

Tennessee City Management Association  
Rules of Procedure for Enforcement of the ICMA Code of Ethics

**I. GENERAL**

By reference in its Bylaws, the Tennessee City Management Association (TCMA) adopted the International City/County Management Association (ICMA) Code of Ethics (code of ethics or code). As a condition of TCMA membership, members agree to abide by this code.

This policy sets forth the process for enforcement of the ICMA Code of Ethics when an alleged violation occurs.

**II. AFFILIATE ORGANIZATION STATUS – PROCESSING OF COMPLAINTS AGAINST TCMA MEMBERS WHO ARE ICMA MEMBERS**

- (a) TCMA and ICMA entered into an Affiliation Agreement in April 2017. As set forth in that agreement, ICMA agreed to conduct ethics investigations for ICMA members in Tennessee. Furthermore, ICMA agreed to provide consultation on complaints for individuals who are not ICMA members but who are TCMA members. Accordingly, it is the policy of TCMA that any complaint filed against a member who is a member of ICMA will be referred to ICMA for processing under its rules and procedures of enforcement.
- (b) TCMA shall fully cooperate with ICMA as requested in the processing of any such complaint.
- (c) The TCMA Board of Directors, upon receipt of the ICMA Committee on Professional Conduct decision and any ICMA-imposed sanction, shall meet within thirty (30) calendar days to determine if a sanction should be imposed on his or her TCMA membership. The member shall not be entitled to an appeal or hearing for any sanction imposed by the board.
- (d) The processing of ethics complaints for non-ICMA members shall be guided by the provisions set forth in Article III below.

**III. PROCESSING OF COMPLAINTS AGAINST TCMA MEMBERS WHO ARE NON- ICMA MEMBERS**

- (a) The purpose of this policy is to provide a reasonable process for investigating and determining whether (1) a member has violated the ICMA Code of Ethics and (2) to afford such member (hereinafter “respondent”) a full and fair opportunity to be heard during the process.
- (b) This policy shall be carried out carefully but expeditiously to minimize the time during which a member may be subject to possible disciplinary action. Time limits shall be binding, subject only to extensions which may be granted by the ethics committee or by the president, based upon reasonable cause, upon request.
- (c) No person may participate in any proceedings on a complaint if that person is or may be a witness or complainant in the case, or if his or her participation would otherwise create, or appear to create, a conflict of interest. The president may, but is not required, to appoint a temporary replacement for any person serving on the ethics committee who is unable to participate in the case for this reason.

**III.A. Jurisdiction**

- (a) All members of TCMA in active service to a local government and members in transition actively seeking a return to local government are subject to the ICMA Code of Ethics and may be sanctioned for a violation which occurs during their membership. 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 is not a current member, the complaint will be processed under these procedures only if the former member agrees in writing for such investigation to take place. In no event shall a person be readmitted to TCMA membership if there is an outstanding and unresolved complaint against that person for conduct while a former member.
- (c) TCMA shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from TCMA or otherwise allows his or her membership to lapse.
- (d) Except as provided in (a) – (c) above, a member (1) resigning his or her TCMA membership and (2) no longer employed in local government is exempt from the application of these rules.

### **III.B. Responsibilities**

- (a) The TCMA Board of Directors (board of directors of board) is responsible for the enforcement of the ethics code, including but not limited to sanctions for the violation thereof. No current or former member may be privately censured, publicly censured, expelled, or expelled and barred from membership without board approval.
- (b) The TCMA Ethics Committee (ethics committee or committee) is responsible for assisting the board in investigating ethics complaints and has the other specific duties set forth hereinafter.
- (c) The TCMA Executive Director (executive director) shall provide administrative support to assist the board and ethics committee in enforcing the code and implementing these rules, as well as the other duties as set forth herein.
- (d) Counsel may be sought from the ICMA ethics staff in carrying out these procedures and in considering complaints.

### **III.C. Initiation of Procedures for Alleged Violation**

- (a) Proceedings against an individual for an alleged violation of the code of ethics shall be initiated by the ethics committee chairman upon receipt of a written complaint, which complaint must include the complainant's name (typed or printed) and signature. Upon receiving such a written complaint, the chairman shall submit the same to the ethics committee for review within seven (7) calendar days of receipt and sufficiency.
- (b) The committee will ascertain within ten (10) calendar days whether the complaint is sufficiently clear and complete to initiate proceedings, and if so, whether the alleged conduct, if true, would violate the code of ethics.
  - a. If the committee concludes that the complaint is insufficiently clear or incomplete to initiate proceedings, it shall seek further clarification from the complainant or other source before taking further action.
  - b. If the committee concludes that the complaint is complete to initiate proceedings, a copy of the complaint shall be sent by the chairman to the respondent named in the complaint indicating the tenet of the code of ethics that he or she is alleged to have violated. The chairman may also request that the respondent answer specific questions pertaining to the alleged violation.
- (c) The respondent shall be given thirty (30) calendar days to respond in writing to the complaint and to provide information or material he or she considers relevant to the allegations, and to answer any specific questions asked by the chairman.
- (d) As soon as the respondent's response is received, but in no event more than thirty (30) calendar days after written notice of the alleged violation has been given to the respondent, the chairman shall refer the case to the committee for proceedings.
  - a. If the respondent fails to provide written response within thirty (30) calendar days,

the chairman shall immediately refer the case to the committee for proceedings.

### **III.D. Investigation of Complaint**

- (a) Following receipt from the chairman, the ethics committee shall commence an investigation into the allegations.
  - a. No investigation shall be required when:
    - (1) Respondent admits to the violation in his or her initial response, and
    - (2) 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. When a respondent, while still a member and employed in local government, admits to a violation of the guideline of Running for Office set forth in Tenet 7 of the code (shown below), or if by public record the evidence is incontrovertible that the respondent is running for public office while still a member and employed in a local government without his or her admission, and if in either circumstance the respondent continues in the race as a candidate for public office, then in such event the matter shall be immediately referred to the Board of Directors for imposition of the sanction of Expulsion or Expulsion and Membership Bar. No hearing or appeal of the sanction shall be afforded the respondent for said violation.

Running for Office. Members shall not run for elected office or become involved in political activities related to running for elected office or accept appointment to an elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

- (b) For all other alleged violations, the respondent shall be afforded an opportunity to meet with the committee, in its sole discretion, in person or by conference call and the committee may also, in its sole discretion, afford an opportunity to the complainant as well. The respondent may participate personally with or without a representative, or solely by a representative.
- (c) The 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 submissions, and examination of all published material judged to be relevant and reliable.
- (d) Within fifteen (15) calendar days of the referral of a complaint to the committee, the investigation shall be concluded, and a written report of the committee's proposed findings of fact shall be sent to the board and the respondent. The committee report shall include conclusions as to the veracity and seriousness of the complaint.

### **III.E. Decisions**

- (a) The TCMA Board of Directors shall consider the ethics committee report at its next regularly scheduled meeting, but in no event longer than thirty (30) calendar days following receipt of the committee report. If a regularly scheduled meeting will not occur within the thirty (30) day time period, the board shall meet via conference call. The board shall review the findings of the committee and shall ascertain whether it is supported by reliable and relevant evidence.
  - a. If the evidence is deemed insufficient, the board may:
    - i. Dismiss the case,
    - ii. Return the case to the committee for further investigation, or
    - iii. Schedule a hearing in accordance with Article III.F.
- (b) If the board determines that the proposed findings are supported by the evidence, it shall determine whether a violation of the ICMA Code of Ethics has occurred. The board may vote to impose sanctions, to seek a recommendation of the committee prior to imposing sanctions, or to dismiss the case.
  - a. If the case is dismissed without sanction the respondent, the complainant, and the

committee shall be notified in writing by the executive director.

- b. If the board concludes that a violation has occurred, it shall determine the appropriate sanction. The executive director shall notify the respondent of the board's intent to sanction the respondent and shall offer the respondent an additional opportunity to provide further evidence that the findings of facts are erroneous, or that the proposed sanction should not be imposed based on certain mitigating factors which the ethics committee did not previously consider. The respondent shall have fifteen (15) calendar days to submit a written response and may, in addition, request a hearing with the board for any proposed sanction other than a private censure.
  - i. In event that the respondent makes no submission and does not request a hearing, the proposed findings and sanctions shall be final.
  - ii. If the respondent makes a written submission and does not request a hearing, the board, within fifteen (15) calendar days of receiving the submission, shall adopt or revise and adopt, its findings and the sanction to be imposed.
  - iii. If the board determines that a private censure is the appropriate sanction, the executive director shall send a letter of private censure to the respondent, with copies to the complainant and to the ethics committee. The case shall then be closed. No other notification of a private censure shall be made. TCMA may, however, publish the fact that certain kinds of conduct have resulted in the issuance of a private censure, provided that no names or identifying details are disclosed.
- (c) If the board has determined that a public censure, expulsion, or expulsion and membership bar is the appropriate sanction and the respondent has not requested a hearing, the respondent shall be immediately notified by the executive director, and the sanction shall be implemented.
- (d) If the respondent requests a hearing, the board shall schedule a hearing within thirty (30) calendar days of the receipt of the request. Hearings shall be conducted in accordance with Article III.F below.

### **III.F. Hearings**

- (a) A respondent is entitled to a hearing before the TCMA Board of Directors for the sanction of public censure, expulsion, or expulsion and membership bar, except for a violation of the guideline of Running for Public Office in Tenet 7 of the code, as set out in Article II.D.(a) b.
- (b) No member of the board of directors may hear a case if his or her participation would create an actual or apparent conflict of interest.
- (c) Within ten (10) calendar days of receiving a request for a hearing, the executive director shall notify the respondent that a hearing has been scheduled before the board. The hearing date shall be at least fifteen (15) calendar days after notification is given to the respondent. The notice shall also state that the respondent has the following rights:
  1. To participate in 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, in advance of the hearing;
  4. To submit documentary evidence, and to present testimony, including the respondent's, in his or her defense at the hearing.
- (d) The 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.
- (e) The ICMA Committee on Professional Conduct report, if any, shall be admissible evidence at the hearing.

- (f) At a hearing, the ethics committee chairman shall present its findings of fact resulting from its investigation. Upon conclusion of the presentation, the respondent shall have the opportunity to present evidence in his or her defense.
- (g) Within five (5) calendar days of the conclusion of the hearing, the board shall render a written decision in the case.
  - a. Only evidence put before the board may be considered as a basis for the decision.
  - b. No sanction may be imposed for any violation of which the respondent had no prior notice.
- (h) Promptly following the written decision, the executive director shall implement the sanction imposed by the board.

### **III.G. Sanctions**

- (a) A sanction may be imposed on a member found to have violated the code. In determining the sanction to be imposed, the following factors may be considered by the TCMA Board of Directors:
  - 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
  - Any other factors which bear upon the seriousness of the violation

- (b) The board may impose, singly or in combination, the following sanctions:

1. **Private Censure**. A letter shall be sent to the respondent and the complainant, indicating that the respondent has been found to have violated the ICMA Code of Ethics, that TCMA disapproves of such conduct, and that, if it is repeated in the future, it may be cause for a more serious sanction. If the complainant is a non-member, he or she shall be notified that the case was considered and resolved. A non-member complainant shall not be provided a copy of the private censure letter.

No other notification of a private censure shall be made. However, TCMA may publish the fact that certain kinds of conduct have resulted in the issuance of a private censure, provided that no names or identifying details are disclosed.

2. **Public Censure**. A letter shall be sent to the respondent, complainant, and to the respondent's local news media indicating that a violation of the code took place and the sanction imposed. In addition, such notice shall be provided to appropriate local governing bodies when the board determines it appropriate in order to protect the public against unethical conduct in local government.

3. **Expulsion**. Immediate revocation of TCMA membership.

A member who has been expelled from membership may apply for reinstatement after a period of five (5) years from the date of expulsion. Early application for reinstatement shall not be accepted or considered. The expelled former member must submit a written request to the board for a reinstatement review and include the reasons why he or she believes it should be considered. The former member requesting reinstatement is entitled to a hearing before the board, if requested, which hearing may be scheduled to take place in person or by conference call, in the sole discretion of the board.

4. **Expulsion and Membership Bar**. Immediate revocation and lifetime ban of membership.

A member who has been barred from membership is permanently prohibited from TCMA membership.

- (c) Upon receipt of documented evidence that a member has been found guilty after trial by a judge or a jury of criminal conduct which violates a tenet of the ICMA Code of Ethics and which occurred while the person was a member of TCMA, the executive director shall immediately issue a notice of suspension of membership to that person and that person's membership shall be suspended as of the date of that notice. The executive director shall advise the Ethics Committee of such action and shall refer the case to the committee, which may commence an investigation in accordance with Article III.D. hereof, or it may defer proceedings until the person has exhausted all appeals or the time for appeal has expired.