

PLANNING ETHICS – DEALING WITH PROBLEM BOARDS AND BOARD MEMBERS

APA Chapters & Division Planning Webinar Series

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Agenda and Learning Objectives

- Overview of AICP Code of Ethics and Discussion of Recent Changes
 - ▣ Understand Aspirational Goals and Rules of Conduct
 - ▣ Understand recent changes to Code
- Three Scenarios Presenting Problem Boards and Board Members
 - ▣ Understand Code of Ethics' sections that the planner should refer to in responding to the situations
 - ▣ Understand planner's role in managing and responding to a board's actions
- Q&A

AICP CODE OF ETHICS

AMENDED AS OF 4/1/2016



Advice on Conduct

This session provides general information regarding the AICP Code of Ethics.

Reviewing the AICP Code sections, examining ethical scenarios, and engaging in a question and answer session are all important in assisting planners in better understanding the Code and when and how it applies. All certified planners should understand that only the APA Ethics Committee is authorized to give formal advice on ethical conduct questions and situations. (AICP Code of Ethics, Section C3)

If you have a specific ethical question regarding a situation regarding you or a planner you work with, or similar, you should consider contacting the APA Ethics Officer

AICP Code of Ethics and Professional Conduct

Five Sections

- ❖ Aspirational Principles – ideals to which we are committed
- ❖ Rules of Conduct – rules to which we are held accountable
- ❖ Procedures – how to obtain a formal or informal advisory ruling
- ❖ Procedures – how complaints are filed and investigated
- ❖ Procedures – forms of disciplinary actions

The slides that follow on the AICP Code are brief summaries of the Code. The full text of the Code can be found at:

<http://www.planning.org/ethics/ethicscode.htm>

Aspirational Principles

1. Our Overall Responsibility to the Public

Our primary obligation is to serve the public interest

- a) Be conscious of the rights of others
- b) Have special concern for long range consequences of actions
- c) Pay special attention to interrelatedness of actions
- d) Provide timely, adequate, clear and accurate information
- e) Give people opportunity to have meaningful impact on plans and programs that may affect them
- f) Seek social justice; Expand choice and opportunity for all; Plan for the needs of the disadvantaged; promote racial and economic integration
- g) Promote excellence of design; conserve and preserve the natural and built environment
- h) Deal fairly with all participants in the planning process

Aspirational Principles

2. Our Responsibility to our Clients & Employers

We owe diligent, creative, and competent performance of the work we do, but consistent with our service to the public interest

- a) Exercise independent professional judgment
- b) Accept the decisions of our client or employer unless action is illegal or inconsistent with our obligations to the public interest
- c) Avoid conflicts of interest or the appearance of a conflict of interest in accepting assignments from our clients or employers

Aspirational Principles

3. Our Responsibility to our Profession and Colleagues

We shall contribute to the development of, and respect for, our profession by improving knowledge and techniques, making work relevant to solutions of community problems, and increasing public understanding of planning activities.

- a) Protect and enhance the integrity of the profession
- b) Educate the public about planning issues
- c) Be fair and professional toward other professional
- d) Share results of our experience and work
- e) Professional work should be tailored to the particular situation
- f) Contribute time and resources to professional development of others

Aspirational Principles

3. Our Responsibility to our Profession and Colleagues, *continued*

- g) Increase opportunities for underrepresented groups to become planners and to advance in the profession
- h) Enhance our professional education and training
- i) Analyze ethical issues in our planning practice
- j) Contribute time and effort to groups lacking adequate planning resources and to voluntary professional activities

Rules of Conduct

There are 26 Rules of Conduct

Some of these include:

- Rule 1. We shall not fail to provide adequate, timely, clear and accurate information on planning issues
- Rule 2. We shall not accept assignments we know to involve illegalities or to be in violation of these Rules
- Rule 7. We shall not use confidential information to our personal advantage and shall not disclose confidential information (see exceptions)
- Rule 8. We shall not as, as public officials or employees, engage in private conversations with planning participants if the discussions relate to matters we have decision-making power if such conversations are prohibited by law, rules, regulations or custom
- Rule 18. We shall not direct or coerce other professional to conduct and analysis or make findings not supported by the evidence
- Rule 25. We shall neither deliberately nor with reckless indifference commit any wrongful act that reflects adversely on our professional fitness

Overview of Recent Changes to the Code

AICP Code of Ethics

<https://www.planning.org/ethics/ethicscoderevision.htm>.

Effective April 1, 2016

Key elements of the new “code process”:

- Reduced complexity in complaints and charges procedures.
- Reduced number of steps for decision making and appeals to reduce length of a typical case.
- Increase emphasis on education and remediation.
- Eliminate prosecutorial “hearing officer” role and replace with an increased role for the Ethics Committee and Ethics Officer.
- More emphasis on settlement efforts, which should more actively involve the Ethics Committee.
- Includes specific discipline levels, which should include more corrective decisions by the Ethics Committee and Ethics Officer.
- Increase communication of case activity and advisory opinions to keep the Ethics Committee, AICP Commission, and membership informed.

Code of Ethics Sections C, D, and E

- Section C is now “Advisory Opinions”
 - ▣ Formal or informal advisory rulings
 - ▣ Investigation & decision by Ethics Officer/Committee

- Section D is now “Adjudication of Complaints of Misconduct”
 - ▣ Filing of complaint
 - ▣ Case settlement
 - ▣ Appeal

- Section E is now “Discipline of Members”
 - ▣ Forms of discipline
 - ▣ Conviction of crimes
 - ▣ Unethical conduct
 - ▣ Reinstatement

PROBLEM BOARDS HYPOTHETICALS



Hypothetical #1

The Domineering Chairman

Question #1

Which Principle is most at issue in this scenario?

- Principle (A)(1)(e) – Give people opportunity to have meaningful impact on plans and programs
- Principle (A)(1)(h) – Deal fairly with participants in the planning process
- Rule 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
- Rule 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
- Rule 18 – We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence

Question #2

What should Robin Retro have done to resolve this problem?

- She should have stopped the meeting
- She should draft Rules of Procedure for the Board to adopt to prevent this situation in the future
- She should talk to the Chair after the meeting
- She should conduct a meeting management training session for the Board
- Other

AICP Ethical Principles Involved

1. Our Overall Responsibility to the Public

- a) Be conscious of the rights of others
- d) Provide timely, adequate, clear and accurate information
- e) Give people opportunity to have meaningful impact on plans and programs that may affect them
- h) Deal fairly with all participants in the planning process

3. Our Responsibility to our Profession and Colleagues

- a) Educate the public about planning issues

Rules of Conduct

- Rule 1. We shall not fail to provide adequate, timely, clear and accurate information on planning issues.

Hypothetical #2

The Grocery Store Encounter

Question #1

Which Principle/Rule of Conduct is most at issue in this scenario?

- Rule 8 – We shall not engage in private discussions in any manner prohibited by law or regulations
- Principle (A)(1)(d) – Provide timely, accurate clear information on planning issues to all affected persons
- Principle (A)(1)(a) – Always be conscious of the rights of others
- Principle (A)(1)(h) – Deal fairly with all participants in the planning process
- Other

Question #2

Where did Robin Retro go wrong here?

- She should have provided better training sessions for the board members so that Mr. Syncships could have better handled the encounter
- She kept asking questions about the encounter
- She was not clear enough with Mr. Syncships that he should not consider the information received at the grocery store in his deliberations
- She was not clear about the issue of ex parte communications

Question #3

What should Robin Retro do next?

- She should inform the other board members of this situation
- She should just inform the Chair of this situation
- She should consult with the city attorney
- She should ask Mr. Syncships to recuse himself
- Other

AICP Ethical Principles Involved

1. Our Overall Responsibility to the Public

- a) Be conscious of the rights of others
- d) Provide timely, adequate, clear and accurate information
- e) Give people opportunity to have meaningful impact on plans and programs that may affect them
- h) Deal fairly with all participants in the planning process

3. Our Responsibility to our Profession and Colleagues

- b) Educate the public about planning issues

Rules of Conduct

- Rule 1. We shall not fail to provide adequate, timely, clear and accurate information on planning issues.
- Rule 8. We shall not engage in private discussions in any manner prohibited by law or regulations

Thank you

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