

ILLINOIS CITY/COUNTY MANAGEMENT ASSOCIATION
RULES OF PROCEDURE FOR ENFORCEMENT
OF THE ICMA CODE OF ETHICS

I. General

- A. These Rules of Procedure shall govern the procedures for enforcement of the International City/County Management Association (ICMA) Code of Ethics which is shared by the Illinois City/County Management Association (ILCMA). These Rules of Procedure shall apply specifically to members of the ILCMA who are not ICMA members. Members of the ILCMA who are members of the ICMA shall be governed by Rules of Procedure for the ICMA. ILCMA has the right to impose ICMA sanctions on ILCMA members related to ILCMA membership status with no further action needed.
- B. All members of the ILCMA are bound and agree to abide by the ICMA Code of Ethics.
- C. The Executive Director of the ILCMA shall assist the ILCMA Board of Directors and the ILCMA Committee on Professional Conduct (CPC) in publicizing, promoting, implementing, and enforcing the ICMA Code of Ethics with the membership, elected officials and the general public.
- D. The purpose of these Rules is to provide a reasonable process for investigating and determining whether an ILCMA member who is not a member of ICMA has violated the ICMA Code of Ethics, and to afford each member who is the subject of an investigation a full and fair opportunity to participate throughout the process.
- E. It is the intention of the ILCMA membership that these Rules be carried out carefully but expeditiously in order to minimize the time to resolve the complaint, while ensuring the fairness of the process. Accordingly, time limits stated in these Rules shall be binding, subject to extensions which may be granted by the ILCMA President for reasonable cause when received in writing prior to the expiration of the applicable time frame.
- F. No person may participate in any proceedings on a complaint brought under these Rules if that person's participation would otherwise create or appear to create a conflict of interest. **The ILCMA President may select a replacement for any person (other than a member of the ILCMA Executive Board) who is unable to participate in the case for this reason.**
- G. "Days" as stated in these Rules shall refer to calendar days, not business days.
- H. All proceedings set forth in these Rules of Procedure shall be confidential. Unless not otherwise provided through ILCMA, the Board of Directors is authorized to secure legal counsel. ILCMA shall provide professional liability coverage to assist and protect the ILCMA and the participants in the ethics peer review process.

II. Jurisdiction

- A. All members of the ILCMA are subject to the ICMA Code of Ethics and are subject to sanctions for any violations thereof which occur during their membership with the following exceptions:
 - 1. Elected officials are not subject to Tenet 7
 - 2. Members not in service to a local government are only subject to Tenets 1 and 3.
- B. A member may be subject to sanctions for a violation that continues while a member, even though the conduct in question originated prior to admission to membership.
- C. If a complaint is made against an individual who was an ILCMA member at the time the alleged violation occurred, but who is not a member of the ILCMA at the time the complaint is made, the complaint will be processed and resolved under these Rules.
- D. The ILCMA shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from the ILCMA or otherwise allows membership in ILCMA to lapse.

III. Initiation of Procedures

- A. Written complaints and other information that support the allegation of a violation of the ICMA Code of Ethics shall be filed with the ILCMA Executive Director. Complaints must set forth facts or circumstances that, when taken as true and liberally construed, are sufficient to support the allegation(s). The complainant must include their name on the complaint but will remain anonymous throughout the process unless requested otherwise.
- B. The Executive Director shall promptly forward the written complaint and all other submitted information supporting the allegation to the ILCMA President and CPC Chair
- C. Upon receiving such a written complaint and other information that supports the allegation, the President, Executive Director, and CPC Chair will, within thirty days, collectively ascertain whether the complaint is sufficiently clear and complete to initiate proceedings, and, if so, whether it alleges conduct that may be a violation of the ICMA Code of Ethics.
 - 1. If the consensus is that the evidence is sufficiently clear and complete and that the action does not constitute a violation of the ICMA Code of Ethics, the Executive Director shall so notify the complainant in writing.
 - 2. If the consensus is that the complaint is not sufficiently clear or complete to initiate proceedings, further clarification will be sought from the complainant or other sources before taking any further action.

3. If the consensus is that the complaint is sufficiently clear and complete to initiate proceedings, and may, if proven, indicate a violation of the ICMA Code of Ethics, a copy of the complaint or information shall be forwarded by any means with verification of delivery to the respondent named in the complaint. The respondent shall be informed at that time of the provision(s) of the ICMA Code of Ethics which is alleged to have been violated. The Executive Director may also request that the respondent answer specific questions pertaining to the alleged violation.
4. The respondent shall be given thirty days to respond to the Executive Director in writing to the complaint, to provide further information or material considered relevant to refute the allegations, and to answer specific questions asked by the Executive Director.
5. Within seven days upon receipt of the respondent's response or after the expiration of time in which the response was due, the Executive Director shall refer the alleged violation to the CPC for investigation in accordance with these Rules. However, if the respondent admits to the violation, no investigation may be required. In that circumstance, the matter shall be referred to the ILCMA Officers for disposition in accordance with the corresponding Rules, if required.
6. A respondent who resigns membership upon receiving notice of an ethics complaint shall receive written notice that all rights are waived to participate in the review process including, but not limited to, Section VI. Investigations; Section VII. Decisions; and Section VIII. Hearings. ILCMA shall acknowledge the membership resignation in writing and inform respondent of the ability to reconsider the decision to resign within fifteen days. If the respondent has not notified ILCMA of their intent to remain a member in good standing within fifteen days, the respondent's membership resignation shall be considered final.

V. Consent Agreement

- A. If (1) the respondent admits to the violation in a written response, or (2) the respondent admits to conduct outlined in the allegation that constitutes a potential violation of the Code, a Consent Agreement may be entered into between the Officers of the ILCMA comprised of the President, Past-President, and President-elect (the Officers) and the Respondent, if such an agreement will result in a just disposition of the issues involved.
- B. Any Consent Agreement shall contain consent findings and an Order disposing of a proceeding or any part thereof and shall also provide that:
 1. The Order shall have the same force and effect as a decision made after a full hearing;
 2. The entire record on which any Order may be based shall consist solely of

the Complaint and the Consent Agreement;

3. Further procedural steps are waived;
4. Any right to challenge or contest the validity of the Order and decision entered in accordance with the Consent Agreement is waived; and
5. The Order and decision of the Officers is final.

VI. Investigations

- A. Upon receiving a complaint of an alleged violation of the Code from the Executive Director in accordance with Section III.C.5, the CPC shall begin an investigation into the allegations. No investigation is required if the respondent (i) enters into a Consent agreement per Section V; (ii) has already entered a guilty plea; or (iii) has been found guilty and has exhausted all judicial appeals in a criminal case involving the same conduct.
- B. If required, the CPC Chair shall, within fifteen days, appoint a fact-finding sub-committee of at least three CPC members to conduct an investigation of a complaint alleging a violation in accordance with these rules. Members appointed as the fact-finding sub-committee shall serve until the conclusion of the investigation or until such later date as may be requested by the CPC Chair. No one other than an ILCMA corporate (voting) member may serve on the fact-finding sub-committee.
- C. Within thirty days of receipt of a notice to proceed with an ethics investigation, the CPC shall afford the respondent an opportunity to meet with the sub-committee and may, at its discretion, afford such an opportunity to the complainant as well. The respondent may appear at such a meeting or meetings personally and may be accompanied by a representative. Alternately, the respondent may appear through a representative. This meeting or meetings may take place in-person, by phone, or virtually.
- D. The sub-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 based on those notes. The respondent shall be entitled to review these notes and statements, and any other documentary evidence gathered during the investigation and shall be afforded the opportunity to respond in writing thereto.
- E. The sub-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 material in the public domain judged to be relevant and reliable.
- F. Within sixty days of the fact-finding committee's appointment, or if the ILCMA President approves an extension request, the fact-finding committee shall provide its written report summarizing the committee's proposed findings of fact to the

Executive Director. Each finding must be supported by reliable and relevant evidence which has been made available to the respondent for review. The ILCMA Executive Director will notify the respondent of the reasonable cause in a timely manner. The fact-finding sub-committee report will be provided to the respondent.

VII. Decisions

- A. The Officers of the ILCMA comprised of the President, Past-President, and President-elect (the Officers) shall, within fifteen days, review the CPC fact-finding sub-committee report and determine if the findings are supported by the evidence.
1. If the Officers conclude that the proposed findings in the report are not sufficiently clear or complete to reach a decision, the Officers may return the matter to the CPC with a specific request for further investigation in accordance with these Rules.
 2. If the Officers determine that the proposed findings are supported by the evidence, they shall determine whether the findings demonstrate that a violation of the ICMA Code of Ethics has occurred. If no violation is deemed to have occurred, the case shall be dismissed and the respondent, the complainant, and the CPC Chair shall be advised of the dismissal.
 3. If the Officers conclude, based on the CPC's report, that a violation of the ICMA Code of Ethics has occurred, they shall determine the appropriate sanction(s). The Officers shall notify the respondent of their intent to adopt the CPC's report as final, and the intent to impose sanction(s) for the reasons stated, unless the respondent can show that the findings of fact are erroneous, or that the proposed sanction(s) should not be imposed considering certain mitigating factors which the Officers had not previously considered. The respondent shall also be notified of the right to a hearing. The respondent shall have thirty days in which to submit a written response to the Officers and/or to request a hearing.
 4. If the respondent makes no further submission and/or does not request a hearing, the Officers shall promptly adopt the proposed findings and sanction(s) as final and inform the respondent, the Board of Directors, the complainant and the CPC Chair.
 5. In the event the respondent makes a written submission, but does not request a hearing, the Officers shall review the submission and may either adopt, or revise and adopt as revised, the proposed findings and/or sanction(s), as deemed appropriate. Before deciding, the Officers may also request additional information from the respondent. The Officers shall promptly notify the Board of Directors, the respondent, the complainant and the CPC Chair of their decision.
 6. In the event the respondent requests a hearing, the Officers shall refer the case, including their recommended sanction(s), for hearing before the Board of Directors. Hearings shall be conducted in accordance with Section VIII of

these rules. No sanction(s) shall be imposed before the hearing is concluded.

- B. If the Officers determine that a private censure is the appropriate sanction, and the respondent has not requested a hearing, appropriate notifications shall be made in accordance with Paragraph B.1 of Section IX Sanctions. The ILCMA may publish a description of the conduct that resulted in a private censure, if names and identifying details are not disclosed.
- C. If the Officers determine that a public censure, membership suspension, expulsion, or membership bar is the appropriate sanction, and the respondent has not requested a hearing, appropriate notifications shall be made in accordance with respective Paragraph B.2, B.3, B.4 or B.5 of Section IX. Sanctions.

VIII. Hearings

- A. The following procedures shall govern all hearings conducted pursuant to these Rules.
- B. The hearing shall be conducted by the Board of Directors. However, the Officers shall not participate in the hearing except as set forth in Section VIII F and G.
- C. The Board of Directors shall appoint a Chairperson for the hearing.
- D. Upon receiving a request for a hearing, the Chairperson shall schedule the hearing within forty five days and shall notify the respondent by any means with verification of delivery as to the date, time and location for the hearing before the Board of Directors. The notice shall also state the respondent has a right to:
 - 1. Appear personally or virtually at the hearing;
 - 2. Be accompanied and represented at the hearing by an attorney or other representative;
 - 3. Review all documentary evidence, if any, in advance of the hearing;
 - 4. Cross examine any witness who testifies at the hearing; and
 - 5. Call witnesses, submit documentary evidence, and to present testimony, including the respondent's at the hearing.
- E. The Board of Directors shall not be bound by any formal rules of evidence but may accord appropriate weight to the evidence based on its relevance and reliability. The Board of Directors can hear new information that may have been discovered after the initial investigation. However, the Board of Directors may not hear evidence or any alleged ethics violation by the respondent that was not related to the initial complaint.
- F. At any hearing conducted under these Rules, the Officers or their designee shall first present evidence in support of the Officers' decision. Upon conclusion of the presentation, the respondent shall have the opportunity to call witnesses and present

evidence.

G. The Officers or their designee shall have the right to question or cross-examine any witness testifying at the hearing.

H. Within ten days of the conclusion of the hearing, the Board of Directors shall render a decision in the case.

1. The decision shall be in writing and shall include a statement of the reasons. Only evidence put before the Board of Directors may be considered as a basis for the decision.
2. The Board of Directors' decision may be to:
 - i. Dismiss the case;
 - ii. Adopt the findings and sanction(s) recommended by the Officers; or
 - iii. Revise, and adopt as revised, the findings and/or sanction(s) recommended by the Officers. However, the Board of Directors may not increase the sanction(s) recommended by the Officers unless new evidence, not previously available to the Officers, is disclosed at the hearing, which indicates that the respondent's violation was more egregious. No sanction may be imposed for any violation of which the respondent had no prior notice.
3. A copy of the decision of the Board of Directors shall be sent to the respondent, the complainant, the Officers and the CPC Chair.
4. Promptly upon receiving a copy of the written decision, the ILCMA President shall implement the sanction(s), if any, imposed by the Board of Directors in accordance with these Rules.

I. The Board of Directors shall determine logistical and administrative considerations related to hearings. The Decision of the Board of Directors shall be final and binding.

IX. Sanctions

- A. Sanctions may be imposed in accordance with these Rules upon ILCMA members who are found to have violated the ICMA Code of Ethics. 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 violations, 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 singularly or in combination at the conclusion of an investigation and/or hearing under these Rules:

1. Private Censure. A letter to the respondent, complainant, and CPC Chair

indicating that the respondent has been found to have violated the ICMA Code of Ethics, that the ILCMA disapproves of such conduct, and that, if it is repeated in the future, it may be cause for more serious sanctions.

2. Public Censure. Written notification to the respondent, the complainant, CPC Chair, local governing bodies affected by the circumstances and the news media, indicating that a violation of the ICMA Code of Ethics took place, that the ILCMA strongly disapproves of such conduct, and the nature of the sanction(s) imposed. Notice shall also be published in the newsletter of the ILCMA.
 3. Membership Suspension. Written notification to the respondent, the complainant, CPC Chair, local governing bodies affected by the circumstances, and the news media indicating that the respondent's membership privileges have been suspended. The length of the suspension shall be decided upon by the Board of Directors as recommended by the Officers. Notice of the membership suspension shall also be published in the newsletter of the ILCMA.
 4. Expulsion. Written notification to the respondent, the complainant, CPC Chair, local governing bodies affected by the circumstances and the news media indicating that the respondent's membership privileges in the ILCMA have been revoked. Notice shall also be published in the newsletter of the ILCMA.
 5. Membership Bar. If the respondent is no longer a member of the ILCMA, written notification to the respondent, the complainant, CPC Chair, local governing bodies affected by the circumstances and the news media that the respondent has been barred from re-admission. Notice shall also be published in the newsletter of the ILCMA.
- C. Upon receiving documented evidence that (1) a member has been found guilty of criminal conduct after a trial by a judge or a jury, (2) the member's conduct violates the ICMA Code of Ethics, and (3) the conduct occurred while the person was a member of the ILCMA, the Executive Director shall immediately issue, any means with verification of delivery, a notice of suspension of membership to that member indicating that membership has been suspended as of the date of the notice. The President shall advise the CPC and Board of Directors of the action. The President may (a) ask the CPC to commence an investigation in accordance with Section VI of these Rules; or (b) defer consideration until the person has exhausted all legal appeals or the time for legal appeals has expired. The suspension of membership shall continue until the final disposition of the case.
- D. A member who has been barred or expelled from membership under these rules may apply for reinstatement to ILCMA membership only after a period of at least five years from the date of the bar or expulsion, or from the date of the last review of a request for reinstatement. The barred or expelled former member must submit a written request to the ILCMA Board for a reinstatement review and include the

reasons why reinstatement should be considered. Such requests shall automatically be referred to the ILCMA Officers and Executive Director. The ILCMA President will review all the information provided and make a recommendation to the ILCMA Board. The former member requesting reinstatement review is entitled to a hearing before the ILCMA Board, if requested.