

# Navigating the Revised Code of Ethics

***Please use the notecards on the tables to submit any questions you would like addressed as part of the session.***



American Planning Association  
**Pennsylvania Chapter**

*Making Great Communities Happen*

October 2016 APA-PA Conference

# Navigating the Revised Code of Ethics

*Richard Bickel, FAICP*

*Susan Elks, AICP*

*Jerry Walls, FAICP*



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# Agenda

- Changes to the AICP Code of Ethics
- Review and Discussion of Scenarios
  - *The Ethical Planning Practitioner* by Jerry Weitz, FAICP
- Discussion of Audience Scenarios

# Code Revisions

- Changes effective 4/1/16
- 5 sections to the Code now
- Aspirational Principles and Rules of Conduct – DID NOT CHANGE

# Code Revisions

- 5 sections
  - *A. Principles to Which We Aspire*
  - *B. Our Rules of Conduct*
  - *C. Advisory Opinions*
  - *D. Adjudication of Complaints of Misconduct*
  - *E. Discipline of Members*

# Code Revisions

- C: How one may obtain either a formal or informal advisory ruling, as well as requirements for an annual report
- D: How a complaint of misconduct can be filed, and how complaints are investigated and adjudicated
- E: Forms of disciplinary actions

# Code Revisions

- *C: Advisory Opinions*
  - Informal Advice – anyone can request from the Ethics Officer, not binding
  - Formal Advisory Opinion – members only can request, to the Ethics Committee, written, binding, may be published
  - Annual Report – Ethics Officer to the AICP Commission (to include all Formal Advisory Opinions and interpretations of the Code), AICP Commission to the membership (contents not specified)

# Code Revisions

- *D: Adjudication of Complaints of Misconduct*

- Filing
- Review
- Determination
  - Appeal by complainant if dismissed
- Fact Finding
- Decision/Dismissal
- Potential Outcomes: 1) confidential letter of admonition, 2) public reprimand, 3) suspension of AICP membership, or 4) expulsion from AICP
- Appeals – to the Ethics Committee

This level with  
the Ethics Officer

Can negotiate a settlement



# Code Revisions

- *E: Discipline of Members*
  - Discipline for Code violations plus: serious crimes, crimes, loss/restrictions of other licenses/certifications, failure to notify AICP
  - Same potential outcomes, potentially with conditions
  - Serious crime/crime– fraud, failure to pay taxes
  - “other conduct inconsistent”
  - Reinstatement process
  - May publish information

# FYI ... How much is the Code Used? 2015 Activity

- Ethics Cases - 12 Total
  - 7 Cases Resolved (4 dismissed, 3 settled)
  - 5 Cases Pending (2 under review, 3 in abeyance – members dropped AICP during process)
- Ethics Committee Actions
  - Prepared revisions to Code and passed onto the AICP Commission for consideration (Sections C and D)
  - Reversed dismissal of case by Ethics Officer (EO issued revised complaint)
- Requests for Informal Advice: 40

# Another FYI ... Case Activity Trends

- Ethics Cases

- 2005: 7
- 2006: 9
- 2007: 12
- 2008: 15
- 2009: 11
- 2010: 4
- 2011: 4
- 2012: 2
- 2013: 6
- 2014: 13
- 2015: 12

- Ethics Committee Actions from 2005 – 2015: 2005, 2009, 2014, 2015
- Requests for Formal Advice from 2005 – 2015: none identified
- Requests for Informal Advice ranging between 15 – 40 annually in recent years



## Scenario 4: Protection of Environmentally Sensitive Land from Development

You are a consulting land planner, and your client has asked you to prepare a development proposal and land plan for a site that in your opinion should not be developed due to environmental limitations, including wetlands, floodplains, prime agricultural land, and soils unsuitable for septic tank drain fields. You know that both the local government jurisdiction and the state are rather lax when it comes to enforcement of environmental regulations. What do you do? Should you take the assignment?

- Relevant portions of the Code:
  - Aspirational Principles: 1.g, 3.e
  - Rules of Conduct: 1, 2, 3

## Scenario 8: Planners Oppose Their Own Department Director at Public Hearing

Three planners working for a large city planning department are opposed to the rezoning of a block in the city's downtown for luxury apartment buildings, because they are concerned it will displace low- and moderate-income residents from the block and neighborhood. They made their concerns known to the planner director, who is an AICP member, but the director overruled them and recommended approval. At the planning commission, the three planners appeared and testified against the rezoning, also adding that the planner director, who is their boss, had capitulated to the real estate industry in overriding the recommendations of her own staff. Is this a legitimate case for the three planners or the planning director to complain about an AICP Code infraction?

- Relevant portions of the Code:
  - Aspirational Principles: 1.f, 2.a, 2.b, 3.c
  - Rules of Conduct: 10, 18, 19, 24

## Scenario 13: Potential Conflict With Public and Nonprofit Roles

You are the planning director for a local government and have been asked to join the board of directors of a nonprofit organization that seeks to create more affordable housing in the region. If you serve in a leadership role for the nonprofit organization, might those responsibilities cause an ethical conflict with your responsibilities as planning director?

- Relevant portions of the Code:
  - Aspirational Principles: 1.f, 2, 2.c, 3, 3.b, 3.j
  - Rules of Conduct: 4, 7

# Scenario 15: Planning Consultant Considers Planning Commission Appointment

You are a consulting planner who specializes in land use and entitlements for private landowners in a city where you also reside. You are interested in applying for an upcoming vacancy on the planning commission for the same city. You discuss the prospect with the city's planning director, who conveys the opinion that you should not conduct any more business in the city if you are appointed to the planning commission, as it may be a conflict of interest. You believe you can recuse yourself if there is a direct conflict of interest. Who is right? Do you need to cease all business in the city if you are going to serve on the city planning commission?

- Relevant portions of the Code:
  - Aspirational Principles: 2.c
  - Rules of Conduct: 3, 5, 8, 9, 13, 14, 19

# Scenario 16: Public and Private Client Conflict

You are a consulting planner under contract to prepare a zoning ordinance for a city, and you were on the city government planning staff a short time earlier. A developer has approached you and is intent on eventually upzoning a large parcel of land in the jurisdiction for which you are preparing the new zoning ordinance. The developer asks you if you will take the developer on as a client and provide “political” advice about individual council members and how to proceed with getting the property upzoned. What can you do?

- Relevant portions of the Code:
  - Aspirational Principles: 2.c
  - Rules of Conduct: 2, 3, 4, 6, 7, 11, 13, 19, 25



## Scenario 33: Use of Technology in Citizen Participation

You are a senior planner in a city and charged with crafting a community participation program for an update to the city's comprehensive plan. You recently attended training on using social media as a public participation technique. Excited, you decide on a three-pronged approach as the centerpiece of your participation strategy:

1 - the city's Facebook page will be the central mechanism for communication regarding the update of the comp plan;

2 - a series of email blasts will notify residents and interested individuals about public workshops and material available for review; and

3 - a commercially available phone app will be used to gain instant feedback from citizens about planning proposals.

What ethical issues, if any, arise from the public participation strategy selected?

- Relevant portions of the Code:
  - Aspirational Principles: 1.d, 1.f, 1.h, 3.b
  - Rules of Conduct: N/A

## Scenario 35: Planner Posts Statement on Social Media

You are a planner employed by a MPO. A new four-lane divided highway on the fringe of the region has just been added by the MPO to its transportation improvement program, to be designed and constructed in future years. The local newspaper recently published a story about the MPO's decision to pursue the highway project. The people interviewed in the story debated the merits and liabilities of the project. The public became more interested in the project, and the debate and decision prompted you to post a comment about the highway on your Facebook page. Your posted comment read: "If constructed, the highway project will eventually lead to suburban sprawl, contrary to the regional growth management plan." Are there ethical issues associated with posting this comment on social media?

- Relevant portions of the Code:
  - Aspirational Principles: 1.b, 1.c, 1.d, 1.g, 2.b, 3.b, 3.d
  - Rules of Conduct: 19

## Scenario 28: Urging a Modification of Exclusionary Zoning

A planner who works for a high-income suburb recognizes that the community's land development regulations are exclusionary. This makes it quite difficult for poor people or minority group members to live there, even though job opportunities for them exist in the area. The planner, as part of her regular job activities, decides to organize support from local people she knows are in favor of opening up the community so they will put pressure on the suburban government's officials to change the zoning policy. In acting this way, does this planner behave ethically or unethically?

- Relevant portions of the Code:
  - Aspirational Principles: 1.f, 1.h, 2.a, 2.b
  - Rules of Conduct: N/A

# Scenario 38: Planning Director Excludes Junior Planners' Observations

You are a county planning director, and your agency is required by law to review public agency plans and major development proposals. You receive an application from the city airport authority to review an airport master plan update. You view this application as routine, because you know the runway expansion called for in the update is much needed for enhancing local economic development prospects. The expansion will go ahead, you reason, because federal funding is already secured, pending plan adoption and FAA final approval. You assign the review to two junior planners. One notes that, to protect the approach zone of the proposed extended runway, the update calls for the purchase of land in an adjacent developed, historic, low-income minority neighborhood; the planner recommends the impacts on the neighborhood be assessed in your agency's report and mitigated. The other planner notes the drainage plan directs the expanded runway's surface water runoff onto an abutting cemetery; that planner recommends drainage be discussed in the agency report and mitigated. You read the memos but elect to include neither of the planners' observations and suggestions. Your reasoning is that you consider the plan approval a done deal, because of economic development benefits and the secured funding; further, addressing the matters raised by the junior planners may cause a delay and possibly even the loss of funding. Is it unethical to exclude the junior planners' observations and suggestions?

- Relevant portions of the Code:
  - Aspirational Principles: 1.d, 1.f, 3.d
  - Rules of Conduct: 1, 10



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