

Ethics Cases of the Year: 2021



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

APA-WI Annual Conference, Green Bay, May 26, 2022

Panelists

Kara Homan, AICP

Jason Valerius, AICP

Agenda

Refresher on Planning Ethics

Ethical Scenarios

1. Plagiarism
2. Volunteer Boards
3. Equity and ADUs
4. Emails/Social Media
5. Revolving Door
6. Sub and Salaried Consultants



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 (ph: 312-786-6360; email: ethics@planning.org).



This AICP Ethics Code certificate is available for downloading from planning.org/ethics. (See https://planning-org-uploaded-media.s3.amazonaws.com/document/AICP-Code-of-Ethics-Certificate_Updated.pdf)

APA's Ethical Principles in Planning

Adopted in 1980 by the American Planning Association; revised in 1992

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

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 and proficiency

Provide independent judgment, 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.

AICP's Code of Ethics

Adopted in 1948 by the American Institute of Planners; rev. 1959, 1970, 1978, 1991, 2005, 2016, and 2021

A. Aspirational Principles

(See next slides)

B. Rules of Conduct

(See next slides)

C. Advisory Opinions

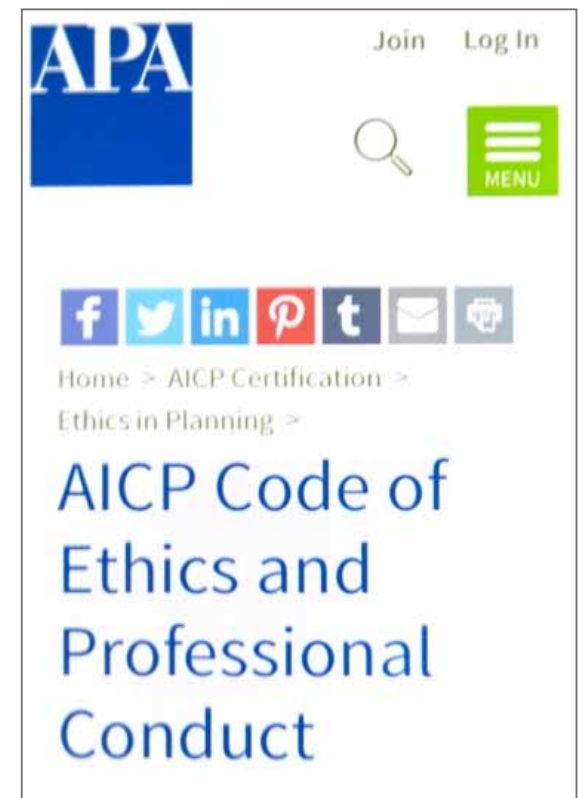
Informal Advice, Formal Advisory Opinions, Annual Report

D. Complaints of Misconduct

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

E. Discipline of Members

Confidential Letter, Public Censure, Suspension, Revocation



Aspirational Principles *(the “shalls”)*

1. Overall Responsibility to the Public

(Interrelatedness of decisions, Broad participation, Social justice, Fair dealings)

2. Responsibility to Our Clients and Employers

(Independent judgment, Accept decisions of client or employer, Avoid conflicts of interest)

3. Responsibility to Our Profession and Colleagues

(Professional integrity, Contribute to planning knowledge, voluntary activities, and others)



Rules of Conduct *(the "shall nots")*

26 rules to which planners can be held accountable. General topics:

- Abuse of position
- Conflicts of interest
- False or deceptive statements
- Honest and fair dealing
- Lack of cooperation
- Legal and ethical
- Loyalty to employer
- Private communication
- Respect for confidentiality



2021 Changes to the AICP Code of Ethics (effective 1/1/2022)

- Expand and reorganize the **Principles to Which We Aspire (Section A)** into logical groupings to highlight the planners' role in serving the public interest and to:
 - more fully account for the planners' role in social justice and racial equity, while accepting our responsibility to eliminate historic patterns of inequity tied to planning decisions;
 - recognize and respect the rights of others and not discriminate against or harass others; and
 - increase opportunities for members of underrepresented groups to become professional planners.

2021 Changes to the AICP Code of Ethics (effective 1/1/2022)

- Reorganize the **Rules of Conduct (Section B)** into logical groupings to increase clarity for compliance and:
 - eliminate geographic inconsistencies on who or how Rules of Conduct are enforced;
 - clarify types of additional employment that would create an actual or perceived conflict of interest; and
 - require an AICP member to cooperate with the AICP Ethics Officer or AICP Ethics Committee if it is determined that they have information relevant to a charge filed against another AICP member.

2021 Changes to the AICP Code of Ethics (effective 1/1/2022)

- Reduce the use of frivolous complaints by an aggrieved member of the public against an AICP member by **allowing only AICP members the option to file an appeal of a determination by the Ethics Officer** related to a complaint of misconduct.

Ethical Misconduct Cases in 2020

Eight Cases Dismissed

No preliminary charge filed

Six Cases Dismissed

After preliminary charge and response by planner

Four Cases Settled

Agreements to cease misuses of the AICP credential

Two Disciplinary Actions

One-Year Suspension for “wrongful conduct” involving emails and social media posts (Rule of Conduct #25)

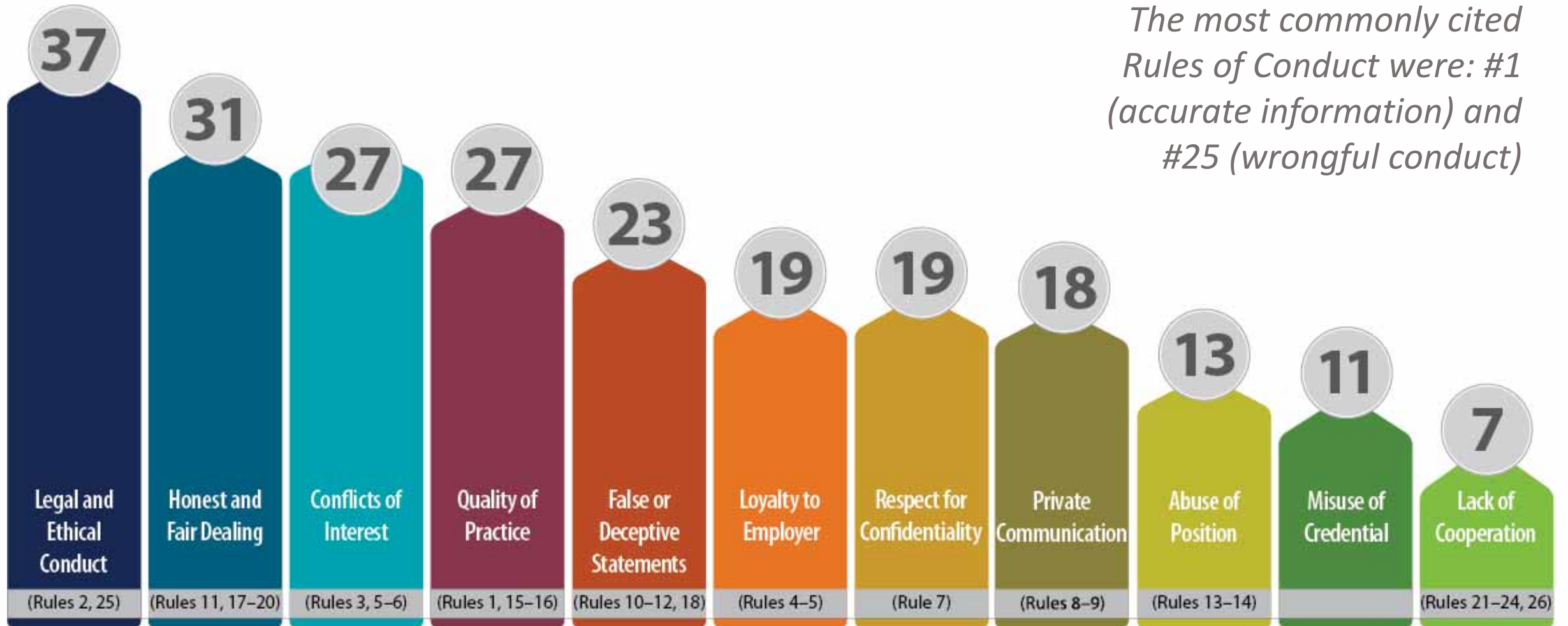
Confidential Letter of Admonition for “wrongful conduct” related to plagiarism (Rule of Conduct #25)



Carol Hu; APA Image Library

Ethics Topics in 2020

Based on misconduct cases and informal inquiries



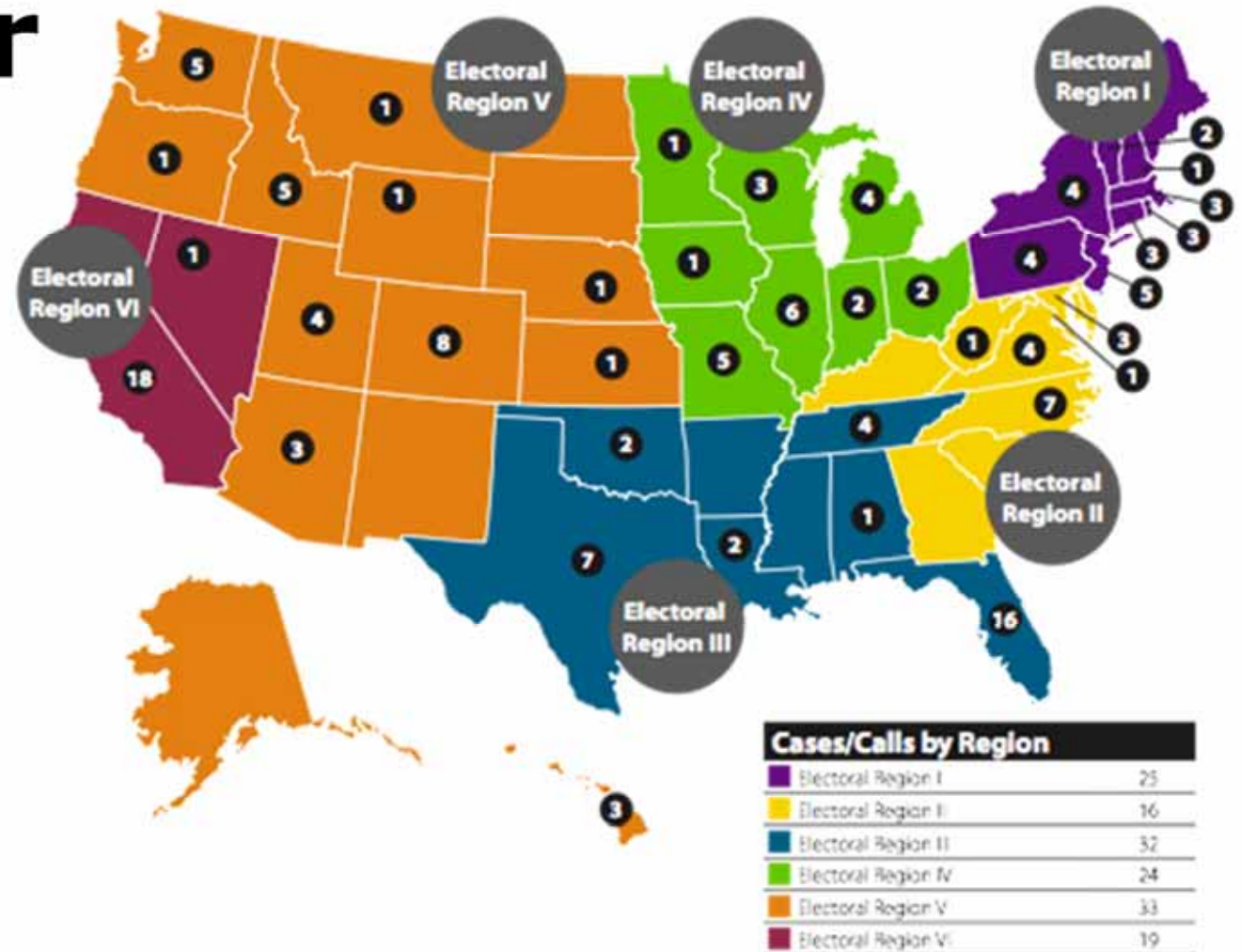
Cases of the Year

The following scenarios are based on real-life situations from 2020 and 2021, although the names, details, and locations are fictional.

These scenarios were derived from informal inquiries or misconduct complaints reviewed by the Ethics Committee and the Ethics Officer.

Ethics Cases/Calls (2020)—By States/Regions

(Note: If a state is not listed, it had no cases/calls in 2020)



Cast of Characters



Beverly, AICP
Consultant



Catherine, AICP
Public Planner



Norm, AICP
Public Planner



Odilia, AICP
Public Planner



Sam, AICP
Consultant

Scenario 1

Plagiarism

Beverly, AICP, a planning consultant, has been hired to prepare a hazard mitigation plan for Greene County, as required by state law.

As part of her research, Beverly finds a plan for Loraine County, a jurisdiction facing similar issues. She decides to use the text of that plan—which she did not write—for the initial draft of the Greene County plan.



Beverly



Scenario 1 (contd.)

After making a few revisions, Beverly and the county supervisor submit the draft plan to the plan commission.

However, neither Beverly nor the supervisor inform the members of the plan commission—either verbally or in writing—that their draft is largely based on another county’s plan.

After several working meetings, the plan commission forwards the revised plan to the county board for adoption.



DispatchLIVE

Scenario 1 (contd.)

At the next county board meeting, a resident makes a charge of plagiarism, noting that nearly half of the Greene County plan is a word-for-word copy of the Loraine County plan.

Beverly and the board chair defend the plan, noting that copying from other public documents is “standard planning practice.” However, several Plan Commission members complain they weren’t informed about the copied document.



Scenario 1

Questions

Q 1.1:

Is Beverly guilty of plagiarism?

- a) Yes
- b) No
- c) Not Sure



Code of Ethics *and* Professional Conduct

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THE PLANNER'S RESPONSIBILITY TO CLIENTS AND EMPLOYERS
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THE PLANNER'S RESPONSIBILITY TO THE PROFESSION AND TO COLLEAGUES
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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.

NameCredentialCertified Planner No.

Scenario 1

Questions

Q 1.2:

Has Beverly violated the *AICP Ethics Code*?

- a) Yes
- b) No
- c) Not Sure



The document is the AICP Code of Ethics and Professional Conduct. It features the AICP logo (a red square with 'AICP' in white) and the title 'Code of Ethics and Professional Conduct'. The text is organized into sections with bold headings and descriptive paragraphs. At the bottom, there is a pledge statement and a line for a signature, with labels 'Name', 'Credential', and 'Certified Planner No.' below it.

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Name Credential Certified Planner No.

Scenario 1

Ethical Issues

AICP Ethics Code “Aspirational Principles”

2a: We shall exercise **independent professional judgment** on behalf of our clients and employers.

3a: We shall protect and enhance the **integrity** of our profession.

3e: We shall...not accept the **applicability of a customary solution** without first establishing its appropriateness to the situation.

AICP Ethics Code “Rules of Conduct”

Rule 17: We shall not use the product of others’ efforts **to seek professional recognition or acclaim** intended for producers of original work.

Rule 25: We shall neither deliberately, nor with reckless indifference, commit any **wrongful act**, whether or not specified in the Rules, that **reflects adversely on our professional fitness**.

Scenario 1

Outcomes

In the real-life case, on which this scenario was based, the AICP Ethics Officer felt Beverly should not have copied the text from the other county's plan without 1) referencing it or 2) disclosing it to the plan commission.

Although Beverly had not sought "acclaim" for another's work (Rule 17), she had committed a "wrongful act" reflecting adversely on her "professional fitness" (Rule 25).

Beverly received a **Confidential Letter of Admonition**.



Beverly



Legaltranscription.com

Scenario 2a

Volunteer Boards

Catherine, AICP, is a staff planner with Bauerville, but she lives in Wurster, 30 miles away.

Wurster's Mayor asks Catherine if she would be willing to serve on the Wurster Plan Commission. There are no extraterritorial jurisdiction issues between the two communities—and they also are located in two different counties.



Catherine




WPTA-TV

Scenario 2a Question

Q 2.1:

Should Catherine get written permission to serve on the Wurster Plan Commission?

- a) Yes
- b) No
- c) Not Sure



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Name _____ Credential _____ Certified Planner No. _____

Scenario 2b

Volunteer Boards

Norm, AICP, is a planner with the city of Levintown, where he also resides and owns property.

Norm is asked to be on the board of his homeowners association, which receives no city funding and has no formal relationship with city government.



Norm



Scenario 2b Question

Q 2.2:

Should Norm get written permission from his supervisor to serve on the board of his homeowners association?

- a) Yes
- b) No
- c) Not sure



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Scenario 2

Ethical Issues

AICP Ethics Code “Aspirational Principles”

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

2b: We shall accept the decision of our client or employer...unless the course of action is illegal or plainly inconsistent with our **primary obligation to public interest**.

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

3j: We shall **contribute time and effort** to groups lacking in adequate planning resources and to **voluntary professional activities**.

Scenario 2

Ethical Issues (contd.)

AICP Ethics Code “Rules of Conduct”

Rule 4: We shall not, as salaried employees, undertake other **employment in planning or a related profession, whether or not for pay**, without having made full written disclosure to the employer who furnishes our salary and having received subsequent written permission to undertake additional employment, unless our employer has a written policy which expressly dispenses with a need to obtain such consent.

Scenario 2

Outcomes

In the two real-life cases on which these scenarios were based:

In Catherine’s case, a member of the public had filed a misconduct complaint against her. After an investigation, the complaint was dismissed since membership on the plan commission was not considered to be “employment.”

In Norm’s case, the AICP Ethics Officer advised him that, although a written disclosure/permission was not required, Norm still might want to inform his supervisor—and that he should be sure to recuse himself and divulge his city employment, whenever appropriate.



Catherine



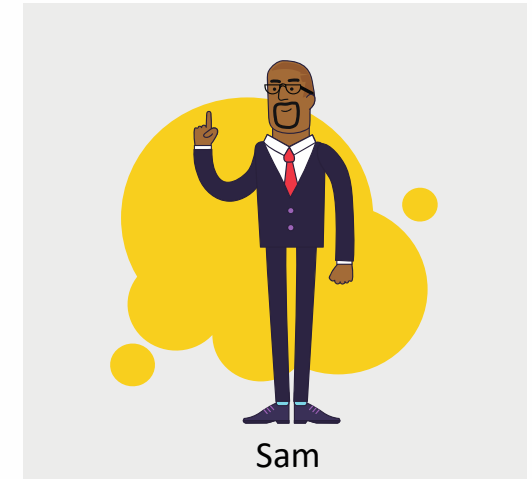
Norm

Scenario 3

Equity and ADUs

Two years ago, Sam, AICP, a planning consultant, worked on an accessory dwelling unit (ADU) ordinance for the town of Cullersville.

The ordinance, which was approved by city council, limited ADUs to the city's more-densely populated sections, which also is where a large percentage of the city's minority residents reside.



Scenario 3 (contd.)

Recently, in light of equity concerns, Sam has been reconsidering his work on the ordinance. He now would like to recommend to Odilia, AICP, Cullersville’s planning director, that the city should revise the ADU ordinance to be much more inclusive.


But Sam is concerned that, by doing so, he could be violating Rule of Conduct #3 (of the *AICP Ethics Code*) relating to “changed positions.”



Scenario 3 Questions

Q 3.1:
**Should Sam voice his concerns to Odilia,
Cullersville's planning director?**

- a) Yes
- b) No
- c) Not Sure



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Name

Credential

Certified Planner No.


Scenario 3

Questions (contd.)

Q 3.2:

If Sam works on these revisions, on behalf of Cullersville, is he violating Rule of Conduct #3?

- a) Yes
- b) No
- c) Not Sure



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Scenario 3

Ethical Issues

AICP Ethics Code “Aspirational Principles”

1a: We shall **always be conscious** of the rights of others.

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

1f: We shall seek social justice by working to **expand choice and opportunity for all persons**, recognizing a special responsibility to plan for the needs of the disadvantaged and to promote racial and economic integration. **We shall urge the alteration of policies, institutions, and decisions that oppose such needs.**

2a: We shall exercise **independent professional judgment** on behalf of our clients and employers.

3e: We shall...not accept the **applicability of a customary solution** without first establishing its appropriateness to the situation.

3j: We shall **contribute time and effort** to groups lacking in adequate planning resources and to **voluntary professional activities.**

Scenario 3

Ethical Issues (contd.)

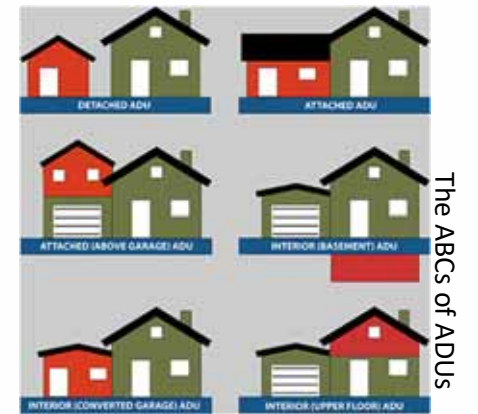
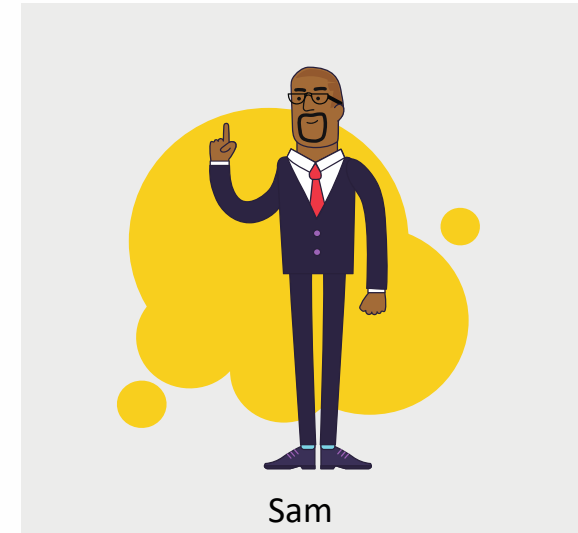
AICP Ethics Code “Rules of Conduct”

Rule 3: We shall not accept an assignment from a client or employer to publicly **advocate a position** on a planning issues that is **indistinguishably adverse** to a position we publicly advocated for a **previous client or employer** within the **past three years** unless (1) we determine in good faith after consultation with other qualified professionals that our change of position **will not cause present detriment to our previous client or employer**, and (2) we make full written disclosure of the conflict to our current client or employer and receive written permission to proceed with the assignment.

Scenario 3 Outcomes

In the real-life informal inquiry, on which this scenario was based, the AICP Ethics Officer said Sam’s concerns were supported by several of the *Code’s* “Aspirational Principles.”

However, the Ethics Officer also suggested that Sam raise this issue with Odilia in private—rather than in a public meeting—so that his “change in position” would not “cause detriment” to his client (the city of Cullersville).



Scenario 4

Emails/Social Media

Norm, AICP, is planning director of Levintown. At a contentious public meeting, a resident opposes a school expansion project, citing inadequate water service.

The next day, a contractor applies for a pool permit for Fenn Estates, where the resident lives. Norm responds to the contractor on his city email and uses a derogatory term for the resident. He copies several city officials and the resident on the email.



Norm



Alicia Fabre, Daily Southtown

Scenario 4 (contd.)

Later that evening, in a post on his personal Facebook page (under a pseudonym), Norm uses another obscene phrase to describe the same resident.

The next morning, realizing what he had done, Norm makes several attempts to erase both the social media post and the emails.



Jim Meisner, Jr.



Sheep Boutique

Scenario 4 Questions

Q 4.1:

Has Norm violated the *AICP Ethics Code* in his actions?

- a) Yes
- b) No
- c) Not Sure



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Scenario 4

Questions (contd.)

Q 4.2:

If so, what type of disciplinary measures should be taken by the AICP?

- a) Confidential Letter of Admonition
- b) Public Censure
- c) Suspension of Certification
- d) Revocation of Certification



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Scenario 4

Ethical Issues

AICP Ethics Code “Aspirational Principles”

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

1h: We shall **deal fairly** with all participants in the planning process.

3a: We shall **protect and enhance the integrity** of our profession.

3c: We shall describe and comment on the work and views of other professionals in a **fair and professional manner**.

AICP Ethics Code “Rules of Conduct”

Rule 10: We shall neither deliberately, nor with reckless indifference, **misrepresent** the qualifications, views, and findings of other professionals.

Rule 25: We shall neither deliberately, nor with reckless indifference, commit any **wrongful act**, whether or not specified in the Rules, that **reflects adversely on our professional fitness**.

Scenario 4 Outcomes

In the real-life case on which this scenario was based, the AICP Ethics Committee ruled that Norm had committed “wrongful acts” that reflected adversely on his professional fitness (Rule 25).

Norm’s **AICP certification was suspended for one year**, during which time he was directed to meet (i.e., professionally mentor) with a retired FAICP member who lives in the area.



DMV.org



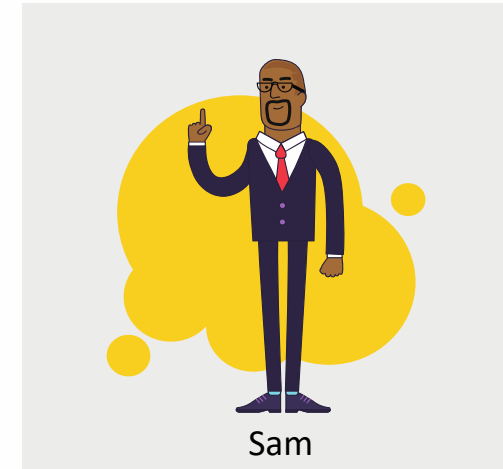
Wes Booher/Toledo Blade

Scenario 5

Revolving Door

Sam, AICP, who recently retired as the planning director of Hartford County, has started a private consulting firm.

Six months after his retirement, Sam is approached by a developer who would like his assistance in the permit application process for a new subdivision in Hartford County.



Stephan Schmitz/Science


Scenario 5

Questions

Q 5.1:

Would this be a violation of the *AICP Ethics Code*?

- a) Yes
- b) No
- c) Not Sure



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Name

Credential

Certified Planner No.

Scenario 5

Questions (contd.)

Q 5.2:

What ethical concern(s) should Sam have?

- a) Illegal conduct (Rule #2)
- b) Changed positions (Rule #3)
- c) Confidential information (Rule #7)
- d) Conflict of interest (Principle #2c)
- e) All of the above
- f) None of the above



Scenario 5

Ethical Issues

AICP Ethics Code “Aspirational 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**.

Scenario 5

Ethical Issues (contd.)

AICP Ethics Code “Rules of Conduct”

Rule 2: We shall not accept an assignment from a client or employer when the services to be performed involve **conduct that we know to be illegal** or in violation of these rules.

Rule 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 within the **past three years** unless...

Rule 7: We shall **not use to our personal advantage**, nor that of a subsequent client or employer, **information** gained in a professional relationship that...we should recognize as **confidential** because its disclosure could result in **embarrassment or other detriment** to the client or employer....

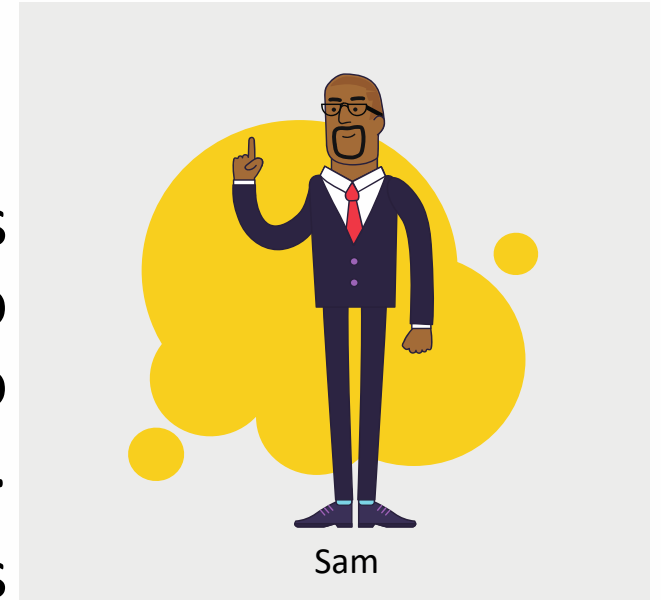
Scenario 5

Outcomes

In the real-life informal inquiry on which this scenario was based, the AICP Ethics Officer reminded Sam there are no time limits in the *Code*, except for Rule of Conduct #3 (no changed positions within three years).

However, he urged Sam to check local and state laws regarding “revolving door” policies for former public employees (Rule of Conduct #2).

He also reminded Sam not to reveal any confidential information that could be harmful to his former employer (Rule of Conduct #7).



Scenario 6

Sub and Salaried Consultants

Beverly, AICP, has been working the past few years as a part-time consultant for L&G, a large architecture and engineering firm. She also has done some consulting work for several other firms in other states.

L&G has asked Beverly to become a salaried employee, in order to support the firm's application to the federal Paycheck Protection Program (PPP). She agrees, even though she doesn't need the benefits of a salaried job.



Beverly



Scenario 6 (contd.)

Now, a small landscape design firm, Four Seasons, has asked Beverly to be a sub-consultant on a subdivision proposal it is submitting to a local government.

Even though the project is in a different state, Beverly is concerned she could be violating the *AICP Ethics Code* by accepting this sub-consulting job, since she is now a salaried employee of L&G.

She also has some concerns about L&G's PPP loan—and whether she may have violated any Rules of Conduct by accepting this salaried position.



Four Season Total Landscaping



iStock/WaPo

Scenario 6

Questions

Q 6.1:

Does Beverly have an ethical obligation to notify L&G of this job offer?

- a) Yes
- b) No
- c) Not Sure



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 of the Code are organized under the following headings:

THE PLANNER'S RESPONSIBILITY TO THE PUBLIC
A planner's primary obligation is to serve the public interest. A planner owes allegiance to a concept of the public interest that is formulated through continuous and open debate.

THE PLANNER'S RESPONSIBILITY TO CLIENTS AND EMPLOYERS
A planner owes diligent, creative, and competent performance of work in pursuit of the client's or employer's interest. Such performance should be consistent with the planner's faithful service to the public interest.

THE PLANNER'S RESPONSIBILITY TO THE PROFESSION AND TO COLLEAGUES
A planner should contribute to the development of the profession by improving knowledge and techniques, making work relevant to solutions of community problems, and increasing public understanding of planning activities.

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 _____ Credential _____ Certified Planner No. _____


Scenario 6

Questions (contd.)

Q 6.2:

Should Beverly ask to return to a sub-consulting role with L&G in light of her concerns about the PPP loan?

- a) Yes
- b) No
- c) Not Sure



Code of Ethics *and* Professional Conduct

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Name	Credential	Certified Planner No.

Scenario 6

Ethical Issues

AICP Ethics Code “Aspirational Principles”

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

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

AICP Ethics Code “Rules of Conduct”

Rule 4: We shall not, **as salaried employees**, undertake other employment in planning or a related profession, whether or not for pay, without having made **full written disclosure** to the employer who furnishes our salary and **having received subsequent written permission** to undertake additional employment, unless our employer has a written policy which expressly dispenses with a need to obtain such consent.

Scenario 6

Outcomes

In the real-life informal inquiry on which this scenario was based, the AICP Ethics Officer told Beverly that, because of her salaried position with L&G, she needed to comply with Rule of Conduct #4. Beverly subsequently requested and received written permission from L&G to work for Four Seasons Design.

Beverly also decided to research the federal PPP guidelines to make sure she wasn't violating any laws.



Beverly

Further Discussion

Cast of Characters

Which figures in planning history were the names of the “characters” based?





Beverly



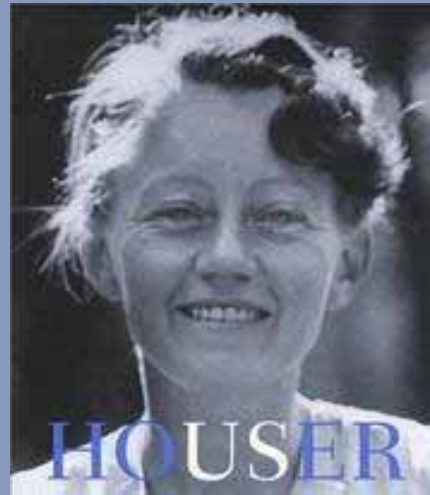
Beverly Loraine Green

(1915-57)

Architect, Planner



Catherine



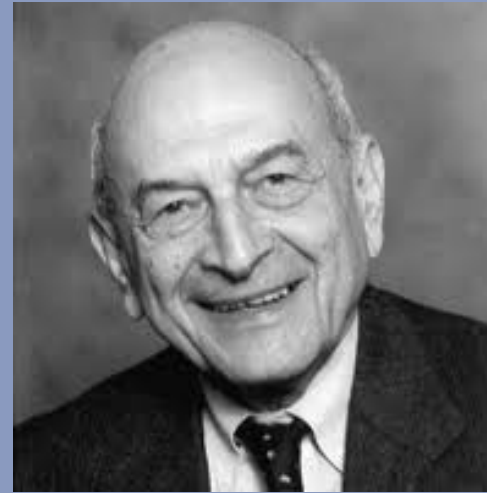
Catherine Bauer Wurster

(1905-64)

Housing Advocate, Educator



Norm



Norman Krumholz

(1927-2019)

Planner, Educator, Author



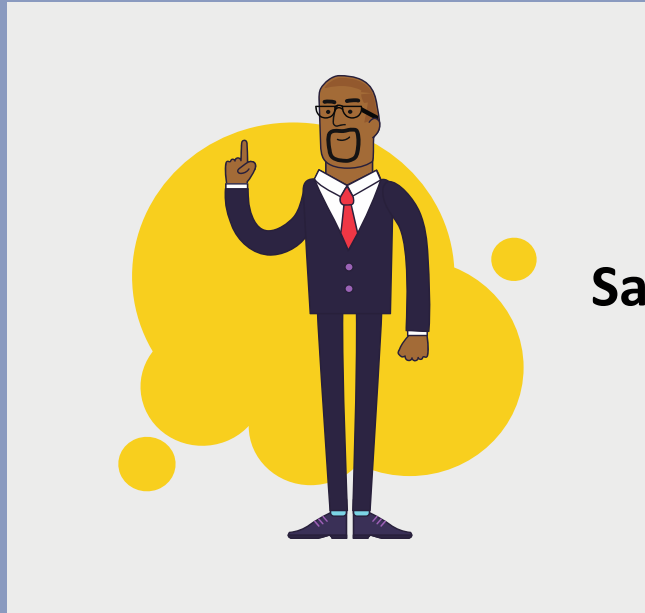
Odilia



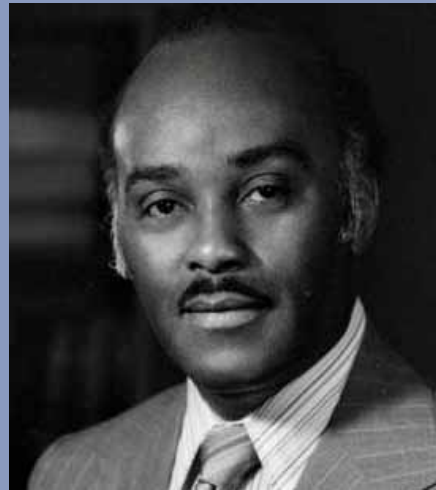
Odilia Suarez

(1923-2006)

Architect, Planner, Educator



Sam



Samuel J. Cullers

(1918-2005)

Planner, Advocate

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 about ethics, please visit planning.org/ethics

AICP Ethics Committee

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