

Ethics Cases of the Year: 2017-18



Created by the Ethics Committee, American Institute of Certified Planners



Advice on Ethical Conduct

- These “Cases of the Year” have been created by AICP’s Ethics Committee to provide continuing education materials regarding the *AICP Code of Ethics and Professional Conduct*.
- Although these scenarios—and any associated questions-and-answers—are an important part of understanding aspects of the ethics code, please note that only the Ethics Committee is authorized to give a “formal advisory opinion” on the propriety of a planner’s proposed conduct (Section C.3, Ethics Code).
- Please direct any queries or suggestions regarding these “Cases of the Year” to AICP’s Ethics Officer, at ethics@planning.org.

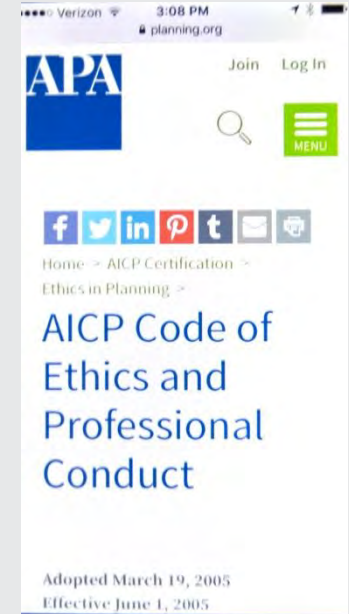
Agenda

- **Quick Refresher on Ethics Code**
- **Ethical Scenarios**
 1. Special Advantages
 2. Supplemental Salary
 3. Social Media
 4. Plagiarism
 5. Incomplete Information
 6. Charitable Gifts
 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)

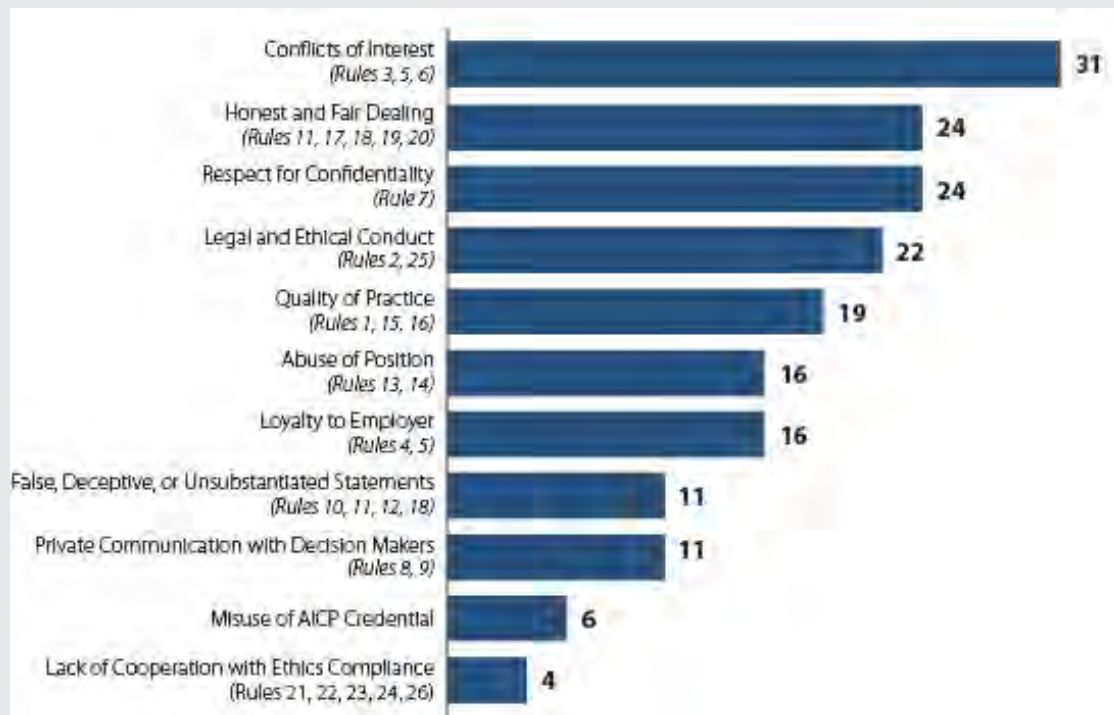


Dealing with Ethical Issues

- **Seek Informal Advice from the Ethics Officer**
Via a phone call (nonbinding and not in writing)
- **Seek an Advisory Opinion from Ethics Committee**
Provided in writing (but only on selected, unresolved issues)
- **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”

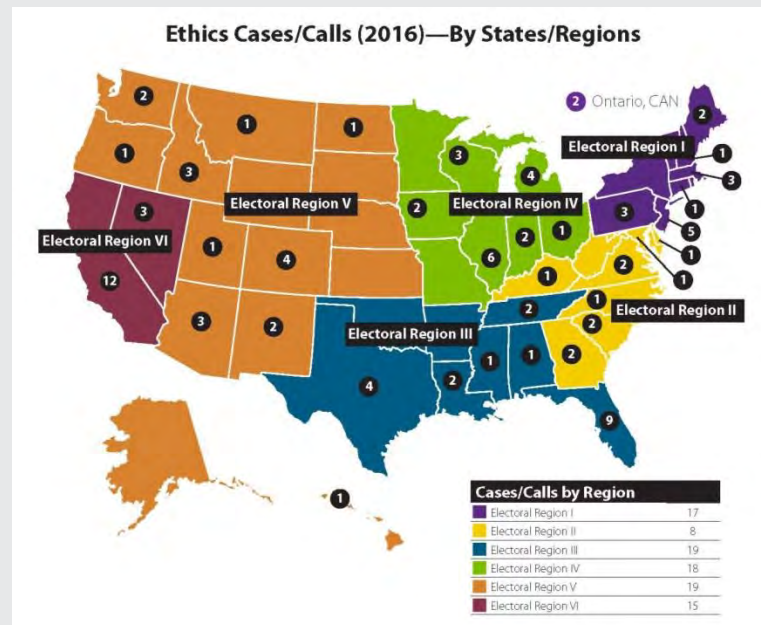
The image shows a screenshot of the AICP Code of Ethics and Professional Conduct Complaint of Misconduct Form. The form is titled "AICP Code of Ethics and Professional Conduct" and "Complaint of Misconduct Form". It includes a section for "Name and Contact Information" and a section for "Individual Charged Name and Address". There is a section for "Charge 1" with a sub-section for "Actions of the charged individual regarding the specific issue in which this particular rule was violated". The form also includes a section for "If additional space is needed, additional sheets may be attached, referencing 'Charge ___ Action ___'" and a section for "Name attach any documentation or evidence of charges above, labeled according to the relevant charge as: 'Charge 1', or 'Charge 1, Action 1'".

Ethics Topics (Cases and Inquiries – 2016)



These are True Stories

- All “cases” are based on real situations that took place in communities in the United States during 2016-17.
- The scenarios were derived from informal inquiries or actual cases of ethical misconduct.



Cast of Characters

Small Town Planner **Catherine, AICP**
Large City Planner **Dan, AICP**
Plan Commissioner **Harland**
Regional Planner **Patrick, AICP**
Planning Consultant **Jane, AICP**



Catherine, AICP



Dan, AICP



Jane, AICP



Harland



Patrick, 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

Q: Has Catherine, AICP, violated any ethical principles or rules?

HINT:

Has Catherine received a “special advantage,” despite having paid the garage owner?



Scenario 1

Relevant Provisions of Ethics Code

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.



Credit: Christart.com

Scenario 2

- 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.



www.cascadebusnews.com

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

Hints

- Could Catherine's actions as county planner (e.g., rezonings) result in more building permits—and, consequently, a higher salary?
- Would it be preferable for Catherine's salary to be a set amount for the building inspector's job?
- Should Catherine agree to begin that job before she has received sufficient training?

(For Code excerpts, see next slide)

Scenario 2

Relevant Provisions of Ethics Code

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.”

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

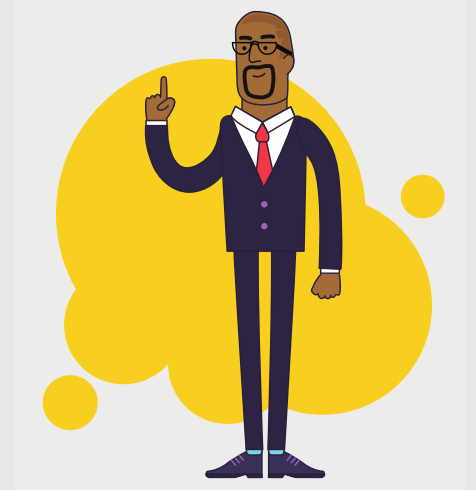
- Harland, a realtor, is one of five members of the Hudson Plan Commission.
- After a Commission meeting, he posts an item on his Facebook page about a development proposal.
- He hopes to get some reactions from Facebook “friends” in Hudson.



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, AICP, the planning director of Hudson, sees the Facebook posts.



Dan, AICP

Scenario 3

Questions

Q: Are there any ethical concerns that Dan should have?

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



Harland

Scenario 3

Ethical Issue

- Dan may want to brief Harland—and his fellow Commission members—about appropriate process for citizen participation.

Relevant Provisions of Ethics Code

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

- 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.

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 pr construed in favor of open government

(See next slide for an additional question)

Scenario 3

Questions

Q. Is Facebook an adequate and appropriate forum for public engagement?

Q. 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.



Scenario 4

- 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.



Patrick, AICP

Scenario 4

Questions

Q: Is this “acceptable” practice by Jane, AICP?

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



Jane, AICP

Scenario 4

Ethical Issue

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

Relevant Provision of 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.”

Scenario 4

Ethical Issue

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

Relevant Provision of Ethics Code

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.”

(“Ethical Issues” continued next slide)

Scenario 4

Question

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



Jane, AICP

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.



Jim Peters

Scenario 5

- 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

Question

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



Dan, AICP

Scenario 5

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.

(see Code excerpts on next slide)

Scenario 5

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.”

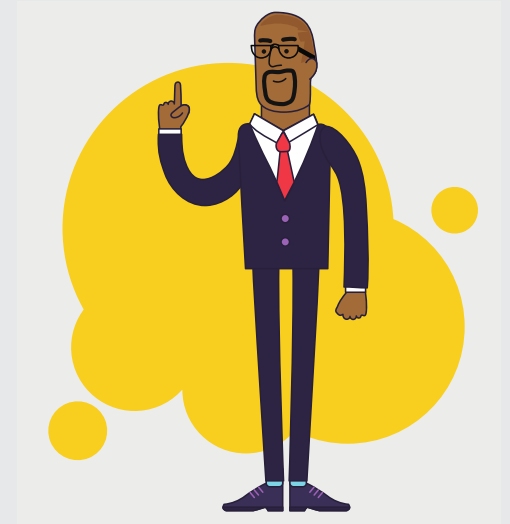
(See additional question on next slide)

Scenario 5

Questions

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

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



Dan, AICP

Scenario 5

Ethical Issue

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

Scenario 5

Ethical Issue

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

Relevant Provision of 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 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

- 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

Question

Q: Is this an acceptable solution for Dan?



Dan, AICP

Scenario 6

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.



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 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.

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.”

(Continued next slide)

Scenario 7 – **FINAL SHOT!**

- Maybe Jane should inform the Ethics Officer so this can become a scenario for next year's "Ethics Cases of the Year."

In Closing

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

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