



AICP Ethics in Action:

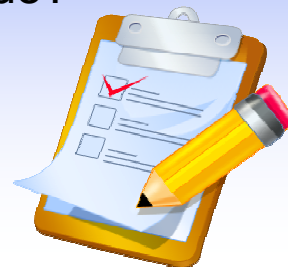
What would you do?

Della G. Rucker, AICP
Jacobs Advance Planning Group

KAPA Spring Conference
May 21, 2009

Game Plan:

- What is the AICP Code of Ethics?
- What does it not say?
- How can you use this Code?
 - *Group Challenges!*
 - *Report Out*



What Is the AICP Code of Ethics?

- A statement of standards according to which professional planners are supposed to operate.
 - “A guide to the ethical conduct required of members of the American Institute of Certified Planners.”
 - “The Code also aims at informing the public of the principles to which professional planners are committed.”
- When you become AICP, you are agreeing to adhere to these ethical standards.
- Revised periodically by member committees; last revision was in 2005.



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What does the Code of Ethics say?

Three parts:

- **Part A: “Principles to Which We Aspire”**
 - “We shall...”
- **Part B: “Our Rules of Conduct”**
 - More “We shall...” But more specific.
 - Mix of ethical standards and “don’t break the law”
- **Part C: “Our Code Procedures”**
 - Review/hearing process
 - Note that B can be enforced, but not A



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So... what do you do with all that?

Here's our process:

1. Divide up (just like gym class...)
2. Get your scenario
3. Appoint a recorder and a presenter
4. Answer your questions – consensus required!
5. Get ready to present.



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Scenario A



You are the City Planning Director. The local airport authority, which is operated jointly by the City and County, is proposing an expansion to the airport. The airport serves general aviation, such as private pilots, helicopters and commuter jets. The city's Comprehensive Plan identifies this site as a future nature park because of its wetlands and its proximity to a school. But the county's Economic Development Director asserts that the airport has to be expanded to attract new businesses. Your county has been hit by some downsizing and could certainly use some new businesses. The Economic Development Director has a close working relationship with the County Commissioners, who value his insight. City Council is divided.

- What is the potential ethical dilemma in this scenario?
- What does the AICP Code of Ethics have to say that is relevant to this situation?
- What is the most ethical position for you to take?
- What is the most ethical way for you to manage this situation?
- What do you think would be the most **effective** way to resolve this? How does that agree with or differ from the ethical approaches you identified before?

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Scenario B



You are a consultant. A city has issued a Request for Proposals for a comprehensive plan. The city has included no information regarding the budget for the project, but they are requiring a cost proposal. Since the City's budget is a public record, you are able to determine approximately how much money the planning department has available for studies in the current budget year. Based on your understanding of the extent of the services they desire, you do not think that their budget is adequate. You would like to work with this community, but there are several other firms that are likely to submit proposals (and at least one has a reputation among other consultants for purposely low-balling cost proposals and then demanding more money later).

- What is the potential ethical dilemma in this scenario?
- What does the AICP Code of Ethics have to say that is relevant to this situation?
- What is the most ethical position for you to take?
- What is the most ethical way for you to manage this situation?
- What do you think would be the most effective way to resolve this? How does that agree with or differ from the ethical approaches you identified before?
- Was it ethical of you to look up the budget?

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Scenario C



You are the Community Development Director. There is a property with significant environmental contamination near your downtown. The property is owned by an elderly and cantankerous widower who refused to do anything to remediate the property. It is likely, but not known, that the costs to clean up the site exceed the property's current value. This property is having a serious negative impact on the historic area surrounding it. Your Comprehensive Plan identified this area as a priority for commercial redevelopment, and you are working on rezoning it as part of a comprehensive zoning overhaul.

While you are working on the zoning, a developer approaches you. She is interested in rehabilitating the property for retail development, but she claims that she cannot afford to redevelop it if the property owner thinks he can get retail price per square foot for the property. She wants you to hold off on rezoning until she gets the property under contract.

- What is the potential ethical dilemma in this scenario?
- What does the AICP Code of Ethics have to say that is relevant to this situation?
- What is the most ethical position for you to take?
- What is the most ethical way for you to manage this situation?
- What do you think would be the most effective way to resolve this? How does that agree with or differ from the ethical approaches you identified before?
- Does your answer change if you live in the historic neighborhood that is being impacted?

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Scenario D



You are the zoning director in a fast-growing community, and in your spare time you serve as a volunteer board member for a downtown revitalization nonprofit corporation. The corporation has lost a major corporate funder, and all of the board members are under intense pressure to raise additional donations. You are debating asking some of the developers you know. They have plenty of money, they are one of the most affluent industries in the area, and you know all of them personally and cordially. No one else would be as effective as you in convincing them to donate. But you have heard a story about a board member in another town who was a judge and received a reprimand from the Bar Association because she got some of the local defense attorneys to donate, and some people claimed they were coerced because she was in a position of power over them. You are deeply invested in the nonprofit's vision, and the organization really needs the money.

- What does the AICP Code of Ethics have to say that is relevant to this situation?
- What is the most ethical position for you to take?
- What is the most ethical way for you to manage this situation?
- What do you think would be the most effective way to resolve this? How does that agree with or differ from the ethical approaches you identified before?
- Under what circumstances is it OK for you to do fundraising?

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Scenario E:



You are a senior staff member for the County Planning Commission. At a public hearing on the Department budget, you are shocked to hear one of the County Commissioners completely misinterpret some of the cost data in the previous year's budget report. You know that the full set of data indicates that your department's costs have risen, but the Commissioner is citing that data selectively and using it to indicate that costs have not risen. You do not know if the Commissioner is misunderstanding the data or intentionally misrepresenting it. No one knows that you know this.

- What is the potential ethical dilemma in this scenario?
- What does the AICP Code of Ethics have to say that is relevant to this situation?
- What is the most ethical position for you to take?
- What is the most ethical way for you to manage this situation?
- What do you think would be the most effective way to resolve this? How does that agree with or differ from the ethical approaches you identified before?
- Would it make a difference if it was your department head who was making the presentation, rather than an elected official? How would that change your response?

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Hmmm....

- What common characteristics do you notice among the responses?
- What seemed to take precedence the majority of the time: the AICP Ethics code, some other ethical standard, or expediency?
- Which Scenario seemed easiest? Why?
- Which Scenario seemed most difficult? Why?
- What do *you* think is the most important thing to learn about the AICP Code of Ethics?



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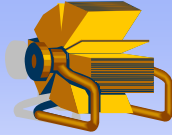
YAY!!



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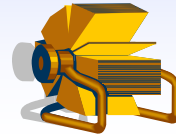
Thank you!



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AICP Code of Ethics and Professional Conduct

Adopted March 19, 2005

Effective June 1, 2005

The Executive Director of APA/AICP is the Ethics Officer as referenced in the following.

We, professional planners, who are members of the American Institute of Certified Planners, subscribe to our Institute's Code of Ethics and Professional Conduct. Our Code is divided into three sections:

Section A contains a statement of aspirational principles that constitute the ideals to which we are committed. We shall strive to act in accordance with our stated principles. 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.

Section B contains rules of conduct to which we are held accountable. If we violate any of these rules, we can be the object of a charge of misconduct and shall have the responsibility of responding to and cooperating with the investigation and enforcement procedures. If we are found to be blameworthy by the AICP Ethics Committee, we shall be subject to the imposition of sanctions that may include loss of our certification.

Section C contains the procedural provisions of the Code. It (1) describes the way that one may obtain either a formal or informal advisory ruling, and (2) details how a charge of misconduct can be filed, and how charges are investigated, prosecuted, and adjudicated.

The principles to which we subscribe in Sections A and B of the Code derive from the special responsibility of our profession to serve the public interest with compassion for the welfare of all people and, as professionals, to our obligation to act with high integrity.

As the basic values of society can come into competition with each other, so can the aspirational principles we espouse under this Code. 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.

As Certified Planners, all of us are also members of the American Planning Association and share in the goal of building better, more inclusive communities. We want the public to be aware of the principles by which we practice our profession in the quest of that goal. We sincerely hope that the public will respect the commitments we make to our employers and clients, our fellow professionals, and all other persons whose interests we affect.

A: Principles to Which We Aspire

1. Our Overall Responsibility to the Public

Our primary obligation is to serve the public interest and we, therefore, owe our allegiance to a conscientiously attained concept of the public interest that is formulated through continuous and open debate. We shall achieve high standards of professional integrity, proficiency, and knowledge. To comply with our obligation to the public, we aspire to the following principles:

- a) We shall always be conscious of the rights of others.
- b) We shall have special concern for the long-range consequences of present actions.
- c) We shall pay special attention to the interrelatedness of decisions.
- d) We shall provide timely, adequate, clear, and accurate information on planning issues to all affected persons and to governmental decision makers.
- e) 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.
- f) 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.
- g) We shall promote excellence of design and endeavor to conserve and preserve the integrity and heritage of the natural and built environment.
- h) We shall deal fairly with all participants in the planning process. Those of us who are public officials or employees shall also deal evenhandedly with all planning process participants.

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.

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.
- d) We shall share the results of experience and research that contribute to the body of planning knowledge.
- e) We shall examine the applicability of planning theories, methods, research and practice and standards to the facts and analysis of each particular situation and shall not accept the applicability of a customary solution without first establishing its appropriateness to the situation.
- f) We shall contribute time and resources to the professional development of students, interns, beginning professionals, and other colleagues.
- g) We shall increase the opportunities for members of underrepresented groups to become professional planners and help them advance in the profession.
- h) We shall continue to enhance our professional education and training.
- i) We shall systematically and critically analyze ethical issues in the practice of planning.
- j) We shall contribute time and effort to groups lacking in adequate planning resources and to voluntary professional activities.

B: Our Rules of Conduct

We adhere to the following Rules of Conduct, and we understand that our Institute will enforce compliance with them. If we fail to adhere to these Rules, we could receive sanctions, the ultimate being the loss of our certification:

1. We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear and accurate information on planning issues.
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.
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 (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.
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.
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.
6. We shall not perform work on a project for a client or employer if, in addition to the agreed upon compensation from our client or employer, there is a possibility for direct personal or financial gain to us, our family members, or persons living in our household, unless our client or employer, after full written disclosure from us, consents in writing to the arrangement.
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. Nor shall we disclose such confidential information except when (1) required by process of law, or (2) required to prevent a clear violation of law, or (3) required to prevent a substantial injury to the public. Disclosure pursuant to (2) and (3) shall not be made until after we have verified the facts and issues involved and, when practicable, exhausted efforts to obtain reconsideration of the matter and have sought separate opinions on the issue from other qualified professionals employed by our client or employer.

8. We shall not, as public officials or employees, engage in private communications with planning process participants if the discussions relate to a matter over which we have authority to make a binding, final determination if such private communications are prohibited by law or by agency rules, procedures, or custom.
9. We shall not engage in private discussions with decision makers in the planning process in any manner prohibited by law or by agency rules, procedures, or custom.
10. We shall neither deliberately, nor with reckless indifference, misrepresent the qualifications, views and findings of other professionals.
11. We shall not solicit prospective clients or employment through use of false or misleading claims, harassment, or duress.
12. We shall not misstate our education, experience, training, or any other facts which are relevant to our professional qualifications.
13. We shall not sell, or offer to sell, services by stating or implying an ability to influence decisions by improper means.
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.
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.
16. We shall not accept work for a fee, or pro bono, that we know cannot be performed with the promptness required by the prospective client, or that is required by the circumstances of the assignment.
17. We shall not use the product of others' efforts to seek professional recognition or acclaim intended for producers of original work.
18. We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.
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.
20. We shall not unlawfully discriminate against another person.
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.

22. We shall not retaliate or threaten retaliation against a person who has filed a charge of ethical misconduct against us or another planner, or who is cooperating in the Ethics Officer's investigation of an ethics charge.

23. We shall not use the threat of filing an ethics charge in order to gain, or attempt to gain, an advantage in dealings with another planner.

24. We shall not file a frivolous charge of ethical misconduct against another planner.

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

C: Our Code Procedures

1. Introduction

In brief, our Code Procedures (1) describe the way that one may obtain either a formal or informal advisory ethics ruling, and (2) detail how a charge of misconduct can be filed, and how charges are investigated, prosecuted, and adjudicated.

2. Informal Advice

All of us are encouraged to seek informal ethics advice from the Ethics Officer. Informal advice is not given in writing and is not binding on AICP, but the AICP Ethics Committee shall take it into consideration in the event a charge of misconduct is later filed against us concerning the conduct in question. If we ask the Ethics Officer for informal advice and do not receive a response within 21 calendar days of our request, we should notify the Chair of the Ethics Committee that we are awaiting a response.

3. Formal Advice

Only the Ethics Officer is authorized to give formal advice on the propriety of a planner's proposed conduct. Formal advice is binding on AICP and any of us who can demonstrate that we followed such advice shall have a defense to any charge of misconduct. The advice will be issued to us in writing signed by the Ethics Officer. The written advice shall not include names or places without the written consent of all persons to be named. Requests for formal advice must be in writing and must contain sufficient details, real or hypothetical, to permit a definitive opinion. The Ethics Officer has the discretion to issue or not issue formal advice. The Ethics Officer will not issue formal advice if he or she determines that the request deals with past conduct that should be the subject of a charge of misconduct. The Ethics Officer will respond to requests for formal advice within 21 days of receipt and will docket the requests in a log that will be distributed on a quarterly basis to the Chair of the AICP Ethics Committee. If the Ethics Officer fails to furnish us with a timely response we should notify the Chair of the AICP Ethics Committee that we are awaiting a response.

4. Published Formal Advisory Rulings

The Ethics Officer shall transmit a copy of all formal advice to the AICP Ethics Committee. The Committee, from time to time, will determine if the formal advice provides guidance to the interpretation of the Code and should be published as a formal advisory ruling. Also, the Ethics Committee has the authority to draft and publish formal advisory rulings when it determines that guidance to interpretation of the Code is needed or desirable.

5. Filing a Charge of Misconduct

Any person, whether or not an AICP member, may file a charge of misconduct against a Certified Planner. A charge of misconduct shall be made in a letter sent to the AICP Ethics Officer. The letter may be signed or it may be anonymous. The person filing the charge is urged to maintain confidentiality to the extent practicable. The person filing the charge should not send a copy of the charge to the Certified Planner identified in the letter or to any other person. The letter shall accurately identify the Certified Planner against whom the charge is being made and describe the conduct that allegedly violated the provisions of the Rules of Conduct. The person filing a charge should also cite all provisions of the Rules of Conduct that have allegedly been violated. However, a charge will not be dismissed if the Ethics Officer is able to determine from the facts stated in the letter that certain Rules of Conduct may have been violated. The letter reciting the charge should be accompanied by all relevant documentation available to the person filing the charge. While anonymously filed charges are permitted, anonymous filers will not receive notification of the disposition of the charge. Anonymous filers may furnish a postal address in the event the Ethics Officer needs to reach them for an inquiry.

6. Receipt of Charge by Ethics Officer

The Ethics Officer shall maintain a log of all letters containing charges of misconduct filed against Certified Planners upon their receipt and shall transmit a quarterly report of such correspondence to the Chair of the Ethics Committee. Within two weeks of receipt of a charge, the Ethics Officer shall prepare a cover letter and transmit the charge and all attached documentation to the named Certified Planner, who shall be now referred to as "the Respondent." The Ethics Officer's cover letter shall indicate whether the Ethics Officer expects the Respondent to file a "preliminary response" or whether the Ethics Officer is summarily dismissing the charge because it is clearly without merit. A copy of the cover letter will also be sent to the Charging Party, if identified. If the cover letter summarily dismisses the charge, it shall be sent to an identifiable Charging Party by receipted Certified Mail. The Charging Party will have the right to appeal the summary dismissal as provided in Section 11. After the Ethics Officer has received a charge, the Charging Party may withdraw it only with the permission of the Ethics Officer. After receiving a charge, the Ethics Officer shall have a duty to keep an identified Charging Party informed of its status. If an identified Charging Party has not received a status report from the Ethics Officer for 60 calendar days, the Charging Party should notify the Chair of the AICP Ethics Committee of the lapse.

7. Right of Counsel

A planner who receives a charge of misconduct under a cover letter requesting a preliminary response should understand that if he or she desires legal representation, it would be advisable to obtain such representation at the earliest point in the procedure. However, a planner who elects to proceed at first without legal representation will not be precluded from engaging such representation at any later point in the procedure.

8. Preliminary Responses to a Charge of Misconduct

If the Ethics Officer requests a preliminary response, the Respondent shall be allowed 30 calendar days from receipt of the Ethics Officer's letter to send the response to the Ethics Officer. The Ethics Officer will grant an extension of time, not to exceed 15 calendar days, if the request for the extension is made within the 30 day period. Failure to make a timely preliminary response constitutes a failure to cooperate with the Ethics Officer's investigation of the charge. A preliminary response should include documentation, the names, addresses and telephone numbers of witnesses, and all of the facts and arguments that counter the charge. Because the motivation of the person who filed the charge is irrelevant, the Respondent should not discuss it. The Ethics Officer will send a copy of the preliminary response to the Charging Party, if identified, and allow the Charging Party 15 calendar days from the date of receipt to respond.

9. Conducting an Investigation

After review of the preliminary response from the Respondent and any counter to that response furnished by an identified Charging Party, or if no timely preliminary response is received, the Ethics Officer shall decide whether an investigation is appropriate. If the Ethics Officer determines that an investigation should be conducted, he or she may designate a member of the AICP staff or AICP counsel to conduct the investigation. The Respondent must cooperate in the investigation and encourage others with relevant information, whether favorable or unfavorable, to cooperate. Neither the Ethics Officer, nor designee, will make credibility findings to resolve differing witness versions of facts in dispute.

10. Dismissal of Charge or Issuance of Complaint

If, with or without an investigation, the charge appears to be without merit, the Ethics Officer shall dismiss it in a letter, giving a full explanation of the reasons. The dismissal letter shall be sent to the Respondent and the Charging Party by receipted Certified Mail. If, however, the Ethics Officer's investigation indicates that a Complaint is warranted, the Ethics Officer shall draft a Complaint and send it to the Respondent by receipted Certified Mail, with a copy to the Charging Party. The Complaint shall consist of numbered paragraphs containing recitations of alleged facts. Following the fact paragraphs, there shall be numbered paragraphs of alleged violations, which shall cite provisions of the Rules of Conduct that the Ethics Officer believes are implicated. The allegations in the Complaint shall be based on the results of the Ethics Officer's

investigation of the charge and may be additional to, or different from, those allegations initially relied upon by the Charging Party. The Ethics Officer shall maintain a log of all dismissals and shall transmit the log on a quarterly basis to the Chair of the Ethics Committee.

11. Appeal of Dismissal of Charge

Identified Charging Parties who are notified of the dismissal of their ethics charges shall have 30 calendar days from the date of the receipt of their dismissal letters to file an appeal with the Ethics Committee. The appeal shall be sent to the Ethics Officer who shall record it in a log and transmit it within 21 calendar days to the Ethics Committee. The Ethics Committee shall either affirm or reverse the dismissal. If the dismissal is reversed, the Ethics Committee shall either direct the Ethics Officer to conduct a further investigation and review the charge again, or issue a Complaint based on the materials before the Committee. The Ethics Officer shall notify the Charging Party and the Respondent of the Ethics Committee's determination.

12. Answering a Complaint

The Respondent shall have 30 calendar days from receipt of a Complaint in which to file an Answer. An extension not to exceed 15 calendar days will be granted if the request is made within the 30 day period. In furnishing an Answer, the Respondent is expected to cooperate in good faith. General denials are unacceptable. The Answer must specifically admit or deny each of the fact allegations in the Complaint. It is acceptable to deny a fact allegation on the ground that the planner is unable to verify its correctness, but that explanation should be stated as the reason for denial. The failure of a Respondent to make a timely denial of any fact alleged in the Complaint shall be deemed an admission of such fact. The Ethics Officer may amend a Complaint to delete any disputed fact, whether or not material to the issues. The Ethics Officer also may amend a Complaint to restate fact allegations by verifying and adopting the Respondent's version of what occurred. The Ethics Officer shall send the Complaint or Amended Complaint and the Respondent's Answer to the Ethics Committee with a copy to an identified Charging Party. The Ethics Officer shall also inform the Ethics Committee if there are any disputed material facts based on a comparison of the documents.

13. Conducting a Hearing

a) If the Ethics Officer notifies the Ethics Committee that material facts are in dispute or if the Ethics Committee, on its own, finds that to be the case, the Chair of the Committee shall designate a "Hearing Official" from among the membership of the Committee. At this point in the process, the Ethics Officer, either personally or through a designated AICP staff member or AICP counsel, shall continue to serve as both Investigator-Prosecutor and as the Clerk serving the Ethics Committee, the Hearing Official and the Respondent. In carrying out clerical functions, the Ethics Officer, or designee, may discuss with the Ethics Committee and the Hearing Official the procedural arrangements for the hearing. Until the Ethics Committee decides the case, however, the Ethics Officer

or designee shall not discuss the merits of the case with any member of the Committee unless the Respondent is present or is afforded an equal opportunity to address the Committee member.

b) The Ethics Officer shall transmit a “Notice of Hearing” to the Respondent, the Hearing Official and an identified Charging Party. The hearing shall normally be conducted in the vicinity where the alleged misconduct occurred. The Notice will contain a list of all disputed material facts that need to be resolved. The hearing will be confined to resolution of those facts. There shall be no requirement that formal rules of evidence be observed.

c) The Ethics Officer will have the burden of proving, by a preponderance of the evidence, that misconduct occurred. The Ethics Officer may present witness testimony and any other evidence relevant to demonstrating the existence of each disputed material fact. The Respondent will then be given the opportunity to present witness testimony and any other evidence relevant to controvert the testimony and other evidence submitted by the Ethics Officer. The Ethics Officer may then be given an opportunity to present additional witness testimony and other evidence in rebuttal. All witnesses who testify for the Ethics Officer or the Respondent shall be subject to cross-examination by the other party. The Hearing Official shall make an electronic recording of the hearing and shall make copies of the recording available to the Ethics Officer and the Respondent.

d) At least 30 calendar days before the hearing, the Ethics Officer and the Respondent shall exchange lists of proposed witnesses who will testify, and copies of all exhibits that will be introduced, at the hearing. There shall be no other discovery and no pre-hearing motions. All witnesses must testify in person at the hearing unless arrangements can be made by agreement between the Respondent and the Ethics Officer prior to the hearing, or by ruling of the Hearing Official during the hearing, to have an unavailable witness's testimony submitted in a video recording that permits the Hearing Official to observe the demeanor of the witness. No unavailable witness's testimony shall be admissible unless the opposing party was offered a meaningful opportunity to cross-examine the witness. The hearing shall not be open to the public. The Hearing Official shall have the discretion to hold open the hearing to accept recorded video testimony of unavailable witnesses. The Respondent will be responsible for the expense of bringing his or her witnesses to the hearing or to have their testimony video recorded. Following the closing of the hearing, the Hearing Official shall make findings only as to the disputed material facts and transmit the findings to the full Ethics Committee, the Ethics Officer, and the Respondent. The Hearing Official, prior to issuing findings, may request that the parties submit proposed findings of fact for his or her consideration.

14. Deciding the Case

The Ethics Committee (including the Hearing Official member of the Committee) shall resolve the ethics matter by reviewing the documentation that sets out the facts that were not in dispute, any fact findings that were required to be made by a Hearing Official, and any arguments submitted to it by the Respondent and the Ethics Officer. The Ethics

Officer shall give 45 calendar days notice to the Respondent of the date of the Ethics Committee meeting during which the matter will be resolved. The Ethics Officer and the Respondent shall have 21 calendar days to submit memoranda stating their positions. The Ethics Officer shall transmit the memoranda to the Ethics Committee no later than 15 calendar days prior to the scheduled meeting. If the Committee determines that the Rules of Conduct have not been violated, it shall dismiss the Complaint and direct the Ethics Officer to notify the Respondent and an identified Charging Party. If the Ethics Committee determines that the Ethics Officer has demonstrated that the Rules of Conduct have been violated, it shall also determine the appropriate sanction, which shall either be a reprimand, suspension, or expulsion. The Ethics Committee shall direct the Ethics Officer to notify the Respondent and an identified Charging Party of its action and to draft a formal explanation of its decision and the discipline chosen. Upon approval of the Ethics Committee, the explanation and discipline chosen shall be published and titled "Opinion of the AICP Ethics Committee." The determination of the AICP Ethics Committee shall be final.

15. Settlement of Charges

a) Prior to issuance of a Complaint, the Ethics Officer may negotiate a settlement between the Respondent and an identified Charging Party if the Ethics Officer determines that the Charging Party has been personally aggrieved by the alleged misconduct of the Respondent and a private resolution between the two would not be viewed as compromising Code principles. If a settlement is reached under such circumstances, the Charging Party will be allowed to withdraw the charge of misconduct.

b) Also prior to issuance of a Complaint, the Ethics Officer may enter into a proposed settlement agreement without the participation of an identified Charging Party. However, in such circumstances, the proposed settlement agreement shall be contingent upon the approval of the Ethics Committee. An identified Charging Party will be given notice and an opportunity to be heard by the Ethics Committee before it votes to approve or disapprove the proposed pre-Complaint settlement.

c) After issuance of a Complaint by the Ethics Officer, a settlement can be negotiated solely between the Ethics Officer and the Respondent, subject to the approval of the Ethics Committee without input from an identified Charging Party.

16. Resignations and Lapses of Membership

If an AICP member who is the subject of a Charge of Misconduct resigns or allows membership to lapse prior to a final determination of the Charge (and any Complaint that may have issued), the ethics matter will be held in abeyance subject to being revived if the individual applies for reinstatement of membership within two years. If such former member, however, fails to apply for reinstatement within two years, the individual shall not be permitted to reapply for certification for a period of 10 years from the date of resignation or lapse of membership. If the Ethics Officer receives a Charge of

Misconduct against a former member, the Ethics Officer shall make an effort to locate and advise the former member of the filing of the Charge and this Rule of Procedure.

17. Annual Report of Ethics Officer

Prior to January 31 of each calendar year the Ethics Officer shall publish an Annual Report of all ethics activity during the preceding calendar year to the AICP Ethics Committee and the AICP Commission. The AICP Commission shall make the Annual Report available to the membership.