APA AICP Ethics Training

American Planning Association
Colorado Chapter 2021 Conference
Ethics Session Team

• Eileen O. Yazzie, AICP
  Y2K Engineering, Transportation Planning Practice Manager

• Jason Longsdorf, AICP
  HDR Engineering, Transportation Planning Manager

• Sandy Beazley, AICP
  HDR Engineering, Environmental Project Manager
Agenda

• Why Ethics Training
• Ethics Code Overview
• Ethics Trivia
• Case Studies
• Group Discussion

PLEASE NOTE: This session has been created to provide general education regarding the AICP Code of Ethics. Though examples, sample problems, and question and answer sessions are an important part of illustrating application of the code’s provisions, all certified planners should be aware that “Only the Ethics Officer is authorized to give formal advice on the propriety of a planner’s proposed conduct.” (AICP Code of Ethics, Section C3). If you have a specific question regarding a situation arising in your practice, you are encouraged to seek the opinion of the Ethics Officer.
Why Ethics Training?

- APA AICP requirements:
  - AICP members are to know the Code of Ethics
  - Required CM credits
- Citizen, client, and colleague expectations
- Ethics is nuanced

"An ethical judgment often requires a conscientious balancing, based on the facts and context of a particular situation and on the precepts of the entire Code"
When Did You Last Look at the Ethics Code?

• During an AICP exam cram session?
• The last time you took an ethics training?
• When an ethics question arose?
• What code?
What is the AICP Code of Ethics and Professional Conduct?

- Aspirational Principles (Ideals)
- Rules of Conduct (Standards)
- Advisory Opinions
- Adjudication of Complaints
- Discipline of Members
Aspirational Principles

- Our Overall Responsibility to the Public
- Our Responsibility to Our Clients and Employers
- Our Responsibility to Our Profession and Colleagues
- Aspirational and applicable to all planners
- Not enforceable

Source: pxhere.com
Rules of Conduct

• Rules, think of these as shall and shall not
• Enforceable
• Prescriptive
• Real life situations make them nuanced

Source: https://complianceandethics.org/ethics-for-ethicists-code/
## Rules of Conduct

<table>
<thead>
<tr>
<th>Rules of Conduct</th>
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<tbody>
<tr>
<td>1. Inaccurate information, untruthfulness</td>
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<tr>
<td>2. Illegal or unethical conduct</td>
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<tr>
<td>3. Change of public position on an issue</td>
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<tr>
<td>4. Outside employment (moonlighting)</td>
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<tr>
<td>5. Acceptance of gifts or advantage</td>
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<tr>
<td>6. Personal or financial gain</td>
</tr>
<tr>
<td>7. Breach of confidentiality</td>
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<tr>
<td>8. Private communication (public)</td>
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<tr>
<td>9. Private communication (other)</td>
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<tr>
<td>10. Misrepresent others' qualifications</td>
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<td>11. Solicitation via false claims, duress</td>
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<td>12. Misstatement of one's qualifications</td>
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<td>13. Influence via improper means</td>
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<td>14. Official power used for advantage</td>
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<td>15. Work beyond professional competence</td>
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<td>16. Promptness of work required</td>
</tr>
<tr>
<td>17. Misuse of others' work</td>
</tr>
<tr>
<td>18. Pressure: unsubstantiated findings</td>
</tr>
<tr>
<td>19. Conceal interest/ fail to disclose</td>
</tr>
<tr>
<td>20. Unlawful discrimination: people</td>
</tr>
<tr>
<td>21. Cooperation in AICP investigation</td>
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<tr>
<td>22. Retaliation for misconduct charge</td>
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<tr>
<td>23. Threat to file charge (advantage)</td>
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<tr>
<td>24. No frivolous ethics charge</td>
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<td>25. Deliberate, wrongful act</td>
</tr>
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<td>26. Notification of &quot;serious crime&quot;</td>
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Advisory Opinions

- Informal advice
- Formal advice, solicited
- Formal advice, unsolicited
- Annual report
2020, 130 Requests for Informal Advice

Ethics Cases/Calls—By Topic Areas 2020

- Legal and Ethical Conduct (Rules 2, 25) - 37
- Honest and Fair Dealing (Rules 11, 17–20) - 31
- Conflicts of Interest (Rules 3, 5–6) - 27
- Quality of Practice (Rules 1, 15–16) - 27
- False or Deceptive Statements (Rules 10–12, 18) - 23
- Loyalty to Employer (Rules 4–5) - 19
- Respect for Confidentiality (Rule 7) - 19
- Private Communication (Rules 8–9) - 18
- Abuse of Position (Rules 13–14) - 13
- Misuse of Credential - 11
- Lack of Cooperation (Rules 21–24, 26) - 7

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2020 Reporting

• 130 requests for informal advice
• 21 misconduct cases
Adjudication of Complaints

- Filing a complaint
- Preliminary review
- Fact gathering
- Exploration of settlement
- Decision
- Appeal
- Effect of dropping of charges
- Reporting

synonyms for adjudication:
- ruling, finding, verdict, sentence, judgment, decision, determination, conclusion, pronouncement, resolution

Source: https://thesaurus.plus/img/synonyms/a804/adjudication.png
Discipline

• Admonition
• Public letter of censure
• Suspension of AICP
• Revocation of AICP
Which of these are sections of the APA Code of Conduct? (more than one answer may apply)

<table>
<thead>
<tr>
<th>Section</th>
<th>Percentage</th>
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<tr>
<td>Aspirational Principles</td>
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<tr>
<td>Our Rules of Conduct</td>
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<tr>
<td>Waivers from Code Rules</td>
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<td>Discipline of Members</td>
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<td>Ethical Counseling Services</td>
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What are the top 3 issues raised related to inquiries and misconduct cases?

<table>
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<tr>
<th>Issue</th>
<th>Percentage</th>
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<tr>
<td>Loyalty to employer</td>
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<td>Legal and ethical conduct</td>
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<td>False or deceptive statements</td>
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<tr>
<td>Conflicts of interest</td>
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<tr>
<td>Honest and fair dealing</td>
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How many sections are there in the AICP Code of Ethics and Professional Conduct?
Who determines if a hearing is to be held to review what discipline will be imposed on a member?

- The Ethics Officer
- Your Employer
- The APA Executive Board
- At the request of the member
What do you need to do if you are convicted of a serious crime?

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</tr>
<tr>
<td>Immediate notify the</td>
<td>Notify your employer</td>
<td>Immediately notify</td>
<td>No need to do</td>
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<tr>
<td>Ethics officer</td>
<td></td>
<td>your spouse</td>
<td>anything APA related</td>
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<tr>
<td>by certified</td>
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<td>and regular</td>
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<td>first class mail</td>
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Failure to achieve the code of aspirational principles can be the subject of a misconduct charge and disciplinary action.
What are you required to do if charged with ethical misconduct?

- Sign a confession
- Cooperate with the Ethics Officer and provide information requested
- Inform your employer
- Defend your actions
Who is the Ethics Officer?

Shelia Booth, AICP

Mitchell J. Silver, FAICP, AICP President

Susan A. Wood, FAICP

James Peters, FAICP
If you feel that an Advisory Opinion is incorrect, you may request reconsideration from:

- The Ethics Officer
- The Ethics Committee
- The AICP Commissioners
- Your mama :)

Once a formal advisory opinion is requested, the Ethics Committee must issue an advisory opinion.
The Ethics Officer must do which of the following (more than one may apply)?

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<tr>
<td>Offer a plea deal if the planner admits guilt</td>
<td>Post public notification of the complaint</td>
<td>Notify and consult with the Ethics Committee (prior to a potential settlement)</td>
<td>Impose discipline if there has been an ethics violation</td>
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To What Do We Aspire? (more than one may apply)

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<tr>
<td>Our overall responsibility to the public</td>
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<tr>
<td>Our responsibility to our clients and employers</td>
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<tr>
<td>Our responsibility to our profession and colleagues</td>
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<tr>
<td>Our responsibility to equity and the environment</td>
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</table>
We must provide timely, adequate, clear and accurate information on planning issues to:

- Our employers
- Activists and lobbyists
- All affected members of the public and Governmental decision makers
- Property owners
We should contribute time and resources to the professional development of...

- Disadvantaged communities
- Students, interns, and beginning planners
- Engineers
- The general public
How many informal advisory requests were reviewed by the Ethics Committee in 2020?
Confidential admonition letter, a public censure letter, suspension or revocation of AICP are...

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<tbody>
<tr>
<td><strong>Provided on official APA letterhead</strong></td>
<td><strong>Drafted by the APA Counsel</strong></td>
<td><strong>Potential forms of discipline</strong></td>
<td><strong>Posted for Public Review</strong></td>
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</tbody>
</table>
How many total misconduct cases did the Ethics Committee review in 2020?

- 5
- 15
- 21
- 27
Our responsibility includes educating the public about planning issues and their relevance to our everyday lives.
If convicted of a serious crime, membership of a certified planner shall be revoked. When can it be reinstated?

<table>
<thead>
<tr>
<th>Event</th>
<th>Time</th>
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<tbody>
<tr>
<td>Payment of a penalty</td>
<td>0</td>
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<td>If the conviction is overturned</td>
<td>0</td>
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<tr>
<td>When the planner admits they are sorry</td>
<td>0</td>
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<tr>
<td>When the state or federal punishment is completed</td>
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When was the last revision to the AICP Code of Ethics?
Which of the following conditions must occur to file a complaint? (more than one may apply)

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<tbody>
<tr>
<td>The complaint must include specific &quot;whereas&quot; statements</td>
<td>The complaint must be against a certified planner.</td>
<td>The complaint must cite the relevant provisions of the Code of Ethics that has been violated.</td>
<td>The complaint must explain how the Code of Ethics has been violated.</td>
</tr>
</tbody>
</table>
What is the greatest consequence of failing to adhere to the rules of conduct?

<table>
<thead>
<tr>
<th>Loss of certification</th>
<th>Public notice of the failure</th>
<th>Having to take the AICP exam again</th>
<th>Loss of job</th>
</tr>
</thead>
</table>
How many ethics cases/calls were received by the Ethics Committee from Colorado in 2020?
If your certification was revoked, you may petition the Ethics Committee for reinstatement in...

- 0 months
- 0 years
- 0 years
- 0 years
- 0 years
- 0 years
In a formal Advisory Opinion, the Ethics Committee must use the names of the parties involved in the opinion.
Scenarios – Breakout Session
Breakout Group

5 People per Group

6 Scenarios (2017 – 2021) - Come grab an envelope!
- All scenarios are from AICP Website

What’s in your envelope?
- Scenario Overview
- Answer Card

Your job as a group:
- Review & Discuss
- Determine if there was an ethics violation
- Identify of Related Aspirational Principles (Hint: there can be more than 1 Principle)
- Identify of Related Rules of Conduct (Hint: there can be more than 1 Rule)

8 - 10 Minutes

Group Session

Review 6 Scenarios
- Breakout Group reports out their answers
- Review the answers
- Review the outcome

20 Minutes
Resources

• Printed handout of first 6 pages of the Code of Ethics

• Websites:
  • https://www.planning.org/ethics/ethicscode/
  • https://www.planning.org/ethics/
Group Session

Review Scenarios & Outcomes
Scenario 1 (2021)
- 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.
Scenario 1 (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.
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 1

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

a) Yes
b) No
c) Not Sure
Has Norm violated the *AICP Ethics Code* in his actions?

a) Yes
b) No
c) Not Sure
Scenario 2 (2021)
R 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.
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.
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....
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).
Would this be a violation of the AICP Ethics Code?

a) Yes
b) No
c) Not Sure
Would this be a violation of the AICP Ethics Code?

a) Yes
b) No
c) Not Sure
Scenario 3 (2020)
Professional Misrepresentation

Jane, AICP, a consultant, learns that Lucio, AICP, Costaville’s planning director, is blaming Jane for the recent defeat by city council of a subarea plan she worked on.

In a meeting, Lucio tells the Mayor that Jane’s firm never should be hired again.

Jane hears this from Norman, AICP, who knows the plan’s failure was due to Lucio’s poor political skills. Norman, who works for Lucio, was in the meeting.
Scenario 3 (contd.)

Because Costaville has been a major client of Jane’s firm, Lucio’s statement to the Mayor will have a major impact. Jane decides to file a complaint of ethical misconduct against Lucio, citing a violation of Rule #10 in the AICP Ethics Code.

Unfortunately, there is no proof of what Lucio said to the Mayor and, because Norman, AICP, says he can not step forward to attest to what was said in the meeting, the complaint is dismissed.
Scenario 3
Ethical Issues

**AICP Ethics Code “Aspirational Principles”**
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”**
#10: We shall neither deliberately, nor with reckless indifference, misrepresent qualifications, views, and findings of other professionals.

#21: We shall not withhold cooperation or information from the AICP Ethics Officer or the AICP Ethics Committee if a charge of ethical misconduct has been filed against us.
Outcomes

• In the real-life case, on which this scenario was based, no one in the meeting (including at least one AICP member) was willing to corroborate the allegation to the Ethics Officer—even with a promise of confidentiality.

• Consequently, after several months, the misconduct complaint was dismissed due to lack of evidence.
Scenario 4 (2020)
Virtual Public Engagement

During the recent viral pandemic, Costaville moved its public meetings to web-based platforms, where public engagement was handled through online forums and chat rooms.

With continued concerns about face-to-face interactions, the Mayor has told his planning director, Lucio, AICP, to use a similar technology for an upcoming Subarea Plan workshop.
Scenario 4 (contd.)

Lucio tells the Mayor this will exclude many residents who don’t have access to—or proficiency with—computers. Also, some residents won’t be able to access the draft documents.

Finally, Lucio says, many of these same people have concerns about affordable housing, which is a key element of the draft plan.

Lucio suggests delaying the plan until an in-person workshop can be held. The Mayor, however, fearing the loss of state funding for the plan, orders him to go ahead with the virtual public workshop.
Ethical Issues

AICP Ethics Code “Aspirational Principles”
1d: “We shall provide timely, adequate, clear, and accurate information on planning issues to all affected persons and to government decision makers.”
1e: We shall give people the opportunity to have a meaningful impact on the development of plans and programs that may affect them. Participation should be broad enough to include those who lack formal organization or influence.”
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.”
2b: “We shall accept the decisions of our client and employer...unless the course of action is illegal or plainly inconsistent with our primary obligation to the public interest.”
Ethical Issues (contd.)

_AICP Ethics Code “Rules of Conduct”_

#1: “We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear, and accurate information on planning issues.”

#18: “We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.”

#20: “We shall not unlawfully discriminate against another person.”
Outcomes

This scenario, which was written early on during the Covid-19 global pandemic, was not based on a real-life situation.

However, at least one community is facing a lawsuit by a group of residents who say they were not able to participate in a Plan Commission meeting on a controversial project during the pandemic—due to their lack of internet access.
Scenario 5 (2017)  
- Plagiarism

Jane, AICP, is a senior planner with a regional planning agency. One of her duties is to review draft comp plans.

After reviewing a draft plan for Geddesville, she sees that large portions of the text also appear—verbatim, including typos—in another community’s adopted plan.
Scenario 5 (cont.)

Jane phones Patrick, AICP, the consultant who prepared the draft plan. After discussing the plan’s review process, Jane asks Patrick about the copied text.

Patrick defends this as “acceptable practice,” noting that he has listed the other community’s plan—which was prepared by a different consulting firm—in his bibliography.
Ethical Issues

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

*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.”
Ethical Issues

Q: What about copying or borrowing definitions and language from other codes, etc.?

**Principle #3e:** “We shall examine the applicability of planning theories, methods, research...of each particular situation and shall not accept the applicability of a customary situation without first establishing its appropriateness to the situation.”
Ethical Issues

If Patrick does not agree to make changes, should Jane inform the community so it can revise the draft plan?

*Ethics Code Principle #3a:* “We shall protect and enhance the integrity of our profession.”

*Ethics Code Principle #3c:* “We shall describe and comment on the work and views of other professionals in a fair and professional manner.”
No Outcome Posted

Questions

Q: Is this an “acceptable” practice by Patrick?

Q: If not, what—if anything—should Jane do to comply with her ethical requirements under the AICP Code?
Scenario 6 (2017)

Accurate Information

Rosie is responsible for reviewing site plan submittals. Because Orbit City has numerous lakes within its boundaries, there are growing concerns about stormwater runoff.

Consequently, one of the items on the site plan application is a question: “Does your project result in any new stormwater runoff or paved surfaces?”
Scenario 6 (cont.)

Rosie tells Jane (her supervisor) that, based on her review of the site plans, some applicants are incorrectly checking the box, “no new stormwater runoff or paved surfaces,” on their applications.

Jane approaches her boss, Mr. Spacely, about the matter. He tells Jane to not question the applicants, but to simply accept the applications as they are submitted.
Ethical Issues

Providing inaccurate information—when you know something is wrong

*Principle #1g:* “We shall...endeavor to conserve and preserve the integrity and heritage of the natural and built environment.”

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

*Principle #2b:* “We shall accept the decisions of our client or employer...[unless] plainly inconsistent with our primary obligation to the public interest.”

*Rule #1:* “We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear, and accurate information on planning issues.”

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Ethical Issues

Jane directs Rosie to ignore evidence

*Principle #1g:* “We shall...endeavor to conserve and preserve the integrity and heritage of the natural and built environment.”

*Principle #2b:* “We shall accept the decisions of our client or employer...[unless] plainly inconsistent with our primary obligation to the public interest.”

*Rule #1:* “We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear, and accurate information on planning issues.”

*Rule #18:* “We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.”
Ethical Issues

What are the ethical implications for Mr. Spacely, who is not an AICP member?

As a non-professional involved in the planning process Mr. Spacely also has “ethical principles”

Ethical Principles for Planning:

#6: “Strive to protect the integrity of the natural environment”

#11: “Not misrepresent facts or distort information.”
Scenarios – Breakout Session

Questions/Discussion?
Group Session Discussion:

Examples
Situations