

**ICMA Code of Ethics:
Rules of Procedure for Enforcement
Adopted by the ICMA Executive Board and revised in September 2011**

I. General

- A. These rules govern the procedures for enforcing the ICMA Code of Ethics as adopted by the ICMA membership.
- B. All members of ICMA agree to abide by the Code of Ethics.
- C. The purpose of these rules is to provide a reasonable process for investigating and determining whether a member has violated the code, and to afford each individual member who is the subject of an investigation (the “respondent”) a full and fair opportunity to be heard throughout the process.
- D. It is the intention of the ICMA membership that these rules be carried out carefully but expeditiously in order to minimize the time during which a member may be subject to possible disciplinary action. Accordingly, time limits stated in these rules are binding, subject to extensions which may be granted by the Committee on Professional Conduct (CPC), or the ICMA executive director, for reasonable cause, upon request.
- E. No person may participate in any proceedings on a complaint brought under these rules if that person is or may be a witness or complainant in that case, or if his or her participation would otherwise create, or appear to create, a conflict of interest. The executive director may select a replacement for any person (other than a member of the Executive Board) who is unable to participate in the case for this reason.

II. Jurisdiction

- A. All members of ICMA in active service to a local government are subject to the Code of Ethics and are subject to sanctions for any violations thereof which occur during their membership. However, elected officials are not subject to Tenet 7, and members not in service are subject only to Tenets 1 and 3. A member may be subject to sanctions for a violation which continues while he or she is a member even though the conduct in question originated prior to admission to membership.
- B. If a complaint is made against a person who was a member at the time the alleged violation occurred, but who is not a member at the time the complaint is made, the complaint will be processed under these procedures only if the former member agrees in writing. In no event shall a person be readmitted to membership if there is an outstanding and unresolved complaint against him or her for conduct while formerly a member.
- C. The committee shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from ICMA or otherwise allows his or her membership in ICMA to lapse.

III. Responsibilities

- A. The ICMA Executive Board is responsible for making the final decision on matters pertaining to the enforcement of the code, including, but not limited to, sanctions for the violation thereof. No current or former member may be publicly censured, suspended, expelled, or barred from membership without the approval of the Executive Board.

- B. The Committee on Professional Conduct (CPC) is the committee of ICMA responsible for assisting the Executive Board in implementing these rules and has the specific duties set forth hereinafter.
 - 1. The CPC shall consist of three or more members of the ICMA Executive Board who shall be selected by the president of ICMA.
 - 2. CPC members shall serve for terms of one (1) year or until their successors are chosen by the president.
- C. A state association consists of members of ICMA within the particular state or province. It is responsible for appointing fact-finding committees.
- D. A fact-finding committee is a committee of ICMA, appointed by a state association, and is responsible for conducting the investigation of a complaint of a violation of the code in accordance with these rules. Members of a fact-finding committee shall serve until the conclusion of the investigation they were appointed to conduct, or until such later date as the state association of ICMA members may request.
- E. The executive director shall assist the Executive Board and the CPC in enforcing the code and implementing these rules. It is the responsibility of the executive director to publicize the existence and importance of the code with elected officials and the general public.
 - 1. The executive director may privately advise members on the ethical implications of their conduct under the code. However, the opinion or advice of the executive director shall not be binding on the Executive Board, the CPC, or any fact-finding committee.
 - 2. The executive director may designate a member of the ICMA staff to carry out any of the responsibilities assigned to the executive director under these rules.

IV. Sanctions

- A. Sanctions may be imposed in accordance with these rules upon members who are found to have violated the code. In determining the kind of sanction to be imposed, the following factors may be considered: the nature of the violation, prior violations by the same individual, the willfulness of the violation, the level of professional or public responsibility of the individual, and any other factors which bear upon the seriousness of the violation.
- B. The following sanctions may be imposed singly or in combination at the conclusion of an investigation and/or hearing under these rules:
 - 1. **Private Censure.** A letter to the respondent, the state association, and the complainant, indicating that the respondent has been found to have violated the Code of Ethics, that ICMA disapproves of such conduct, and that, if it is repeated in the future, it may be cause for more serious sanctions. If the complainant is a nonmember, he or she shall be notified that the case was considered and resolved, and that no public action was taken.
 - 2. **Public Censure.** Notification to the respondent, complainant, state association, and news media, indicating that a violation of the code took place and that ICMA strongly disapproves of such conduct and the nature of the sanction(s) imposed. In addition, such notice shall be provided to appropriate local governing bodies where the Executive Board has found it necessary to do so in order to protect the public against unethical conduct in local government.

3. **Membership Suspension.** A suspension of membership, and all related benefits, for a period to be determined by the CPC subject to provisions for approval by the Executive Board. Adherence to the ICMA Code of Ethics is a condition of serving a suspension. The term of the suspension shall not exceed 5 years. Notice of the suspension will be given to the respondent, complainant, state association, and appropriate media.
 4. **Expulsion or Membership Bar.** A revocation of the respondent's membership privileges, where the respondent is a current member; or a prohibition against reinstatement of the respondent's membership in ICMA, where the respondent's membership has lapsed or otherwise ended.
- C. Upon receiving documented evidence that a member has been found guilty after trial by a judge or a jury of criminal conduct, which constitutes a violation of the ICMA Code of Ethics and which occurred while the person was a member of ICMA, the executive director shall immediately issue a notice of suspension of membership to that person by registered mail and that person's membership shall be suspended as of the date of that notice. The executive director shall advise the CPC of any such action and shall refer the case to the CPC. The CPC may commence an investigation in accordance with Part VI hereof, or it may defer proceedings until the person has exhausted all appeals or the time for appeal has expired. The suspension shall continue in effect until such time as sanctions provided under Part IV.B are imposed, or the case is dismissed, in accordance with these Rules.

V. Initiation of Procedures

- A. Proceedings against an individual for an alleged violation of the Code of Ethics may be initiated by the executive director upon receiving a written complaint or other written information from any source indicating that a violation may have occurred.
- B. Upon receiving such a written complaint or information, the executive director must ascertain whether it is sufficiently clear and complete to initiate proceedings, and, if so, whether it alleges conduct that may be a violation of the Code of Ethics. If the executive director concludes that the complaint is not sufficiently clear or complete to initiate proceedings, he or she shall seek further clarification from the complainant or other source before taking any further action.
 1. If the executive director cannot determine whether the conduct alleged, if proven, might violate the Code of Ethics, he or she shall refer the question to the CPC for a ruling. No further action shall be taken with respect to the complaint or information unless the CPC rules that the conduct alleged, if true, may constitute a violation of the code.
 2. If the executive director concludes that the complaint is sufficiently clear and complete to initiate proceedings, and may, if proven, indicate a violation of the code, a copy of the complaint or information shall be forwarded by registered mail to the respondent named in the complaint or information. The respondent shall be informed at the time of the provisions of the code which he or she is alleged to have violated. The executive director may also request that the respondent answer specific questions pertaining to the alleged violation.
 3. The respondent shall be given thirty (30) days within which to respond in writing to the complaint or information, to provide any further information or material he or she considers relevant to the allegations, and to answer any specific questions asked by the executive director.

4. As soon as the respondent's response is received, but in no event more than thirty (30) days after written notice of the alleged violation has been given to the respondent, the executive director shall refer the case to the CPC for proceedings in accordance with these rules.

VI. Investigations

- A. Upon receiving a case of an alleged violation of the Code of Ethics from the executive director, the CPC shall commence an investigation into the allegations. However, no investigation shall be required if (1) the respondent admits to the violation in his or her initial response, or (2) the respondent has already entered a guilty plea, or has been found guilty and has exhausted all appeals, in a criminal case involving the same conduct.
- B. In all cases other than those in which an investigation is not required, the executive director, at the request of the CPC, shall request the state association for the state in which the violation is alleged to have occurred to appoint an ICMA fact-finding committee to conduct the investigation. If the violation is alleged to have occurred in more than one state, at least one member of the committee shall be from the state involved. In the event that there is no active association in a state, the CPC shall appoint an ICMA fact-finding committee from one or more state(s) for this purpose.
 1. The fact-finding committee shall consist of not less than three (3) ICMA members. No one other than an ICMA member may serve on the ICMA fact-finding committee.
 2. A fact-finding committee must be appointed within fifteen (15) days of the request made by the executive director.
 3. The fact-finding committee shall afford the respondent an opportunity to meet with the committee in person and may, at its discretion, afford such an opportunity to the complainant as well. The respondent may appear at such a meeting personally and be accompanied by a representative. Alternatively, the respondent may appear through a representative.
 4. The fact-finding committee shall prepare and maintain notes of all meetings and interviews with the respondent, the complainant, and any witnesses, and may request any such person to sign a statement prepared on the basis of those notes. The respondent shall be entitled to review these notes and statements, and any other documentary evidence gathered in the course of the investigation, and shall be afforded the opportunity to respond in writing thereto.
 5. The fact-finding committee shall take all reasonable steps to ascertain the facts relevant to the case, including, but not limited to, interviews with witnesses, review of the respondent's submission(s), and examination of all published material judged to be relevant and reliable.
 6. Within sixty (60) days of the appointment of the fact-finding committee, the investigation shall be concluded, and a written report of the committee's proposed findings of fact shall be sent to the executive director and the respondent. Each finding must be supported by reliable and relevant evidence which has been made available to the respondent for review.

VII. Decisions

- A. The CPC shall promptly review the fact-finding committee's proposed findings of fact and shall ascertain whether they are supported by sufficient reliable and relevant evidence.
1. If the evidence is not sufficient, the CPC may either (a) dismiss the case; (b) return it to the fact-finding committee for further investigation in accordance with these rules; or (c) refer the case to the Executive Board for a hearing in accordance with part VIII of these rules.
 2. If the CPC determines that the proposed findings are supported by the evidence, it shall determine whether they demonstrate that a violation of the Code of Ethics has occurred. If not, it shall dismiss the case and so advise the respondent, the fact-finding committee, the state association, and the executive director.
 3. If the CPC concludes on the basis of the fact-finding committee's report that a violation has occurred, it shall determine the appropriate sanction(s). The CPC shall then notify the respondent of its intent to adopt the fact-finding committee's report as final, and to impose the specified sanction(s) for the reasons stated, unless the respondent can show that the findings of facts are erroneous, or that the proposed sanctions(s) should not be imposed in light of certain mitigating factors which the CPC did not previously consider. The respondent shall have fifteen (15) days in which to submit a written response to the CPC and/or to request a hearing.
 4. In event that the respondent makes no submission, and does not request a hearing, the CPC shall promptly adopt the proposed findings and sanction(s) as final and so inform the Executive Director.
 5. In the event that the respondent makes a written submission, but does not request a hearing, the CPC shall review the submission and may either adopt, or revise and adopt as revised, the proposed findings and/or sanction(s), as it deems appropriate. The CPC shall promptly notify the Executive Director of its decision.
 6. In the event that the respondent requests a hearing, the CPC shall refer the case, including its recommended sanction(s), for a hearing before the Executive Board. Hearings shall be conducted in accordance with part VIII of these rules. No sanction(s) shall be imposed before the hearing is concluded.
- B. Upon receiving notice from the CPC of its determination that a private censure is the appropriate sanction, and that the respondent has not requested a hearing, the executive director shall send a letter of private censure to the respondent, with copies to the complainant and the state association. The case shall then be closed.
1. No other notification of a private censure shall be made. However, ICMA may publish the fact that certain kinds of conduct have resulted in the issuance of private censures, provided that no names or identifying details are disclosed.
- C. Upon receiving notice from the CPC of its determination that a public censure, suspension, expulsion, or membership bar is the appropriate sanction, and that the respondent has not requested a hearing, the Executive Board may vote to adopt the recommended decision of the CPC, to modify said decision, or to dismiss the case without imposing sanctions. The respondent shall be immediately notified of the decision of the Executive Board and the sanction, if any, shall be implemented.

VIII. Hearings

- A. These procedures shall govern all hearings conducted pursuant to these rules.
- B. No board member may hear any case if his or her participation in that case would create an actual or apparent conflict of interest.
- C. Within ten (10) days of receiving a request for a hearing, the executive director shall notify the respondent by registered or certified mail that a hearing has been scheduled before the Executive Board. The hearing date shall be at least fifteen (15) days after the date the notice is postmarked. The notice shall also state that the respondent has the following rights:
 1. To appear personally at the hearing;
 2. To be accompanied and represented at the hearing by an attorney or other representative;
 3. To review all documentary evidence, if any, against him or her in advance of the hearing;
 4. To cross-examine any witness who testifies against him or her at the hearing; and
 5. To submit documentary evidence, to present testimony, including the respondent's, in his or her defense at the hearing.
- D. The Executive Board shall not be bound by any formal rules of evidence but may accord appropriate weight to the evidence based on its relevance and reliability.
 1. The fact-finding committee's report shall be admissible evidence at the hearing.
 2. The Executive Board may not hear evidence of any alleged ethics violation by the respondent that was not the subject of the initial investigation.
- E. At any hearing conducted under these rules, the CPC shall first present evidence in support of its recommended decision. Upon conclusion of its presentation, the respondent shall have the opportunity to present evidence in his or her defense.
- F. Within five (5) working days of the conclusion of the hearing, the Executive Board shall render a decision in the case.
 1. The decision shall be in writing and shall include a statement of the reasons therefore. Only evidence which was put before the Executive Board may be considered as a basis for the decision.
 2. The Executive Board's decision may be to:
 - a. Dismiss the case;
 - b. Adopt the findings and sanction(s) recommended by the CPC; or

- c. Revise and adopt as revised, the findings and/or sanction(s) recommended by the CPC. However, the Executive Board may not increase the sanction(s) recommended by the CPC unless new evidence, not previously available to the CPC, is disclosed at the hearing, which indicates that the respondent's violation was more serious. No sanction may be imposed for any violation of which the respondent had no prior notice.
3. A copy of the written decision of the Executive Board shall be sent immediately by registered mail to the respondent, the Executive Board, the CPC, the state association, and the executive director.
4. Promptly after receiving a copy of the written decision, the executive director shall implement the sanction(s), if any, imposed by the Executive Board in accordance with the rules.

IX. Revocation of Credential

- A. The Rules shall also apply to the revocation of a member's credential under the ICMA Credentialing Program, as approved by the ICMA Executive Board.