

Ethics Cases of the Year: 2023



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

Presenter:

Jayna Watson AICP

Agenda

- **Refresher on Planning Ethics**

- **Overview of 2022 Case/Inquiry Activity**

- **Ethical Scenarios**

- 1 Sexual Harassment
- 2.1 Conflict of Interest: RFPs
- 2.2 Conflict of Interest: New Job
- 3 Politicians and Planners

- **Jeopardy!**

- Jayna Watson AICP
- Dave Mingo AICP
- Sam Trebilcock AICP



Disclaimer


This session has been created to provide general education regarding the *AICP Code of Ethics*.

Although ethical scenarios and question-and-answer sessions are an important part of illustrating the application of the Code's provisions, all certified planners should be aware that only the AICP Ethics Committee is authorized to give formal advice on the propriety of a planner's proposed conduct.

If you have a question regarding a situation in your own professional practice, you are encouraged to seek informal advice from the AICP Ethics Officer (ph: 312-786-6360; email: ethics@planning.org).



AICP Code of Ethics Pledge



Code of Ethics *and* Professional Conduct

The American Institute of Certified Planners requires its members to adhere to the ethical standards of a detailed Code of Ethics and Professional Conduct.

THE PRINCIPLES TO WHICH WE ASPIRE ARE:

- To continuously pursue and faithfully serve the public interest.
- To do so with integrity
- To work to achieve economic, social, and racial equity
- To safeguard the public trust
- To improve planning knowledge and increase public understanding of planning activities

OUR RULES OF CONDUCT ADDRESS THE FOLLOWING:

- Quality and integrity of practice
- Conflicts of interest
- Improper influence/abuse of position
- Honesty and fair dealing
- Responsibility to employer
- Discrimination/harassment
- Charges of misconduct.

I pledge that I will conduct myself in accordance with the principles, rules, and other requirements of the AICP Code of Ethics and Professional Conduct.

Name _____, AICP Certified Planner No. _____

This AICP Ethics Code certificate is available for downloading from planning.org/ethics.



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Home > AICP > Ethics in Planning >

Ethical Principles in Planning

(As Adopted by the APA Board, May 1992)

This statement is a guide to ethical conduct for all who participate in the process of planning as advisors, advocates, and decision makers. It presents a set of principles to be held in common by certified planners, other practicing planners, appointed and elected officials, and others who participate in the process of planning.

APA's Ethical Principles in Planning

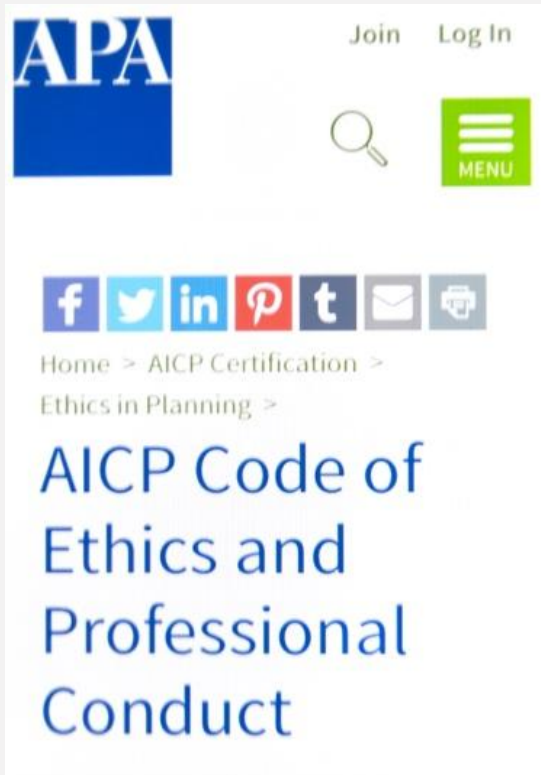
Adopted in 1980 by the American Planning Association; rev. 1992

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

- 1. Serve the public interest**
- 2. Maintain high standards of integrity and proficiency**
- 3. Improve planning competence**

GRAB YOUR PHONE. GO TO:

www.planning.org/ethics/ethicscode



AICP Ethics Code

Adopted in 1948 by the American Institute of Planners; rev. 1959, 1970, 1978, 1991, 2005, 2016, 2022

A. Aspirational Principles

B. Rules of Conduct

C. Advisory Opinions

D. Complaints of Misconduct

E. Discipline of Members

Aspirational Principles

Section A
of the *AICP Ethics Code*

People who participate in the planning process shall:

1. Continuously pursue and faithfully serve the public interest
2. Do so with integrity
3. Work to achieve economic, social, and racial equity
4. Safeguard the public trust
5. Improve planning knowledge and increase public understanding of planning activities

Rules of Conduct

Section B
of the *AICP Ethics Code*

The 24 Rules of Conduct—to which certified planners can be held accountable—are organized under the following headings:

1. Quality and Integrity of Practice
2. Conflict of Interest
3. Improper Influence/Abuse of Position
4. Honesty and Fair Dealing
5. Responsibility to Employer
6. Discrimination/Harassment
7. Bringing and Cooperating with an Ethics Charge

Adjudication of Complaints of Misconduct

Section D
of the *AICP Ethics Code*

D6a: Only current members of AICP may appeal a determination of the Ethics Officer.

This revision with the 2022 Update eliminates the ability of non AICP planners to contest the ruling of the Ethics Officer through a time-consuming appeal process and protects planners from frivolous complaints.

However, non-AICP planners can still file an appeal by having an AICP planner do so on their behalf.

Ethical Misconduct Cases in 2022

9 Cases Dismissed

- No justification to file a charge or planner not AICP (8 cases)
- Preliminary charge filed (1 case)

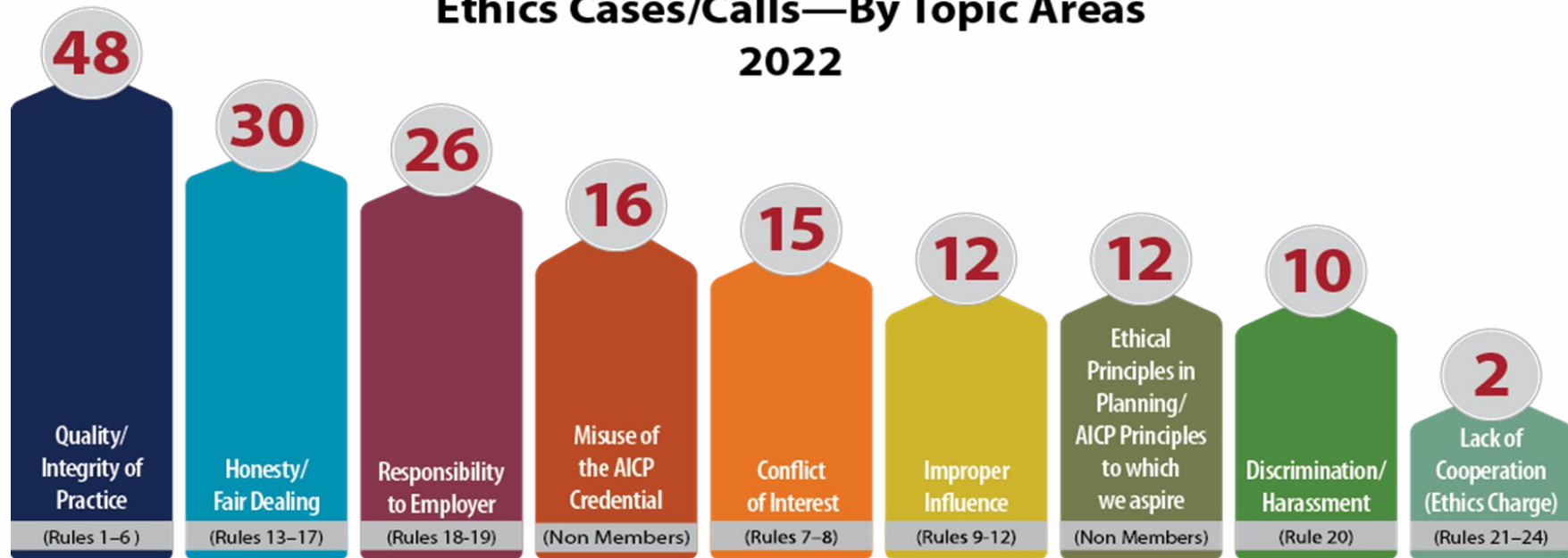


10 Cases Resulted in Disciplinary Actions

- Cease and desist letters issued (7 cases) for misuse of the AICP credential
- Confidential Letters of Admonition (2 cases) for “wrongful conduct:” 1) for plagiarism and misrepresentations of information in a planning report; and 2) for committing a wrongful act reflecting adversely on the profession
- Public Letter of Admonition and Revocation of FAICP credential (1 case) for sexual harassment

Ethics Topics in 2022

Ethics Cases/Calls—By Topic Areas
2022



Additionally, there were 29 requests for assistance and miscellaneous questions unrelated to the Code of Ethics.

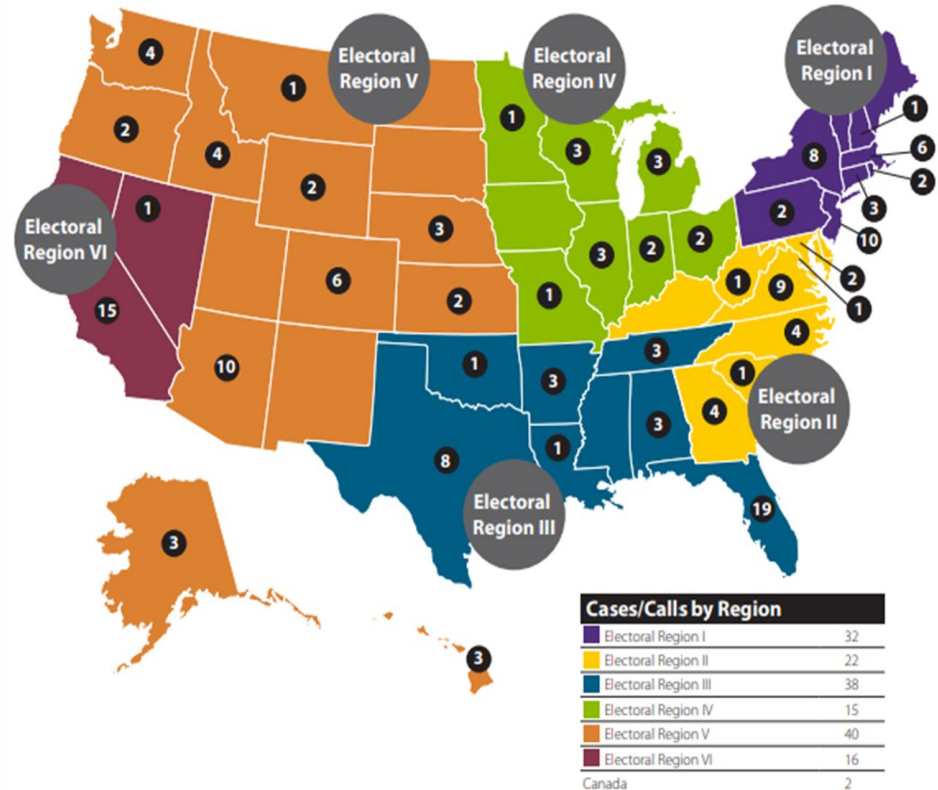
Cases/Inquiries of the Year

The following scenarios were based on misconduct complaints or informal inquiries reviewed by the Ethics Officer and the Ethics Committee in 2022.

Although the scenarios are based on real-life situations, all of the names, details, and locations are fictional.

Ethics Cases/Calls (2022)—By States/Regions

(Note: If a state is not listed, it had no cases/calls in 2022)



Scenario 1: Sexual Harassment

Scenario 1

Sexual Harassment

Harry, FAICP - a respected leader in his APA Chapter regularly attended chapter events, presented at chapter conferences, and served as a mentor.

One of Harry's mentees found his actions to be disturbing and complained of sexual harassment.

- After repeated requests to stop, the mentee left the chapter because she felt unsafe.
- Other women also felt uncomfortable and unsafe.

Scenario 1 (contd.)

A witness to one of these incidents filed a complaint with the AICP Ethics Officer. The witness asked to remain anonymous.

Working with the witness, The Ethics Officer investigated the charge talking with women who were also harassed by Harry. **All conversations were held in strict confidence.**

The Ethics Officer concluded that sexual harassment had taken place at APA chapter events.



Scenario 1

Question

Q 1:

Is Harry guilty of violating the Code of Ethics if the complaints were filed anonymously?

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

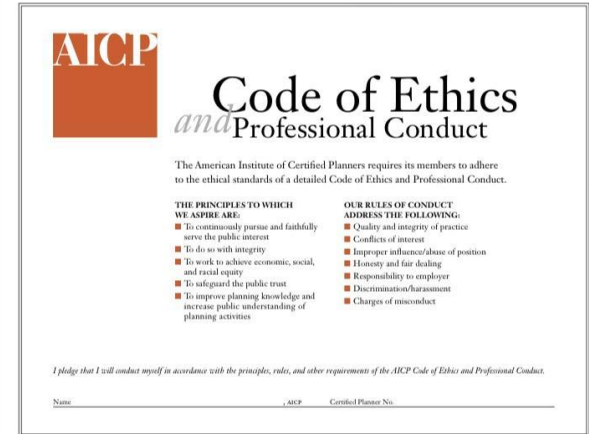


Scenario 1

Ethical Issues

AICP Ethics Code “Principles to Which We Aspire”

- A.1.a: “Examine our own cultures, practices, values, and professional positions in an effort to reveal and understand our conscious and unconscious biases and privileges as an essential first step so we can better serve a truly inclusive public interest promoting a sense of belonging.
- A.2.h “Respect the rights of all persons and groups and do not discriminate against or harass others.”



Scenario 1

Ethical Issues

AICP Ethics Code “Rules of Conduct:

- Rule #6: a certified planner “shall not deliberately commit any wrongful act, whether or not specified in the Rules of Conduct that reflects adversely on our professional fitness or the planning profession”
- Rule #20: a certified planner “shall not commit or ignore an act of discrimination or harassment.”

Scenario 1

Real-Life Outcome

In the real life case on which this scenario is based, the EO charged Harry with violation of the AICP Code of Ethics Rule #6, wrongful acts.

- Not charged under Rule #20, discrimination or harassment, because these incidents took place prior to when this Rule went into effect.
- EO issued a “Public Letter of Admonition” and recommended that Harry be suspended indefinitely as a member of AICP (and FAICP).
- Harry appealed the decision to the Ethics Committee, which upheld the decision of the Ethics Officer.

Harry’s AICP and FAICP credentials were removed and he was the subject of a public notification in APA’s Interact online newsletter.

AICP Code of Ethics – Impact of the New Code *(effective Jan. 2022)*

Section B. Rules of Conduct (new):

20. We shall not ***commit or ignore an act of discrimination or harassment.***

22. We shall not harass, ***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 Ethic Officer’s investigation of an ethics charge.

Glossary (new):

Harassment: Severe, unwelcome, and pervasive behavior.

- Can take place in the workplace or on social media and includes:
 - Verbal or written statements
 - Physical actions
 - Visual elements—clothing, office décor

APA Action on Sexual Harassment

- APA does not tolerate harassment of any type.
- It is violation of the AICP Code of Ethics to ignore an act of discrimination or harassment.
- The Ethics Officer is available to discuss possible complaints, or to provide advice. *Members are advised to not deal with this alone.*
- APA created a Pledge Against Sexual Harassment that all members are encouraged to sign.

APA Action on Sexual Harassment, cont'd.

- APA has provided a statement and resources for APA members and staff.
- APA appointed Task Force of the APA Board to continue making enhancements to processes for dealing with harassment and discrimination.
- The AICP Ethics Committee is reviewing the Adjudication of Ethical Complaints process for possible improvements
- Everyone at APA is committed to confidentiality, protecting victims, and conducting a thorough investigation

Scenario 2.1: Conflict of Interest

Scenario 2.1

Conflict of Interest

Samuel, an AICP planner, is the planning director for Anytown, a city of 45,000 in a developing area of 500,000.

His wife, Geri, is also an AICP planner who works remotely for Planning Wizards (PW), a planning and development consulting firm.

Anytown has published an RFP/RFQ seeking consultants to take the lead in completing the ten-year rewrite of their comprehensive plan.

Scenario 2.1 (contd.)



- Planning Wizards asked Geri to develop a response to the RFP.
- Eight responses were received to this RFP/RFQ and the town manager directed Samuel to screen them down to three for in person/zoom interviews based on the criteria listed in the RFP/RFQ.

Recognizing that one of the applications was submitted by his wife's firm (with his wife as lead), how does Samuel proceed?

What ethical issues are involved? How might they be resolved?

Scenario 2.1

Questions

Q 1:

How should Samuel proceed?

- a) He should recuse himself from the RFP review
- b) He should participate in the RFP review but not evaluate PW's proposal
- c) Not Sure



Scenario 2.1

Questions

Q 2:

Is it a violation of the AICP Code of Ethics for Samuel to review the RFPs?

- a) Absolutely
- b) Not really
- c) Not Sure



Scenario 2.1

Ethical Issues

A. Aspirational Principles:

4.3: Public trust – Don't let any official action be influenced by personal relationships.

4.5: Public trust – Avoid conflict of interest or even the appearance of a conflict in accepting assignments.

4.6: Public trust – Disclose all personal any pecuniary interests considered broadly and avoid being involved in such decisions.

4.9: Do not commit a wrongful act which reflects adversely on the planning process.

4.10: Do not seek business by stating or implying the ability to influence decisions by improper means.

Scenario 2.1

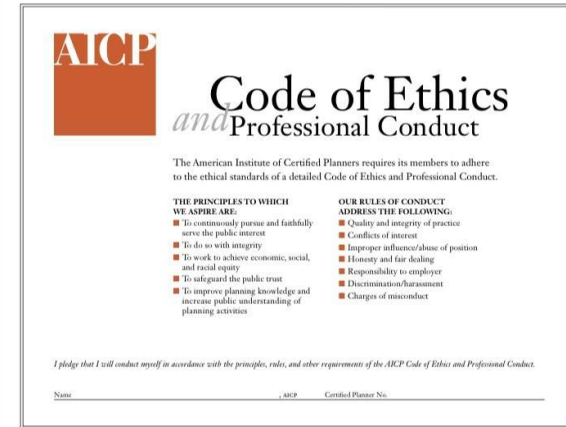
Ethical Issues (contd.)

B. Rules of Conduct

8. Conflict of interest – do not accept work if there is a possibility for direct personal or financial gain to us, our family etc. without full disclosure prior and during the process.

9. Improper influence/abuse of position – do not engage in private communications if we have authority to make final determination.

13. Honesty and fair dealing – we shall not disclose or use to our advantage any confidential information.



Scenario 2.1

What option(s) are ethical?

- A. Geri puts a team together and submits an application to Anytown for the work. The City includes Samuel on the review team.
- B. Samuel recuses himself from the review of applications, with Geri's application in the mix.
- C. Geri recuses herself from the team and PW submits a proposal.
- D. PW does not submit a proposal.



Scenario 2.1

Real-Life Outcome

The Ethics Officer recommended that PW should contact the Anytown Planning Department and ask them how to resolve the situation by either:

- Contacting Samuel and asking him to recuse himself from the proposal review, or
- PW could recommend that Geri not be on the project team, or
- Both parties provide full written disclosure of conflict.



Elderflower Legal

Scenario 2.2: Conflict of Interest

Scenario 2.2

Conflict of Interest

Dorothy, an AICP planner, is leaving her position as principal planner at Maeville and joining the Planning Magicians (PM) consulting firm. She has a signed letter of employment.

Maeville has issued an RFP to update its land management ordinance. During her interview with the PM consulting firm, they noted that they are aware of the pending RFP pending from Maeville. Dorothy is aware of the issues that the town has dealt with over the past decade and what approaches would be acceptable to the community.

Scenario 2.2 (contd.)

The PM firm has offered to bring Dorothy on-board and be a senior member of the team for that project and is suggesting that she at least review and comment on PM's draft response. Additional facts:

- Dorothy is leaving the town in 30 days and joining the consulting firm thereafter.
- RFP responses are due in 30 days.
- The City of Maeville does not have a revolving-door policy against working for a jurisdiction that you just left.

Scenario 2.2

Questions

Q 1:

**Is it ethical for Dorothy to assist PM
with their RFP to the City of Maeville?**

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



Scenario 2.2

Questions

Q 2:

What Principles to Which We Aspire should Dorothy consider?

- a) Anything dealing with "conflict of interest"
- b) None – Dorothy is in the clear since Maeville doesn't have a "revolving door" policy
- c) Not Sure



Scenario 2.2

Ethical Issues

A. Aspirational Principles:

4.c: Public trust – Do not let any official action be influenced by personal relationships.

4.e: Public trust – Avoid conflict of interest or even the appearance of a conflict in accepting assignments.

4.f: Public trust – Disclose all personal any pecuniary interests considered broadly and avoid being involved in such decisions.

4.i: Do not commit a wrongful act which reflects adversely on the planning process.

4.j: Do not seek business by stating or implying the ability to influence decisions by improper means.

Scenario 2.2

Ethical Issues (contd.)

B. Rules of Conduct

8. Conflict of interest – do not accept work if there is a possibility for direct personal or financial gain to us, our family etc. without full disclosure prior and during the process.

9. Improper influence/abuse of position – do not engage in private communications if we have authority to make final determination.

13. Honesty and fair dealing – we shall not disclose or use to our advantage any confidential information.

Scenario 2.2

What option(s) are ethical for Dorothy?

- Have no contact with PM about the RFP, and work on whatever projects PM assigns her in 30 days when she leaves the city and joins that firm.
- Take a few days of personal leave to help PM craft their response to the RFP after receiving permission from the city administrator.
- Answer all questions from interested consulting groups about the RFP, including PM, then work on whatever projects PM assigns her in 30 days when she leaves the city and joins that firm.
- Refer all questions about the RFP to another planner, then work on whatever projects PM assigns her in 30 days when she leaves the city and joins that firm.
- Work on whatever projects PM assigns her in 30 days except for the Maeville project (assuming they win the contract) when she leaves the city and joins that firm.

Scenario 2.2

Real-Life Outcome

The Ethics Officer recommended full disclosure and suggested that Dorothy look closely at Rule 13, discuss matter with her supervisor, and possibly recuse herself from the interview with former employer. The EO further advised Dorothy to fully divulge potential conflict to other reviewers.



Scenario 3: Politicians and Planners

Scenario 3

Politicians and Planners

Jane, AICP, works as a planner in Jacobsville. Jane staffs the Jacobsville Planning Commission as part of her assigned duties. Planning Commissioners are appointed to their positions by the mayor. A member of the Planning Commission has asked Jane to host a series of public meetings on her behalf. But, Jane soon learns that the Commissioner is now planning to run for a seat on the Town Council.



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Scenario 3

Question

Q 1:

Is Jane guilty of violating the Code of Ethics if she arranges the meetings for the Planning Commissioner?

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



Scenario 3:

Ethical Issues

A. Aspirational Principles

A.1.d Pay special attention to the interrelatedness of decisions and their unintended consequences.

A.4.c Do not let any official action be influenced by personal relationships.

A.4.d Serve as advocates for the public or private sector only when the client's objectives are legal and consistent with with public interest.



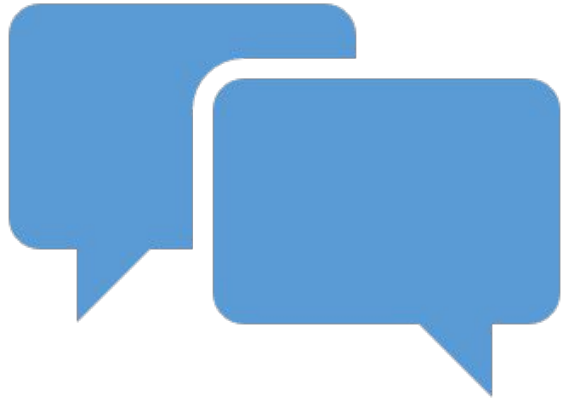
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Scenario 3: **Real Life Outcome**

In this real-life inquiry, on which this scenario is based, the EO suggested that the planner notify their supervisor before scheduling the meetings. The EO found no cause for concern on part of the planner.



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Further Discussion

Final Note

For informal advice regarding ethical conduct, please contact Ralph Willmer, FAICP, the AICP Ethics Officer at 312-786-6360 or ethics@planning.org. For more information about ethics, please visit planning.org/ethics

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