS THE FOLLOWING:**

- Quality and integrity of practice
- Conflicts of interest
- Improper influence/abuse of position
- Honesty and fair dealing
- Responsibility to employer
- Discrimination/harassment
- Charges of misconduct.

*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 \_\_\_\_\_, AICP Certified Planner No. \_\_\_\_\_

**This AICP Ethics Code certificate is available for downloading from [planning.org/ethics](http://planning.org/ethics).**

# A Few Ethical Questions

## As posed by Michael Schur, creator of “The Good Place” TV series

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- What are we doing?
- Why are we doing it?
- Is there something we could do that’s better?
- Why is it better?





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## Ethical Principles in Planning

(As Adopted by the APA Board, May 1992)

This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

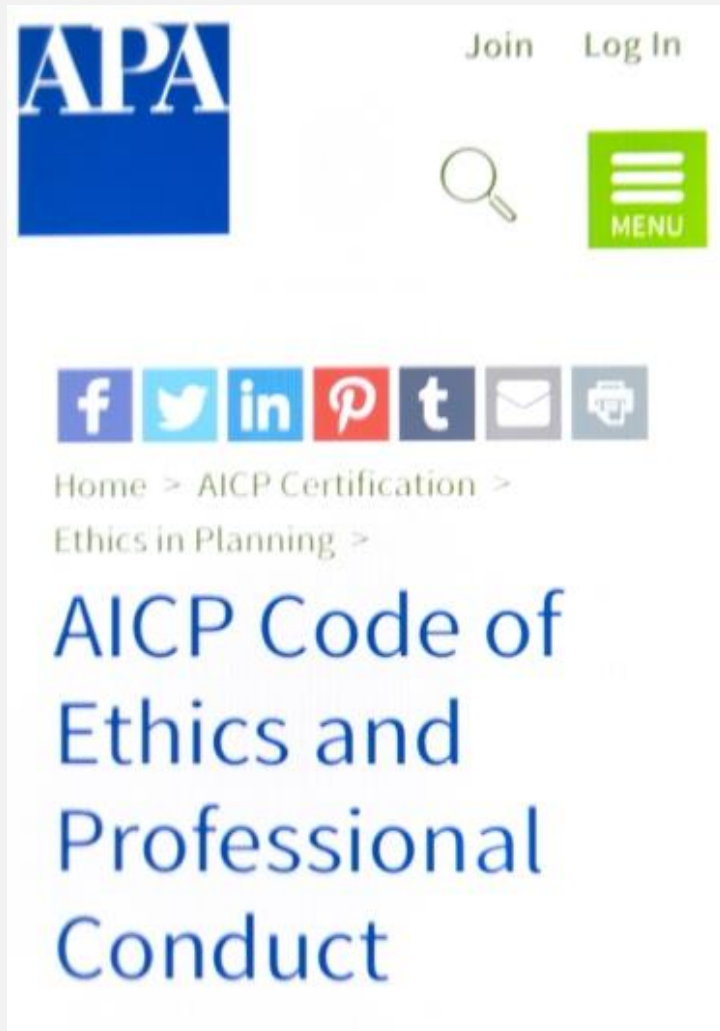
# APA's Ethical Principles in Planning

Adopted in 1980 by the American Planning Association; rev. 1992

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

- 1. Serve the public interest**
- 2. Maintain high standards of integrity and proficiency**
- 3. Improve planning competence**

**GRAB YOUR PHONE. GO TO:**  
[www.planning.org/ethics/ethicscode](http://www.planning.org/ethics/ethicscode)



# AICP Ethics Code

Adopted in 1948 by the American Institute of Planners; rev. 1959, 1970, 1978, 1991, 2005, 2016, 2022

## A. Aspirational Principles

## B. Rules of Conduct

## C. Advisory Opinions

## D. Complaints of Misconduct

## E. Discipline of Members

# Aspirational Principles

Section A  
of the *AICP Ethics Code*

## **People who participate in the planning process shall:**

1. Continuously pursue and faithfully serve the public interest
2. Do so with integrity
3. Work to achieve economic, social, and racial equity
4. Safeguard the public trust
5. Improve planning knowledge and increase public understanding of planning activities

# Rules of Conduct

Section B  
of the *AICP Ethics Code*

**The 24 Rules of Conduct—to which certified planners can be held accountable—have been revised and reorganized under these headings:**

1. Quality and Integrity of Practice
2. Conflict of Interest
3. Improper Influence/Abuse of Position
4. Honesty and Fair Dealing
5. Responsibility to Employer
6. Discrimination/Harassment
7. Bringing and Cooperating with an Ethics Charge

# Key Aspects of the 2022 Code Update

*Equity and social justice  
become a foundational  
principle of the Code*

## **A. Aspirational Principles**

- Re-organized
- Equity, social, and racial equity as foundational
- Discrimination/harassment explicit
- Ethics investigation clarified
- Responsibility for promoting ethics

## **B. Rules of Conduct**

- Re-organized
- Cultural biases removed
- Equity as foundations of plans
- Claiming credit (plagiarism) clarified

# Adjudication of Complaints of Misconduct

*Section D  
of the AICP Ethics Code*

**D6a: Only current members of AICP may appeal a determination of the Ethics Officer.**

This revision with the 2022 update eliminates the ability of non-AICP planners to contest the ruling of the Ethics Officer through a time-consuming appeal process and **protects planners from frivolous complaints.**

However, non-AICP planners can still file an appeal by having an AICP planner do so on their behalf.

# Glossary

September 2022

A new feature to assist planners in understanding the language and the intent of the *AICP Code of Ethics and Professional Conduct*, as related to Diversity, Equity, and Inclusion.



# Ethical Misconduct Cases in 2023

**108 inquiries for informal advice**

**28 new complaints filed**

**42 Resolved and Ongoing Misconduct Cases**

- **17 cases under various states of review**
- **18 cases dismissed by the Ethics Officer**

No justification to file a charge or planner not AICP



# Ethical Misconduct Cases in 2023

## 8 Cases Resolved (including carryovers from 2022)

- Cease and desist letters issued (3 cases) for misuse of the AICP credential
- Preliminary Determination that a violation occurred for inappropriate references to indigenous populations in presentation at NPC23 (Rules 1 & 20)
- Confidential Letters of Admonition (3 cases) for:
  - plagiarism – Rule 16
  - inappropriate postings on social media (Rules 6 & 20)
  - comments made at an APA-sponsored meeting (Rule 20)
- Public Letter of Admonition and Revocation of FAICP credential (1 case) for sexual harassment upheld on appeal to the Ethics Committee



# Ethics Topics in 2023

Ethics Cases/Calls—By Topic Areas  
2023



\*(State/local issues; general planning advice; HR issues; AI; ethics complaint process; aspirational principles)

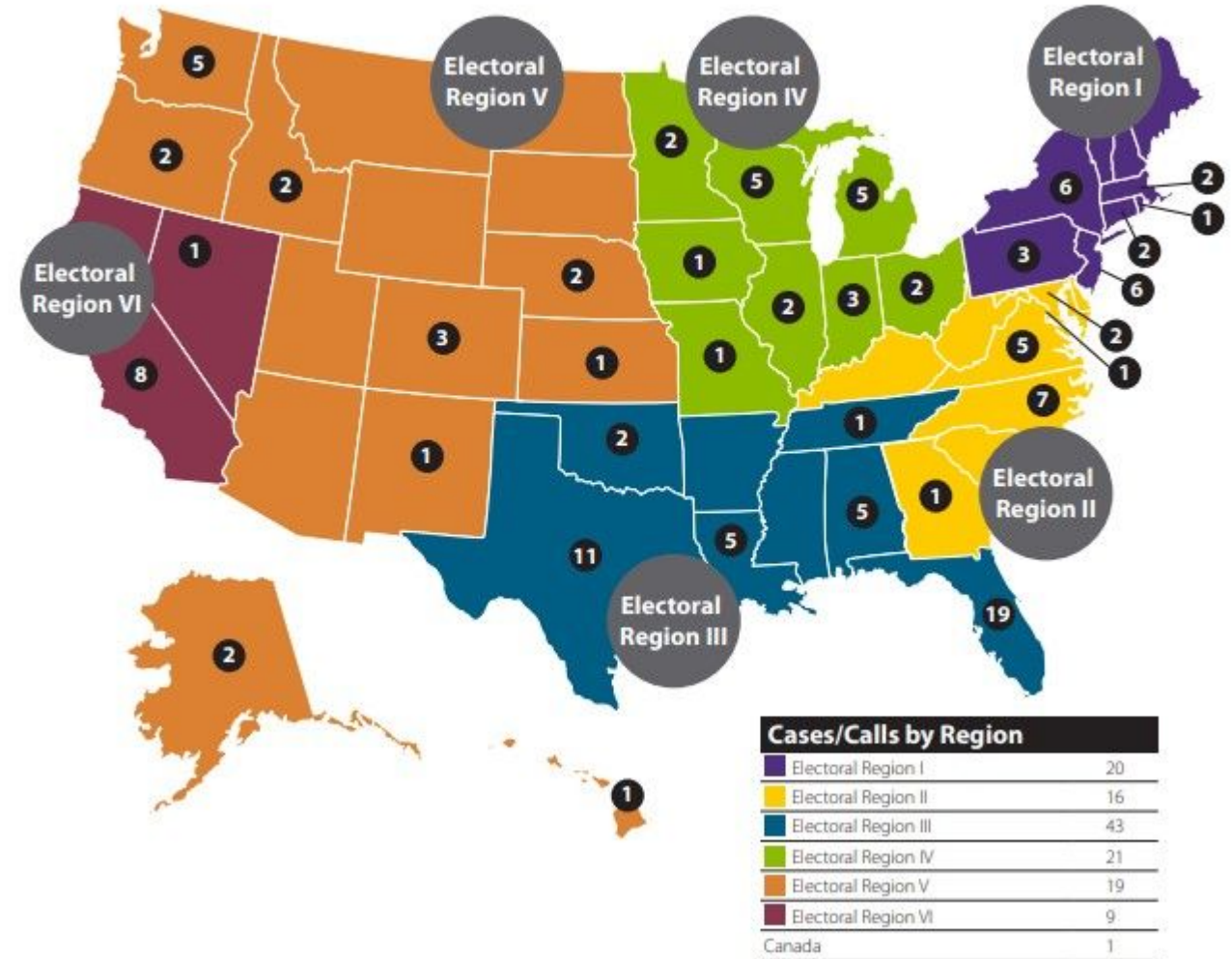
# Cases/Inquiries of the Year

The following scenarios were based on misconduct complaints or informal inquiries reviewed by the Ethics Officer and the Ethics Committee in 2023.

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

Ethics Cases/Calls (2023)—By States/Regions

(Note: If a state is not listed, it had no cases/calls in 2023)



# **Scenario 1: Conflict of Interest/Responsibility to Employer**

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# Scenario 1

## Marijuana & Conflict of Interest

Odilia, AICP, is a planning consultant living in the Town of Suarez.

- Accused of working two jobs without notifying her employer at the time, the Town of Suarez.
- Also charged with conflict of interest because she had a contract with a marijuana company



# Scenario 1

## **Marijuana & Conflict of Interest – cont'd.**

Odilia explained that she was a consultant for Suarez and not a fulltime employee.

- Did not approve permits, just worked as a Zoning Official
- Provided guidance on keeping the zoning code consistent with the comprehensive plan.
- Was hired by the marijuana company to site a retail store in the Town.
- Only a 2-month overlap of her clients.

# Scenario 1

## Ethical Issues



### A. Aspirational Principles

4.5. Avoid a conflict of interest or even the **appearance of a conflict** of interest in accepting assignments from clients or employers



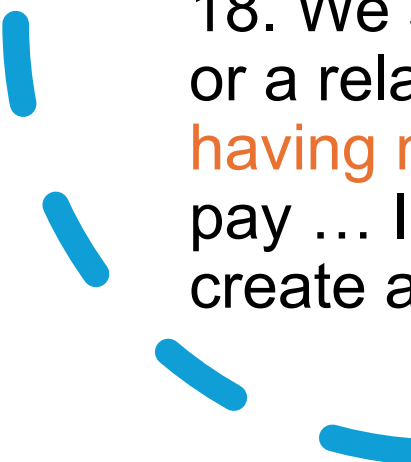


# Scenario 1

## Ethical Issues

### B. Code of Conduct

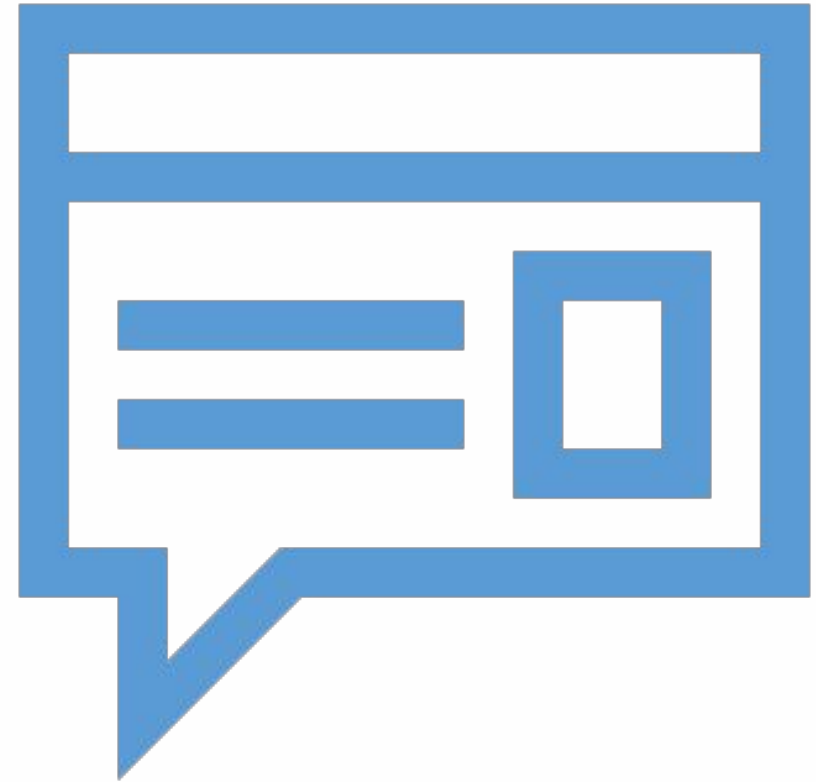
7. We shall not, as public officials or employees, accept from anyone other than our public employer any compensation, commission, rebate, or other advantage that may be perceived as related to our public office or employment.



18. We shall not, as employees, **undertake other employment** in planning or a related profession, whether or not for financial remuneration, **without having made full written disclosure** to the employer who furnishes our pay ... In no case shall a planner engage in any outside work that would create a conflict of interest.

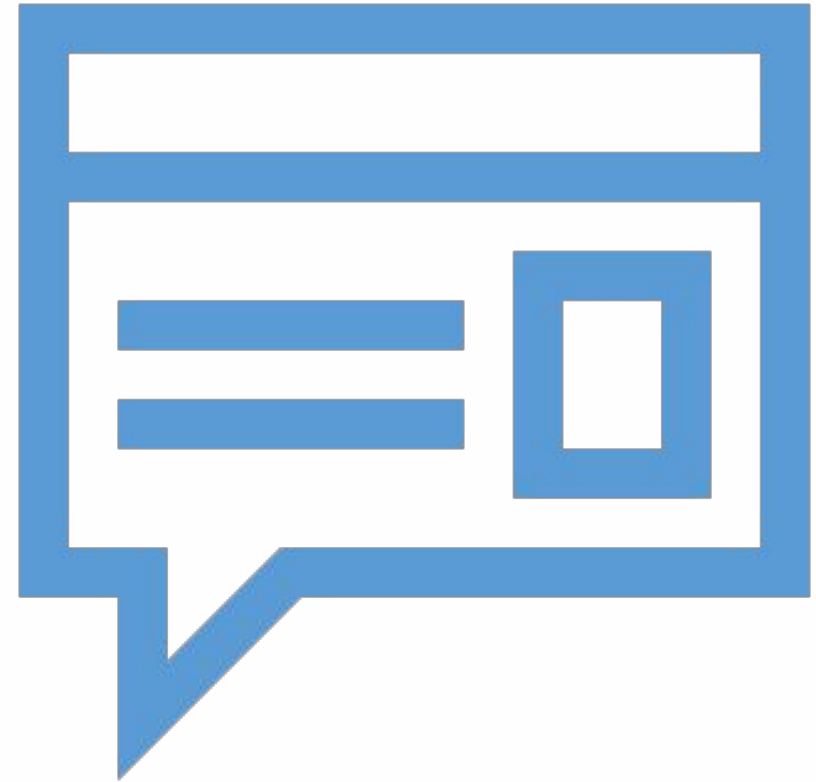
# Scenario 1: Question

- Did Odilia have a conflict of interest because of her work for a marijuana business *and* consulting with the Town?



# Scenario 1: Question

- Does the time period of overlap in the two clients matter?



# Scenario 1

## Real Life Outcome

In this real-life case, on which this scenario is based, the EO dismissed the charge after evidence was presented that she was a **consultant and not a direct employee** of either the Town or the marijuana company. Further, she was not writing new zoning code on behalf of the the marijuana business.



DISMISSED

# **Scenario 2: Planners in Difficult Positions**

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# Scenario 2: Planners in Difficult Positions

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John, AICP, is a Senior Planner in Bluesville. He has been tasked with conducting a review of a large development project and preparing a staff report.

- Identifies several issues and includes them in the staff report
- Developer asks Yoko, AICP, the Bluesville Planning Director, to remove some of the recommended changes and conditions.
- Yoko asks John to make those changes.
- John is reluctant to do so since his name is on the report.
- Yoko insists that John makes the requested changes.
- John asks that his name be removed from the report.



# Scenario 2: Ethical Issues

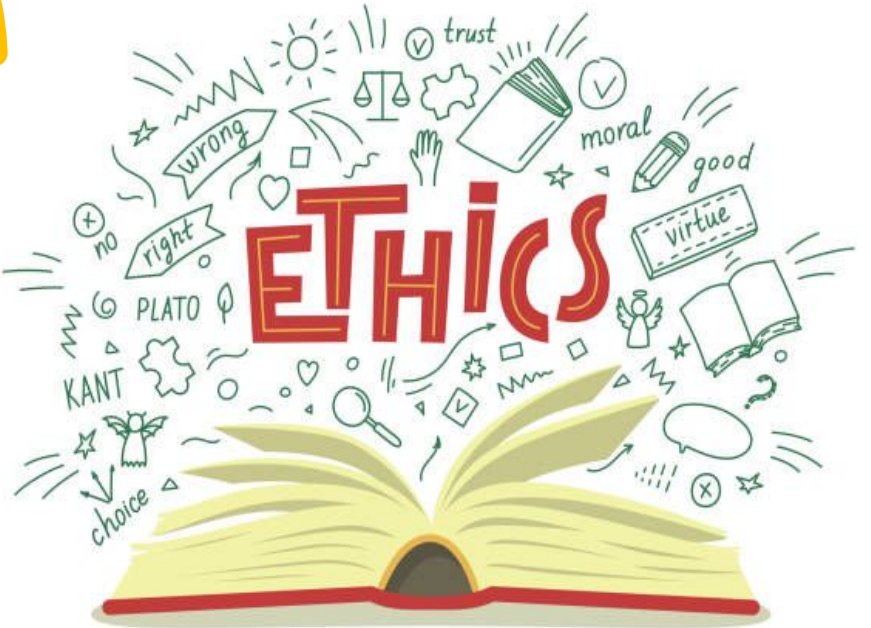
## •A. Aspirational Principles

- 2.1. 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.
- 2.2. 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 may affect them.
- 4.2. Exercise fair, honest, skilled, informed and **independent professional judgment**.

# Scenario 2: Ethical Issues

## B. Code of Conduct

- 1. We shall not deliberately fail to provide adequate, timely, clear and accurate information on planning issues.
- 5. We shall not direct or pressure other professionals to make analyses or reach findings not supported by available evidence.
- 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.
- 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 custom



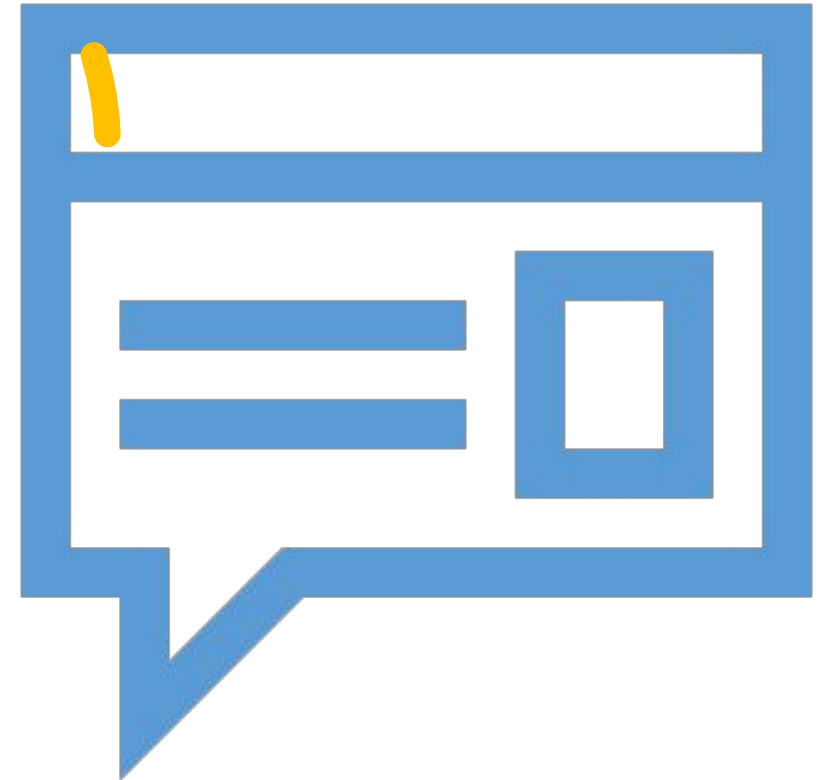
# Scenario 2: Real Life Outcome

Ethics Officer advised John to work with his supervisor to incorporate necessary comments and conditions to the staff report in order to **accurately address outstanding issues**. He could also talk to the Town Attorney to express concern regarding potential liability (ADA was one of the issues involved). He could also **document his actions in a memo to the file** in case someone filed an ethics complaint against him. Ultimately his name remained on the report but some of his concerns were addressed.



# Scenario 2: Questions

- How should John respond if he was given orders by Bluesville's Mayor (not AICP) to change the report with the possibility of losing his job if he did not comply?
- How should John address his concerns if he was a junior level planner without a direct supervisor either because he is a one-person planning department or due to a vacancy at the Planning Director level?



# **Scenario 3: Planners as Community Volunteers**

# Scenario 3: Planners as Community Volunteers

- Catherine, AICP, lives in the City of Bauer where she is a planner. She has been asked by the mayor to serve on the Habitat for Humanity Affordable Housing Committee as a city representative.
- Ethel, AICP, lives and works for the City of Elmerwoods and is concerned about a zoning proposal regarding setbacks and dimensional requirements being presented at a public hearing in her neighborhood.



# Scenario 3: Ethical Issues

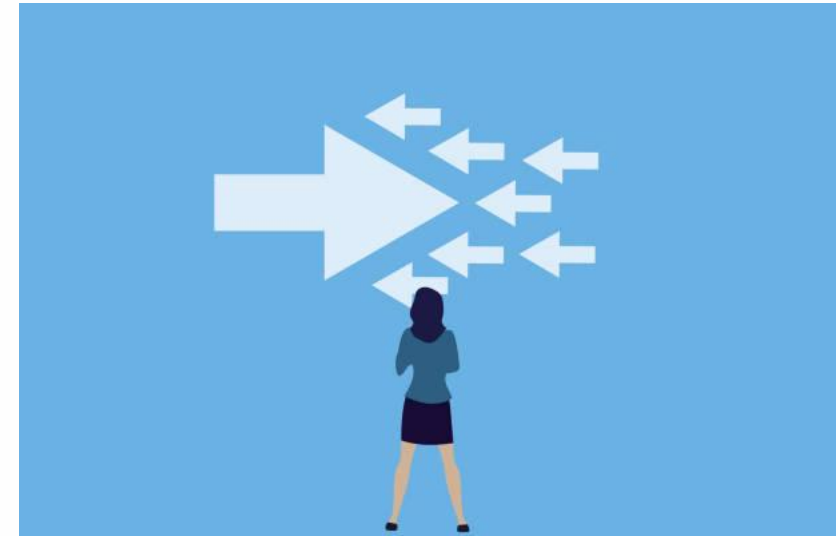
## •A. Aspirational Principles

- 4.2. Exercise fair, honest, skilled, informed and independent professional judgment.
- 4.5. Avoid a conflict of interest or even the appearance of a conflict in accepting assignments from clients or employers.
- 4.6 Disclose to the public all personal and pecuniary interests, considered broadly...
- 5.6. Contribute time and effort to our communities, particularly to those groups lacking in adequate planning resources, through pro bono planning activities.

# Scenario 3: Ethical Issues

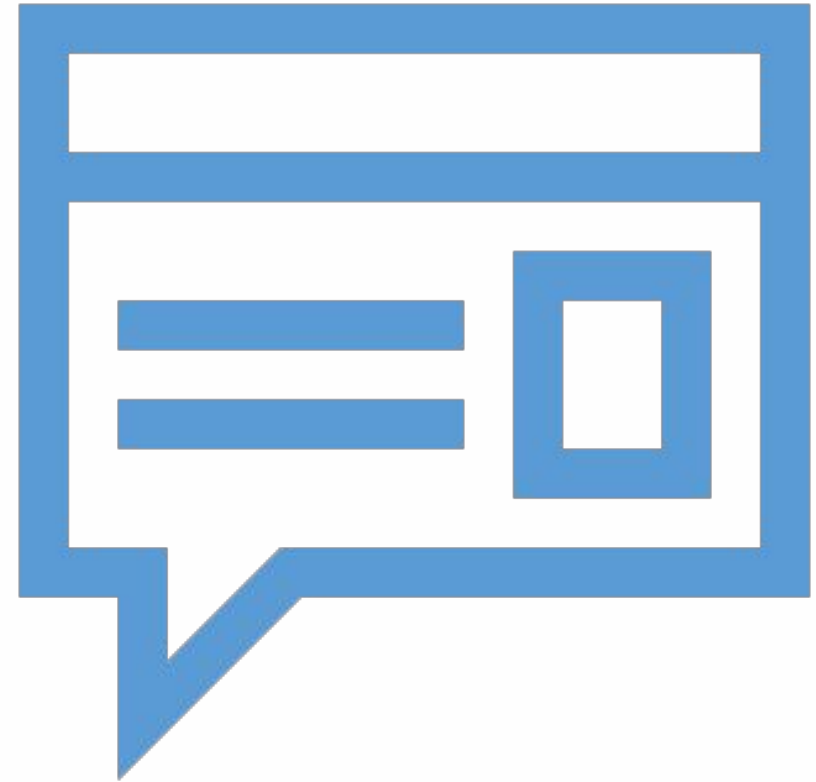
## B. Code of Conduct

- 7. 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 public office or employment.
- 17. We shall not fail to disclose the interests of our client or employer when participating in the planning process.



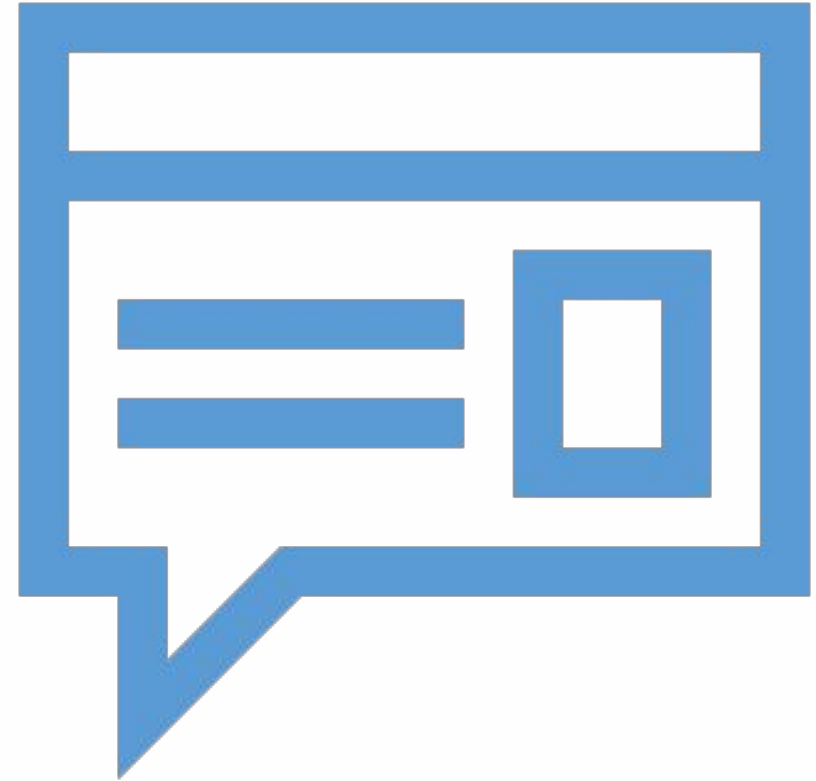
# Scenario 3: Questions

- Should Catherine accept an appointment to the affordable housing committee?



# Scenario 3: Questions

- Should Ethel comment on the zoning proposal at the public hearing in her town?



# Scenario 3: Real Life Outcome

The Ethics Officer advised:

- Catherine, AICP, that her appointment to the affordable housing committee was acceptable with **proper written disclosure** when applicable and **recusal when there is a conflict with a project she is working on** for the city.
- Ethel that it was best to **avoid commenting on the proposal** especially if she is involved in the process. Planners are also residents of their communities so if there is a **disclosure and approval from her supervisor**, she might be allowed to speak but should disclose her position at the outset.



# **Scenario 4: Gentrification vs. NIMBY**

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# Scenario 4: Gentrification vs. NIMBY

Fannie is an AICP planner in the City of Williams.

She receives an application for a mixed-use development:

- **254 rental units with 10% affordable units at 80% AMI**
- **30,000 sq. ft. of commercial space, of which 10% will be leased at below market rates**
- a public park and infrastructure improvements

Over the course of 2 years, there were nearly 15 public meetings held by the neighborhood groups, the city council, and the county council.

Fannie faces strong political pressure from both opponents and supporters to recommend for their position on the proposal.



# Scenario 4: Planning Challenges

- Proposed development is consistent with recently adopted comprehensive plan
- Gentrification arguments in a tight housing market when NIMBY is the real issue
- Balance issues in the public interest:
  - Need for affordable housing
  - Consistency with local plans
  - Scale of development
- Equity and public trust
  - Perceptions of racism
  - Perceptions of impacts on adjacent Black neighborhoods
  - Viewpoints: residents vs. business interests
  - City and county interests



# Scenario 4: Ethical Issues

## A. Aspirational Principles

- 1.2. Be conscious of the **rights of others**. Develop skills that enable better communication and more effective, respectful, and compassionate planning efforts...
- 2.1. 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.
- 3.1. Create plans that ensure **equitable access to resources and opportunities**...Recognize our unique responsibility to **eliminate historic patterns of inequity** tied to planning decisions ...
- 4.1 **Deal fairly** with all participants in the planning process.

# Scenario 4: Ethical Issues

## B. Code of Conduct

1. Provide clear, timely, and accurate information
6. Do not deliberately commit any **wrongful act**
9. Do not engage in **private communications** with planning process participants
10. Do not engage in private communication with decision makers
13. Do not **disclose information** gained in a professional relationship
14. Do not deliberately **misrepresent** the qualifications, views, or findings of other professionals



# Scenario 4: Real Life Outcome

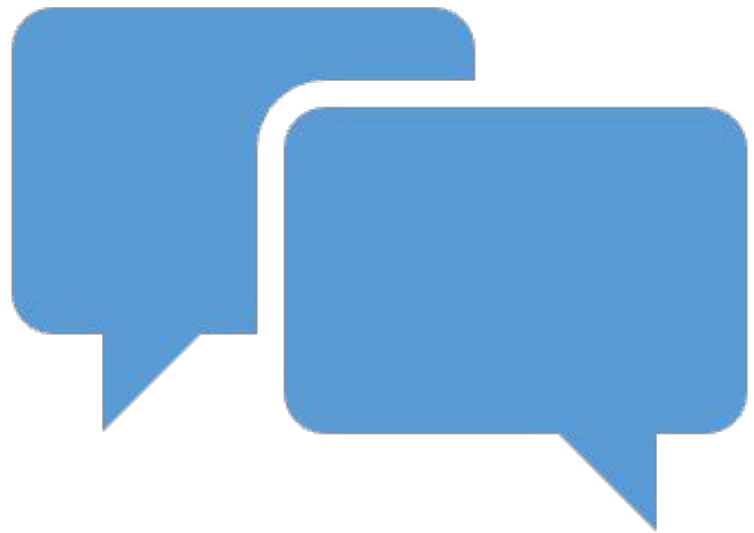
The project was approved by the Williams City Council by a vote of 4-3.

The final project provides more affordable housing, promotes development in the area, and increases the amenities above what was originally proposed.

Provide a “high bar” for planning boards and councils to make good decisions based on the AICP Code of Ethics and Professional Conduct.

Carol Barrett’s (FAICP) words of wisdom:

- Make it simple for boards and councils to act with a clear list of reasons
- Provide a narrative that supports a recommendation and decision
- Include technical, substantive, and other relevant issues
- Always remember that tradeoffs are inevitable



# Further Discussion

# Final Note

For informal advice regarding ethical conduct, please contact the AICP Ethics Officer at 312-786-6360 or [ethics@planning.org](mailto:ethics@planning.org). For more information about ethics, please visit [planning.org/ethics](http://planning.org/ethics)

## AICP Ethics Committee

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Staron Faucher, AICP, Co-Chair

Arlova Vonhm, AICP

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**American Planning Association**

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