



Ethics in the Planning Profession

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Introduction

First and foremost, one needs to establish a basis for the discussion of ethics and the practical application of ethical principals to daily life. Ethics cannot be a subject that is discussed in the pristine sense of Plato's absolute truths. This is not to say that there are not absolute ethical principals that can be discerned, but rather that ethics must be capable of being applied in everyday, realistic settings and situations. Ethics cannot be something that one discusses in the abstract, never reaching effective practice in a planner's daily responsibilities. Ethics must be something practiced as well as preached!

Let us look at what ethics is not. Ethics is not what our feelings tell us is right or wrong, and it is not a matter of following our feelings in a given situation. Ethics does not necessarily have anything to do with our religious beliefs. Ethics is not a matter of doing only what the law requires. And ethics may not consist solely of the practicing standards of behavior a given society accepts. While ethics must be practiced by individuals, ethics are of a general nature that should be applicable across the entirety of human experience.

Ethics must be more than simple societal mores. Ethics are obligations each person has towards their fellow humans. Ethics are proscriptions for certain types of behavior (e.g. theft, rape, murder), and mandates for others (e.g. honesty, compassion, loyalty). Ethics is also process related in that it implies not only fair and impartial dealing, but also a constant study and review of our behavior to ascertain whether we, and the society of which we are all a part, maintain the standards associated with the fundamental bases of ethics and ethical behavior.

So what then is ethics and ethical behavior? More to the point, what is ethics and ethical behavior for planners? Even more specifically, how does a practicing planner determine what kind of behavior is ethical in a given situation? These are questions of deceptive simplicity; what appears to be capable of being answered in an absolute fashion in theory often breaks down in the harsh light of experience. Let us turn to the AICP Code of

Ethics and attempt to draw some conclusions about ethics and ethical responsibilities we all have as planners.

AICP Ethics

The Code is divided into three parts: 1.) Principles to Which We Aspire; 2.) Our Rules of Conduct; and 3.) Our Code Procedures. It is important to read the Code carefully, ascribing full meaning to each and every part. Further, the Code must be read in its entirety, that is it must be read as a whole, and each part related to all other parts. As is the case with ethics in general, this is a task that may deceptively easy, but in truth requires a degree of reflection.

The introduction to the Code notes that, “We shall strive to act in accordance with our stated principles.” Certainly it can be accepted that the ethical person strives always to act in accordance with the ethical principals which govern his or her life. But, the statement also implies that as human beings we are fallible. We can so strive, but as imperfect humans, we often fail to meet 100% of our expectations. Does this mean that, as planners, we are not ethical because we occasionally fall short of expectations? The answer to this question must be, “No.” The Code even goes on to state, “However, an allegation that we failed to achieve our aspirational principles cannot be the subject of a misconduct charge or be a cause for disciplinary action.” Thus, this portion of the Code is intended as a road map for our efforts to become more ethical in the practice of our profession, something to which we as professionals aspire, but not as minimum standards to which planners must conform.

By dividing the Code of Ethics into aspirations, rules of conducts, and procedures, AICP has attempted to provide guidance in the primary areas of ethical endeavor. First, goals towards which we, as planners, must strive are articulated in an effort to provide a target for perfection. Additionally, by providing aspirational principles, we are reminded that while we may never be perfect, we must always *strive* for perfection. We are reminded of the bases of ethical behavior through principles associated with honesty, compassion, loyalty, justice, participation, and even-handedness. Further, by considering all of the aspirational principles as a whole, we are reminded that many of the circumstances in which we find ourselves are not easily solvable, or even simply classified as impacting a single aspect of our ethical principles.

The Rules of Conduct represent an attempt to apply the aspirations of the AICP to a general description of a planner's everyday professional practice. It is within the framework of these rules that each of us ply our craft; as members of AICP we have pledged ourselves to fundamental, guiding principles of conduct for our vocation. Violation of these rules means that we have either ignored, a passive violation, or consciously breeched, an active violation, the basis upon which our profession is founded.

As a minor digression, it is noted that the planning profession includes more than AICP members. Issues related to licensure and certification have been a matter of some debate over the years. True, by not establishing a mandatory certification program on a state by state basis, we allow anyone, qualified or not, to refer to themselves as planners. Whether one agrees with this approach or yearns for mandatory certification, this is the situation in which we as planners find ourselves: virtually anyone can hang out a shingle and describe themselves as a planner. Only AICP members are *obliged* to follow the Code. This makes the Code ever so much more important. When someone from outside the profession sees the 'AICP' following a planner's name, there is, or should be, an expectation of higher professional standards, greater knowledge, and uniform practices as a result of the AICP planner's expertise as demonstrated by the designation and commitment in ascribing to the Code. Thus, it is critically important the all AICP's be aware of the Code at all times and in all facets of their practice.

Although anecdotal rather than empirical, it would appear that in discussing the application of the Rules of Conduct with other planners, no other issue arises more often than the question of accepting or offering gifts to public employees. The classic situation arises when planners meet for lunch and a consultant offers to pay. However, there have been situations where a corporate sponsor provides refreshments at local planning chapter meetings, corporate sponsors supply gifts for participants in state conferences, and local planning firms cause gifts or party invitations to be delivered to public agencies during holiday periods. The question is always, "Is it a violation of the Code to accept the proffered 'goody' by the public employee, and is it a violation of the Code to make the offer by the private sector planner?" Let us consider this situation in more detail.

First and foremost, planners on both sides of the transaction need to consult local statutes, ordinances, codes, and regulations regarding 'gifting' of

public employees. Many local and state jurisdictions have very detailed mandates regarding the kinds of gifts, offers, invitations, and other benefits that can be provided to public employees. Some areas limit gifts to a certain dollar amount, others restrict personnel that can receive gifts, and others have reporting requirements associated with any gifts made or even offered. This discussion is not intended to address any of those situations, and individuals interested in providing some sort of benefit to public employees are advised to check carefully the applicable rules before undertaking any kind of program that could be viewed as a gift to public sector employees. Likewise, public planners need to look into applicable rules prior to acceptance of any gifts, benefits, or invitations from their private sector colleagues. Finally, a practical consideration should also be reflected upon: if a report of the gifting process were to be published in the local newspaper, would an unfriendly journalist be able to present it in an unfavorable light that, regardless of innocence, causes the gift to be perceived as evidence of corruption?

For purposes of this discussion, we are going to consider only the AICP Code and its applicability. Suppose in this instance that two former colleagues, both AICP planners, meet for lunch. One has now risen to the level of planning director while the other has left the public sector to become a site selection manager for a national shopping center developer. Good friends, these two individuals have long been in the habit of trading off the purchase of lunches for each other five or six times per year for the last 5—6 years. As the private sector planner reaches for the check, the public sector planner indicates that the new AICP Code prohibits the acceptance of lunch as had been their previous practice.

In the Code, the Rules of Conduct state, “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.” In the situation described, the question becomes clearly whether the purchase of a lunch, in a context that has been ongoing for some period of years, constitutes compensation, a commission, a rebate, or some other advantage that may be perceived as related to our public employment. Initially, most respondents in discussion groups are somewhat insulted to think that a professional planner could be perceived as violating his or her ethics over something as trivial as a lunch. By this I mean that the concept that anyone would provide some beneficial treatment for the price of a lunch is generally perceived as silly. However,

there is a need to carefully consider not only the wording of the Rule, but also the intention behind it.

This specific rule is intended not only to address a situation of actual corruption, but also innocuous situations that could be perceived as questionable. The Rule indicates that perception is important for the simple reason that the public sector planner must be seen as impartial, even-handed, and indebted to no private entity in the practice of his or her profession. Like Caesar's wife, he or she must be above reproach.

This is not to suggest that the friend now in the private sector is attempting to provide undue influence with regard to permitting issues related to his employer. In fact, both persons are professional planners, experts in their fields of endeavor, and both are bound by the same Code of Ethics. It is as much a violation of the Code for the public sector planner to accept a gift as it is a violation for the private sector planner to offer it, if such a gift could be perceived as relating to the public official's employment. In this situation, however, it is clear that simple common sense can carry the day. If indeed the two individuals are friends, then an agreement to split the cost of lunch, rather than having each other pay on alternating occasions is a simple and expedient manner in which the ethical challenge can be solved. In that fashion, the question of receipt of a gift is removed from the equation.

A more difficult situation arises for the public sector employee when his or her supervisor, often a County or City Manager, provides 'direction' on a planning or permitting issue. For example, consider the situation where a City Manager calls the City's planner to inform him or her that the Manager's brother-in-law has just submitted a request for a variance to allow the brother-in-law's welding shop to reduce the setback and buffer from an adjoining residential neighborhood. The Manager suggests that the planner needs to 'assist' the brother-in-law in making sure that the variance gets approved by the City's Zoning Adjustment Board.

This situation is similar to ones faced on a regular basis by planners all over the country. There are a number of elements that grate on those of us with public sector experience, but it is important to look at the situation carefully. First, if it was not the Manager asking for assistance for the brother-in-law, but rather a regular citizen, would the request be as onerous? Certainly, the Manager may have been using his position to suggest that a recommendation of approval should be issued. But, the Manager may have also been

expressing his desires, as is the right of any member of the public, to have the planner assist in the analysis of the situation on behalf of the brother-in-law. Until the situation is reviewed and analyzed, a rush to conclusion should be avoided simply because the Code requires that **all** persons be treated fairly and with even-handedness. Further, as members of AICP, we are bound to supply clear and accurate information on planning issues. In this instance we need to separate the people from the issues.

So, how then do we proceed in this situation? First, do an analysis of the request. Undertake the analysis using the same techniques, tools, and methods that any variance request would demand. Once the request has been analyzed, a decision point will be reached. If the request is reasonable, the ethical dilemma is avoided. The planner can articulate a recommendation of approval consistent with past decisions and based upon whatever justifications have been approved in prior cases.

If the request is unreasonable, the planner must ask what the next step will be. Possible courses of action include meeting with the applicant (the brother-in-law) and discussing the difficulties inherent in the request. Often by pointing out that the proposal will intrude into the neighbors' rights a modification to the request can be obtained. Alternative design options could be explored and the neighbors could be consulted to ascertain what kinds of alternate buffers or setbacks could be considered. Creative mediation and open communications can often solve problems before ethical challenges arise.

Let us say, however, that all of these strategies have failed and the brother-in-law has complained to the Manager that the planner is being less than cooperative. The Manager issues a directive, either recommend approval or else...leaving the 'or else' undefined. The planner must make a difficult decision. He or she can attempt to persuade the Manager to allow someone outside the administration to handle the case, indicating that it is a potential violation of the AICP Code for the planner to review it. Suggesting that the situation would look problematic in the local press once it becomes public can often assist in persuading public officials to 'farm out' difficult cases. The planner can attempt to educate the Manager about possible solutions to the difficulty in the form of modifications or conditions to be placed upon the request, indicating that although the brother-in-law may have difficulties with such conditions, approval without them will be against the public interest. Another option could involve a request to the Manager to review

the Manager's code of ethics (Yes, the ICMA has one.) and advise how the situation should be handled in light of those tenets.

When all else fails, however, the planner must be committed enough to explain the difficulties associated with the request, the basis of the planner's opinion, and provide constructive alternatives for consideration. If the Manager's direction is such that the planner is being directed to violate his or her ethical rules, then the planner has no recourse but to refuse.

Conclusion

There are an infinite number of hypothetical situations that can be posited for the planning profession. Although the hypothetical situations noted above involved public planners, they could have as easily been privately based. As AICP planners, we have committed to the ethical practice of our discipline. We should be aware that other disciplines have ethical practice codes as well, and seek to interface on an ethical level with all professions with which we deal. In the final analysis, as planners we must all be cognizant of our ethical responsibilities at all times during the practice of our craft. Likewise, we must be constructive, imaginative, and truthful in our efforts to assist others attain ethical outcomes to the challenges we face.