

THREE ETHICS CODES FOR PLANNERS AND PLANNING OFFICIALS: REVIEW AND APPLICATION

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March 1, 2012



Rocky Mountain Land Use Institute 21st Annual Conference
Three Ethics Codes

Session Expectations

- ◆ Session Qualifies for 1.5 AICP CM
- ◆ Overview of 3 Ethics' Code
 - AICP Code of Ethics and Professional Conduct
 - APA Ethical Principles in Planning
 - Modified 'Code of the West' for Planners
- ◆ Audience participation in scenarios
- ◆ Dialogue, not a Lecture

Purpose of Ethics Code

- ◆ What is purpose of adhering to an ethics code for an individual?
- ◆ What is the purpose of an ethics code being promulgated by an organization?



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Use of an Ethics Code

- ◆ How do you, as an individual, use an ethics code?
- ◆ How does your organization use an ethics code?
- ◆ Should it be used to
 - Promote professionalism among members?
 - Select those most worthy of membership?
 - Self actualization?
 - Keep the 'other' guy in line?



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WHY ARE WE REVIEWING 3 CODES?

- ◆ AICP Members require 1.5 hours of ethics training every 2 years
- ◆ Many appointed bodies adopt, or use APA Ethical Principles in Planning – good to be familiar with it as staff to these bodies or as a member of a planning body
- ◆ Good to be aware that the 'Code of the West' precepts are often ingrained in participants in planning in the West



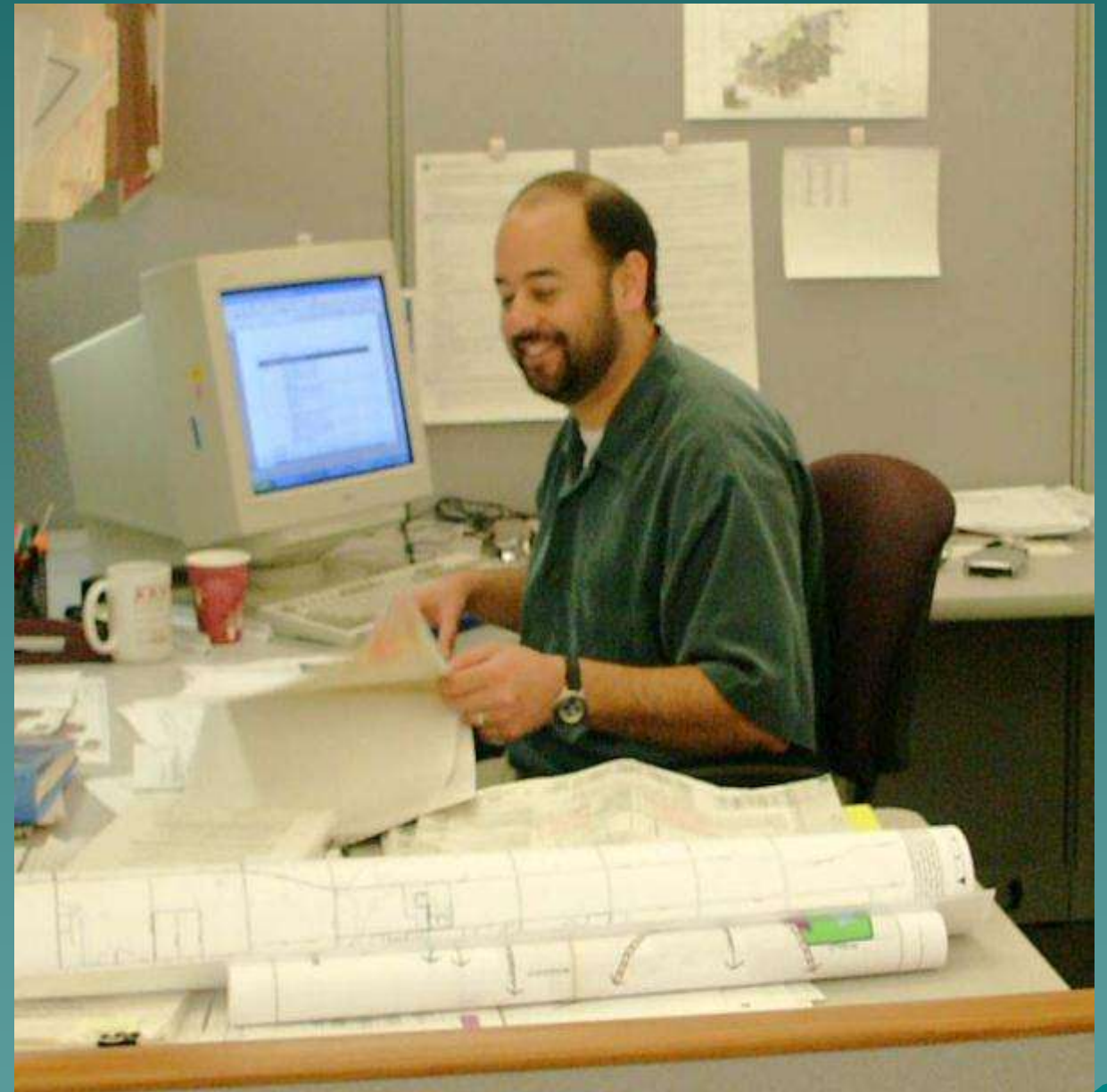
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AICP Code of Ethics and Professional Conduct



AICP Code of Ethics and Professional Conduct

- ◆ Updated in 2005 after a four-year public process
- ◆ Very similar to the previous code, i.e. did not change much of original language



AICP Code Highlights

- ◆ Separated into three sections
 - Aspirational Standards
 - Rules of Conduct
 - Procedures



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Example of Aspirational Standard



- ◆ Our primary obligation is to serve the public interest and we, therefore, owe our allegiance to a conscientiously attained concept of the public interest.....



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Example of Aspirational Standard

- ◆ 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.
- ◆ We shall continue to enhance our professional education and training.



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Example of Rule of Conduct

- ◆ We shall neither deliberately, nor with reckless indifference, misrepresent the qualifications, views and findings of other professionals.



Example of Rule of Conduct

- ◆ We shall not misstate our education, experience, training, or any other facts which are relevant to our professional qualifications.
- ◆ We shall not direct or coerce other professionals to make analyses or reach findings not supported by available evidence.



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Application of AICP Code

- ◆ The AICP Code must be adhered to by members of the American Institute of Certified Planners
- ◆ The AICP Code can be used as a guide by non-AICP members



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APA Ethical Principles in Planning



APA Ethical Principles in Planning

- ◆ Adopted 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.” [**emphasis added**]



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APA Ethical Principles in Planning

- ◆ Principles separated into guide for
 - Planning participants
 - ◆ Elected & Appointed officials
 - ◆ Planning professionals
 - ◆ Participating public
 - APA members who are practicing planners
- ◆ Principles are mixture of
 - Aspirational guides
 - Directives



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Examples of Aspirational Guides and Directives

◆ Aspirational guide

- Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons
- Pay special attention to the interrelatedness of decisions and the long range consequences of present actions

◆ Directive

- Participate in continuing professional education
- Accurately represent the qualifications, views, and findings of colleagues



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Application of APA Ethical Principles

- ◆ Members of the American Institute of Certified Planners required to adhere to Principles, also?
 - The Code is formally subscribed to by each certified planner. It includes an enforcement procedure that is administered by AICP. The Code, however, provides for more than the minimum threshold of enforceable acceptability. It also sets aspirational standards that require conscious striving to attain.
- ◆ All other participants may use



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APA Ethical Principles in Planning

- ◆ Section A of the Code has 3 areas of focus:
 - Our Overall Responsibility to the Public
 - ◆ Our primary obligation is to serve the public interest.
 - Our Responsibility to Our Clients and Employers
 - ◆ We owe diligent, creative, and competent performance of the work we do.
 - Our Responsibility to Our Profession and Colleagues
 - ◆ We shall contribute to the development of, and respect for, our profession.



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APA Ethical Principles in Planning

- ◆ APA Ethical Principles for Planners' Responsibility to the Public:
- ◆ We shall always be conscious of the rights of others.
- ◆ We shall have special concern for the long-range consequences of present actions.
- ◆ We shall pay special attention to the interrelatedness of decisions.
- ◆ We shall provide timely, adequate, clear, and accurate information on planning issues to all affected persons and to governmental decision-makers.
- ◆ 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.

<http://www.planning.org/ethics/ethicscode.htm>



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APA Ethical Principles in Planning

- ◆ APA Ethical Principles for Planners' Responsibility to the Public:
- ◆ 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.
- ◆ We shall promote excellence of design and endeavor to conserve and preserve the integrity and heritage of the natural and built environment.
- ◆ 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.



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“Code of the West” for Planners



‘Code of the West’ for Planners

- ◆ “The Code of the West” was first described by the famous western writer, **Zane Grey**, in his 1934 novel *The Code of the West*. While no “written” code ever actually existed, hardy pioneers who lived in the West were bound by unwritten rules that centered on hospitality, fair play, loyalty, and respect for the land.



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‘Code of the West’ for Planners

- ◆ **Ramon Adams**, a Western historian, once explained it in his 1969 book, *The Cowman and His Code of Ethics*, saying, in part:
 - ◆ “Back in the days when the cowman with his herds made a new frontier, there was no law on the range. Lack of written law made it necessary for him to frame some of his own, thus developing a rule of behavior that became known as the “Code of the West.”

‘Code of the West’ for Planners

- ◆ Aspirational Standard states our primary obligation is to serve the public interest.
 - Code of the West would suggest we operate under the “greatest good for the greatest number” ideal.
- ◆ Rule of Conduct states we shall neither deliberately, nor with reckless indifference, misrepresent the qualifications, views and findings of other professionals.
 - Code of the West would encourage honesty always and in all matters.



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'Code of the West' for Planners

- ◆ Aspirational Guide requests us to pay special attention to the interrelatedness of decisions and the long range consequences of present actions.
 - Code of the West would require one to take the time to see the whole picture (weather, location, animal temperament, etc) then put your best foot forward.
- ◆ Directive for practicing planners requires continuing professional education.
 - Code of the West would assert you stop learning when you're 6-feet under.



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'Code of the West' for Planners

- ◆ Remove your guns before sitting at the dining table.
Firearms are frowned upon at planning commission meetings.
- ◆ A cowboy always helps someone in need, even a stranger or an enemy.
A planner always helps someone in need, even a developer or a realtor.
- ◆ Don't make a threat without expecting dire consequences.
Don't make a threat without expecting to hear from the developer's attorney.
- ◆ Never pass anyone on the trail without saying "Howdy."
Never pass anyone in the hall without saying "Hi."
- ◆ Do not practice ingratitude.
Do not plan with an attitude.
- ◆ Always fill your whiskey glass to the brim.
Always fill your coffee to the rim with Brim.



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'Code of the West' for Planners

- ◆ A cowboy is loyal to his "brand," to his friends, and those he rides with.
A planner is loyal to his community, his friends & those he lunches with.
- ◆ No matter how weary and hungry you are after a long day in the saddle, always tend to your horse's needs before your own, and get your horse some feed before you eat.
No matter how weary and hungry you are after a long council meeting, always tend to your elected officials' needs and organize the project file before heading for home.
- ◆ Complain about the cooking and you become the cook.
Complain about the community and you become the planner.



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'Code of the West' for Planners

- ◆ Never order anything weaker than whiskey.
Never order anything weaker than a triple Americano with room.
- ◆ Don't wave at a man on a horse, as it might spook the horse. A nod is the proper greeting.
Don't wave at the camera during televised council meetings, as it might spook the folks at home. A nod is a proper greeting.
- ◆ Consideration for others is central to the code, such as: Don't stir up dust around the chuck wagon, and don't wake up the wrong man for herd duty.
**Consideration for others is central, such as:
Don't leave dirty dishes in the lunchroom
and don't call the wrong planner for floor duty.**



'Code of the West' for Planners

- ◆ A cowboy is pleasant even when out of sorts. Complaining is for quitters and cowboys hate quitters.

A planner is pleasant even when out of sorts. Complaining is Public Work's job!

- ◆ Always be courageous. Cowards aren't tolerated in any outfit worth its salt.

Daniel Burnham said it best, "Make no small plans, they have no magic to stir the soul."

- ◆ Respect the land and the environment by not smoking in hazardous fire areas, disfiguring rocks, trees, or other natural areas.

Ditto for planners.

- ◆ John Wayne, an enduring American icon of the West was quoted as saying, "A man's got to have a code, a creed to live by, no matter his job."



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Common Aspects of AICP Code/Ethical Principles in Planning/'Code of the West' for Planners

[AICP Code APA Principles Modified Planners' Code of West]

- ◆ Remove your guns before sitting at the dining table.
We shall always be conscious of the rights of others.
Recognize the rights of citizens to participate in planning decisions
Firearms are frowned upon at planning commission meetings.
- ◆ A cowboy always helps someone in need, even a stranger or an enemy.
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.
Strive to expand choice and opportunity for all persons, recognizing a special responsibility to plan for the needs of disadvantaged groups and persons
A planner always helps someone in need, even a developer or a realtor.



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Common Aspects of AICP Code/Ethical Principles in Planning/‘Code of the West’ for Planners

- ◆ A cowboy is loyal to his “brand,” to his friends, and those he rides with.
We shall protect and enhance the integrity of our profession.
Treat fairly and comment responsibly on the professional views of colleagues and members of other professions
A planner is loyal to his community, his friends & those he lunches with.
- ◆ Always be courageous. Cowards aren't tolerated in any outfit worth its salt.
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.
Exercise fair, honest and independent judgment in their roles as decision makers and advisors
Daniel Burnham said it best, “Make no small plans, they have no magic to stir the soul.”



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Enforcement of AICP Code

- ◆ “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.”
- ◆ “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.”



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AICP Code Procedures

◆ Enforcement

- Allegation of violation can be filed
 - ◆ By AICP member or any other person
 - ◆ With identification of person filing allegation, or anonymously
 - Anonymous filer does not receive results of investigation
- Process after alleged violation filed
 - ◆ Investigation by Ethics Officer (Paul Farmer, current AICP Executive Director)
 - ◆ Results provided to person alleged to violate code, Ethics Commission, AICP Commission, and person filing allegation (if not anonymous)



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AICP Code Procedures

◆ Consequence of Finding of Violation

- Private Censure
- Published Censure
- Dismissal from AICP



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Enforcement of AICP Code

Summary of Ethics Cases

2010

4 Total Cases

Cases Resolved

2 Cases Dismissed

Cases Pending

1 Charge Under Review

1 Complaint Under Review

Ethics Committee Actions

No actions

Requests for Formal Advice

No requests

2011

4 Total Cases

Cases Resolved

2 Cases Dismissed

Cases Pending

1 Charge Under Review

1 Complaint Under Review

Ethics Committee Actions

No actions

Requests for Formal Advice

No requests

AICP Code Procedures

◆ Formal advice

- Only the Ethics Officer (AICP Exec. Dir.)
- It's binding
- Findings within 21 days
- Forwarded to the Ethics Committee

◆ Informal advice

- Ethics Officer (AICP Exec. Dir.)
- State PDO



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Enforcement of APA Principles

- ◆ No formal enforcement procedures by APA
- ◆ Some appointed recommending/decision-making bodies have incorporated Principles into procedures and practices adopted by local body
 - If Procedures and Practices have enforcement provisions, some of the APA Principles' directives might be used for taking action against a member



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Enforcement of the 'Code of the West'

- ◆ Failure to abide by the Code of the West did not bring formal punishment per se, but the cowboy who broke it:
 - ◆ was alienated by all others
 - ◆ was 'hazed into the cutbacks'
 - ◆ became a social outcast
- ◆ Enforcement of the Code typically included an interesting blend of courtesy and violence - there were many twists in the of enforcement in the Code.
- ◆ Cutting fences and fencing off access rivers often lead to blood shed.
- ◆ Anyone caught with a stolen mount could expect to be hanged from the nearest tree.



Enforcement of the 'Code of the West'

- ◆ A rancher who demanded payment for a meal from two out-of-work hands often found the message "Meals--50cts," branded on the side of one of his steers.
- ◆ A notorious gunman or gambler might be shot in full view of witnesses and the shooter never called to account. But if a respectable citizen was the victim, the killer would most likely be hanged.
- ◆ Paid gunfighters guarded cattle herds and stagecoach lines.
- ◆ Impromptu posses hunted down bandits and vigilance committees dispensed unofficial justice.



SCENARIOS

(This is where YOU participate!!!)

- ◆ **SETUP:** Use the 3 different Codes to discuss/assess each scenario
- ◆ **Break into small groups**
 - When using AICP Code: determine if violation has occurred and what if so, what is appropriate action of AICP Commission: private censure, public censure, dismissal from AICP
 - When using APA Principles: determine if principle has been adhered to and what, if any, action might be appropriate
 - When using Modified Planners' "Code of West": determine if code has been adhered to and what, if any, action might be appropriate
- ◆ Briefly report findings and any potential action



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SCENARIO

- ◆ A developer accuses an AICP member who works for a public agency of providing what the developer considers proprietary information to group opposed to developer's project. The developer states that the AICP member never told him that certain information might not be confidential. The AICP member admits that the developer was not advised that all information submitted to a public agency is considered public, but the developer had never raised a concern in previous applications.
- ◆ AICP Code Rule(s) to be considered:
 - We shall not deliberately or with reckless indifference fail to provide adequate, timely, clear and accurate information on planning issues.
- ◆ APA Principle(s) to be considered:
 - Recognize the rights of citizens to participate in planning decisions.
 - Ensure that reports, records and any other non-confidential information which is, or will be, available to decision makers is made available to the public in a convenient format and sufficiently in advance of any decision.
- ◆ Modified Planners' Code of the West to be considered:
 - A planner always helps someone in need, even a developer or a realtor.
 - Do not plan with an attitude.



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SCENARIO

- ◆ **An HOA accuses an AICP member who works for a public agency of intentionally (and self-righteously) expanding the public notice boundaries so that an economically disadvantaged neighborhood is sent notification of a proposed health clinic. The HOA accuses the AICP member of promoting this as “Obamacare” project and asks that “their” comments be discounted because they do not live within the “codified” notice boundary. The AICP member admits that the boundary was expanded but contends that there is flexibility in the notice section of the Code and that the disadvantaged neighborhood will be impacted by the project, so it was an appropriate expansion.**
- ◆ **AICP Code Rule(s) to be considered:**
 - 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.
- ◆ **APA Principle(s) to be considered:**
 - Strive to give citizens (including those who lack formal organization or influence) full, clear and accurate information on planning issues and the opportunity to have a meaningful role in the development of plans and programs;
 - Contribute time and effort to groups lacking adequate planning resources and to voluntary professional activities.
- ◆ **Modified Planners’ Code of the West to be considered:**
 - Consideration for others is central to the Code.



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SCENARIO

- ◆ A married couple both work as AICP planners; she for a consulting firm, he with a city planning agency. Although her firm routinely represents clients before the city planning agency, she never represents these clients, nor participates in any dealings that these clients might have with the City. Occasionally her firm receives invitations or tickets to civic and sporting events from clients of her firm, some who have had applications before the City planning agency. The firm distributes these invitations to their employees and she has used them from time to time. Her husband has joined her in attending these events. A disgruntled citizen whose opposition was not successful to one of her firm's client's proposal has alleged that her husband is unduly influenced by attending the aforementioned events with his wife.
- ◆ AICP Code Rule(s) to be considered:
 - 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.
- ◆ APA Principle(s) to be considered:
 - Define "personal interest" broadly to include any actual or potential benefits or advantages that they, a spouse, family member or person living in their household might directly or indirectly obtain from a planning decision.
- ◆ Modified Planners' Code of the West to be considered:
 - A planner is loyal to his community, his friends & those he lunches with.

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Session Takeaways

- ◆ **Be open and honest.**
 - ◆ **Find a way to balance all of the potentially conflicting demands.**
 - ◆ **Avoid the perception of favoritism.**
 - ◆ **Disclose any and all interests.**
 - ◆ **An ethical challenge wears you down.**
 - ◆ **Take it to the next level.**
- 
- A stylized, dark teal silhouette of a mountain range is positioned in the bottom right corner of the slide, adding a decorative element to the background.



Thank you for your participation in
this session!



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