AICP Code of Ethics: Private Sector vs. Public Sector

*Sponsored by APA’s Private Practice Division*

Indiana Chapter, American Planning Association

FALL CONFERENCE -- October 20, 2011
APA’s Private Practice Division

- This is “Practice” for Division’s Session at APA – Los Angeles
- How are consultants perceived?
LEARNING OBJECTIVES:

- Understand the standards of ethical behavior according to the AICP Code of Ethics and Professional Conduct.

- Examine AICP ethics, view situations from a variety of perspectives and take many variables into consideration.

- Understand the implications of AICP ethics in situations involving private consultants.
Session Summary

- AICP Code describes planners’ ethical responsibilities to the public, clients, employers, profession, and colleagues, as well as rules of conduct.

- Do the ethics for private planning consultants differ from public sector planners? In reality? Per the Code?

- How should the AICP Code of Ethics be implemented in situations involving consulting planners?
Audience Participation

- Write down ? on note cards
- Interact with us during presentation
Panelists who are AICP

- Shane Burkhardt
- Kevin Buchheit
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Panelists who are Private Practice Division Members

- Shane Burkhardt
- Kevin Buchheit
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Panelists with Public Sector Experience

- Shane Burkhardt
- Kevin Buchheit
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Panelists with Private Sector Experience

- Shane Burkhardt
- Kevin Buchheit
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Panelists who were College Classmates and Friends

- Shane Burkhardt
- Kevin Buchheit
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Panelists who work for Law Firms

- Shane Burkhardt
- Kevin Buchheit
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Panelists who are Neighbors with Daughters the Same Age

- Shane Burkhardt
- **Kevin Buchheit**
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Panelists who like good craft beer, and were all drinking it at a summer cook-out...

- Shane Burkhardt
- Kevin Buchheit
- Elizabeth Williams
- Josh Desmond
- K.K. Gerhart-Fritz
Planner Stereotypes

- Are there different sets of ethics for Private Sector and Public Sector Planners?
- Have the perceptions changed with the down economy?
Planner Stereotypes...
Which is Which?
Big Woods Brewing, last night...

“As a planning consultant, am I supposed to buy drinks for public sector planners who are clients and/or potential clients at our conference reception as part of marketing?”
Marketing Budgets and Ethics

- Who has one?
- What is it used for?
- Is there pressure to use it?
Overview: AICP Code of Ethics

The Code sets standards of behavior

- **Aspirational**...the values and ideas we aim for. These are not enforceable by AICP, but shouldn’t be ignored.

- They include:
  - Overall responsibility to public
  - Responsibility to clients and employers
  - Responsibility to profession and colleagues
How’s that aspirational stuff working out for you?

My First taste of Fat Tire was in Denver during a visit. I came back to Indiana telling all my friends what a great beer it was, but, alas we could not find it here. Then, the beer gods looked kindly on the Hoosier State and bestowed this fine elixir upon us for our enjoyment. Now its my favorite form of refreshment after an epic bike ride in our wonderfully flat, vertically challenged state!

Pete F. - Indiana
Overview: AICP Code of Ethics

**Mandatory**...these are the “official” rules of conduct. They are enforceable by AICP.

- They include (26 statements in all):
  - Conflicts of interest (financial and otherwise)
  - Job performance
  - Private communications in matters we’re responsible for
  - Discrimination
  - Cooperation with AICP
Overview: AICP Code of Ethics

The Code also sets procedures for charges and rulings

- Obtaining formal and informal advice
- How to file a charge of misconduct and how that’s investigated
- Hearings and decisions
- Suspension and reinstatement
Overview: AICP Code of Ethics

- All of this information is available on the APA website [www.planning.org/ethics/index.htm](http://www.planning.org/ethics/index.htm)
- Click on the “AICP Code of Ethics and Professional Conduct” link for the document.
A: Principles to Which We Aspire

2. Our Responsibility to Our Clients and Employers

We owe diligent, creative, and competent performance of the work we do in pursuit of our client or employer's interest. Such performance, however, shall always be consistent with our faithful service to the public interest.

a) We shall exercise independent professional judgment on behalf of our clients and employers.

b) We shall accept the decisions of our client or employer concerning the objectives and nature of the professional services we perform unless the course of action is illegal or plainly inconsistent with our primary obligation to the public interest.

c) We shall avoid a conflict of interest or even the appearance of a conflict of interest in accepting assignments from clients or employers.
A: Principles to Which We Aspire
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) We shall protect and enhance the integrity of our profession.

b) We shall educate the public about planning issues and their relevance to our everyday lives.

c) We shall describe and comment on the work and views of other professionals in a fair and professional manner.
B: Our Rules of Conduct

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 *(the AICP Code)*.

*Times are tough – can we afford to turn down work? what if we aren’t sure if it violates Code?*
B: Our Rules of Conduct

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.

*Does this include a beer at a reception?*
B: Our Rules of Conduct

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

*What about a personal relationship? Indiana is a small world planning-wise...*
B: Our Rules of Conduct

11. We shall not solicit prospective clients or employment through use of false or misleading claims....
B: Our Rules of Conduct

13. We shall not sell, or offer to sell, services by stating or implying an ability to influence decisions by improper means.

Connections... what if you don’t state or imply it, but everyone knows the connections?

Lawyers are all about influencing decisions (by "proper means")... what about planning consultants?
B: Our Rules of Conduct

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.

*Different interpretation of “special advantage” for public sector planner vs. private sector planner?*
B: Our Rules of Conduct

15. We shall not accept work beyond our professional competence unless the client or employer understands and agrees that such work will be performed by another professional competent to perform the work and acceptable to the client or employer.
B: Our Rules of Conduct

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

- *Do attorneys do this?*
- *Isn’t the evidence often subjective?*
B: Our Rules of Conduct

19. We shall not fail to disclose the interests of our client or employer when participating in the planning process. Nor shall we participate in an effort to conceal the true interests of our client or employer.

- Can you represent a remonstrator without sharing their identity?
- Don’t ask, don’t tell philosophy on client interests?
Too Poor to Really Retire...

- The retired city planning director becomes a consultant. His first project is from his former employer – they don’t ask anyone else for responses.

- Is this an ethical conflict for him as a private sector planner or for his public sector potential client?

- More employers are using contract employees and consultants as a way to save budget. Implications?
Competition

- Your firm forces you to sign a non-compete clause as a condition of employment.
- You are laid off and decide to start your own consulting firm.
- You have a good relationship with your old clients. Is it wrong to respond to a RFP they send you, when you know the RFP has also been sent to your old firm?
- Does the Code address a “waiting period”?
Sub Abuse

- A planning consulting firm frequently submits proposals using subs who are specifically qualified for the work.
- When they get the contract, they assign their own less qualified employees to the project.
- *What are the ethical implications of this practice?*
- *Isn’t saving $ good business practice?*
Conclusions

- *Do private sector planners and public sector planners look at ethics differently?*
Who is buying at Salt Creek tonight?