

MISSOURI CITY COUNTY MANAGERS 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 Missouri City/County Managers Association (MCMA). These Rules of Procedure shall apply specifically to members of the MCMA who are not ICMA members. Members of the MCMA who are members of the ICMA shall be covered by Rules of Procedure for the ICMA. MCMA has the right to impose ICMA sanction decisions on MCMA members as it relates to MCMA membership status with no further action needed.
- B. All members of the MCMA are bound and agree to abide by the ICMA Code of Ethics.
- C. The purpose of these Rules is to provide a reasonable process for investigating and determining whether an MCMA 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 be heard throughout the process.
- D. It is the intention of the MCMA 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 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 MCMA President for reasonable cause upon submittal of a timely request.
- E. 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 Executive Board shall select a replacement for any person who is unable to participate in the case for this reason.

II. Jurisdiction

- A. All members of MCMA are subject to the ICMA Code of Ethics and are subject to sanctions for any violations thereof which occur during their membership. Associate members who participate in the Friends of MCMA program are exempt from these rules, however they are still subject to the Member, Vendor, and Event Attendee Conduct Policy. A member may be subject to sanctions even though the conduct in question originated prior to admission to membership.
- B. If a complaint is made against a person who was an MCMA member at the time the alleged violation occurred, but who is not a member of the MCMA at the time the complaint is made, the complaint will only be processed under these Rules if the

former member agrees in writing. In no event shall an individual be readmitted to membership in MCMA if there is an outstanding and unresolved complaint against the individual for conduct while formerly a member of MCMA.

- C. The MCMA shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from the MCMA or otherwise allows membership in MCMA to lapse.

III. Responsibilities

- A. Subject to these Rules, the Executive Board shall be responsible for making final decisions on matters pertaining to enforcement of the ICMA Code of Ethics, including but not limited to, sanctions for violations thereof.
- B. The Ethical Conduct Committee (ECC) shall be the committee responsible for assisting the Executive Board in implementing these Rules and shall have the specific duties set forth hereinafter.
- C. The ECC shall consist of a minimum of four members, plus a chairperson, appointed by the MCMA President, subject to the MCMA Board Policy on Committees, MML, and ICMA Appointments.
 - 1. The ECC reviews ICMA ethics complaints or questions involving Missouri members, and serves as the primary liaison with the ICMA Committee on Professional Conduct.
- D. The Program Director of the MCMA shall assist the Executive Board and the ECC in publicizing, promoting, implementing, and enforcing the ICMA Code of Ethics with the membership, elected officials and the general public.

IV. Initiation of Procedures

- A. Proceedings against an individual for an alleged violation of the ICMA Code of Ethics may be initiated by the Executive Board, upon receiving a written complaint or other written information from any source indicating that a violation may have occurred. Oral complaints shall be reduced to writing in a timely manner prior to initiation of proceedings.
- B. Upon receiving such a written complaint or information, the Executive Board shall 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 President 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 registered or certified mail to the respondent named in the complaint or information. The respondent shall be informed at that time the provisions of the ICMA Code of Ethics which is alleged to have been violated. The MCMA President may also request that the respondent answer specific questions pertaining to the alleged violation.

4. The respondent shall be given thirty (30) calendar days to respond in writing to the complaint or information, to provide any further information or material considered relevant to the allegations, and to answer any specific questions asked by the MCMA President.

5. After receiving all requested information within the specified time limits, the MCMA President shall refer the alleged violation to the ECC 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 MCMA Board for disposition in accordance with the corresponding Rules, if required.

V. Investigations

- A. Upon receipt of referral of a complaint from the MCMA President, the ECC Chair shall within fifteen days convene the ECC for the purpose of initiating an ethics investigation.
- B. Within thirty working days of receipt of a notice to proceed with an ethics investigation, the ECC shall afford the respondent an opportunity to meet with the committee. The complainant shall be afforded the opportunity to meet with the committee. The respondent may appear at such a meeting personally and may be accompanied by a representative. Alternately, the respondent may appear through a representative. This meeting may take place in-person, by phone, or virtually.
- C. The 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.
- D. 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 submission(s), and examination of all published material judged to be relevant and reliable.

- E. Within sixty (60) working days of a complaint's referral to the ECC, the investigation shall be concluded, and a written report of the committee's proposed findings of fact shall be sent to the Executive Board, and the respondent. Each finding must be supported by reliable and relevant evidence which has been made available to the respondent for review. In its report, the committee may, at its discretion, recommend that disciplinary action be considered. However, in doing so, the committee shall not recommend a specific sanction.

VI. Decisions

- A. The MCMA Executive Board shall review the ECC fact-finding report and determine if the findings are supported by the evidence.
 - 1. If the Board concludes that the proposed findings in the report are not sufficiently clear or complete to reach a decision, the Board may return the matter to the ECC with a specific request for further investigation in accordance with these Rules.
 - 2. If the Board determines 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 has occurred, the case shall be dismissed and the respondent, the complainant, and the ECC advised of the dismissal.
 - 3. If the Board conclude based on the ECC's report that a violation of the ICMA Code of Ethics has occurred, they shall determine the appropriate sanctions(s). The MCMA President shall notify the respondent of their intent to adopt the ECC's report as final, and to impose the specified 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 Board had not previously considered. The respondent shall also be notified of the right to a hearing. The respondent shall have thirty (30) calendar days in which to submit a written response to the Board and/or to request a hearing.
 - 4. If the respondent makes no further submission and/or does not request a hearing, the Board shall promptly adopt the proposed findings and sanction(s) as final and inform the respondent, the complainant, and the ECC.
 - 5. In the event the respondent makes a written submission, but does not request a hearing, the Board 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 Board may also request additional information from the respondent, and may also request additional information from the complainant. The Board shall promptly notify the ECC, the respondent, and the complainant of their decision.
 - 6. In the event the respondent requests a hearing, the Board shall refer the

case, including their recommended sanction(s), for hearing before the Executive Board. Hearings shall be conducted in accordance with Part VII of these rules. No sanction(s) shall be imposed before the hearing is concluded.

- B. If the Board determines that a private censure is the appropriate sanction, and the respondent has not requested a hearing, the MCMA President shall send a letter of private censure to the respondent and a copy to the complainant. The case shall then be closed. No other notification of the private censure shall be made. Only the complainant and the respondent shall be notified. However, MCMA may publish a description of the conduct that resulted in a private censure, if names and identifying details are not disclosed.
- C. If the Board determines that a public censure, expulsion, or membership bar is the appropriate sanction, and the respondent has not requested a hearing, appropriate notifications shall be made in accordance with these Rules.

VII. Hearings

- A. The following procedures shall govern all hearings conducted pursuant to these Rules.
- B. The hearing shall be conducted by the Executive Board.
- C. The MCMA President shall serve as the chairperson for the hearing.
- D. Within thirty calendar days of receiving a request for a hearing, the President shall notify the respondent by registered or certified mail that a hearing has been scheduled before the Executive Board. The hearing date shall not be earlier than thirty calendar days after the date the notice is postmarked. The notice shall also state that the respondent has a right:
 - 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, in advance of the hearing;
 - 4. To cross examine any witness who testifies at the hearing; and
 - 5. To submit documentary evidence, and to present testimony, including the respondent's at the hearing.
- E. 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 ECC's report shall be admissible evidence at the hearing.

2. The Executive Boards may not hear evidence or any alleged ethics violation by the respondent that was not related to the initial investigation. (However, the Board is able to hear new information that may have been discovered after the initial investigation.)
- F. At any hearing conducted under these Rules, the Board's designee shall first present evidence in support of the Board's decision. Upon conclusion of the presentation, the respondent shall have the opportunity to present evidence.
- G. The Board's designee shall have the right to question or cross-examine any witness testifying at the hearing.
- H. Within forty-five 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. Only evidence put before the Executive Board may be considered as a basis for the decision.
 2. The Executive Board's decision may be to:
 - Dismiss the case;
 - Adopt the findings and impose the sanction(s) recommended by the Board; or
 - Revise, and adopt as revised, the findings and/or sanction(s) recommended by the Board. However, the Executive Board may not increase the sanction(s) recommended unless new evidence, not previously available to the Officers, 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 decision of the Executive Board shall be sent to the respondent, the complainant, and the ECC.
 4. Promptly upon receiving a copy of the written decision, the MCMA President shall implement the sanction(s), if any, imposed by the Executive Board in accordance with these Rules.
- I. The Executive Board shall determine logistical and administrative considerations related to hearings. Decisions of the Executive Board shall be final and binding.

VIII. Sanctions

- A. Sanctions may be imposed in accordance with these Rules upon MCMA 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 and the complainant, indicating that the respondent has been found to have violated the ICMA Code of Ethics, that the MCMA 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, 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 MCMA strongly disapproves of such conduct, and the nature of the sanction(s) imposed. Notice shall also be given to the general membership of MCMA.
 3. Expulsion. Written notification to the respondent, the complainant, local governing bodies affected by the circumstances, and the news media indicating that the respondent's membership privileges in the MCMA have been revoked. Notice shall also be given to the general membership of MCMA.
 4. Membership Bar. If the respondent is no longer a member of the MCMA, written notification to the respondent, the complainant, local governing bodies affected by the circumstances, and the news media that the respondent has been barred from re-admission. Notice shall also be given to the general membership of MCMA.
- 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 MCMA, the MCMA President shall immediately issue, by registered or certified mail, 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 ECC and Executive Board of the action. The President may (a) ask the ECC 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 final disposition of the case.
- D. A member who has been barred or expelled from membership under these rules may apply for reinstatement to MCMA membership only after a period of at least

five (5) 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 MCMA Executive Board for a reinstatement review and include the reasons why reinstatement should be considered. Such requests shall automatically be referred to the Executive Board. The MCMA President will review all the information provided and make a recommendation to the Executive Board. The former member requesting reinstatement review is entitled to a hearing before the Executive Board, if requested.

- E. It is the policy of MCMA to acknowledge and enforce membership bars or other sanctions from any other professional association, within the state of Missouri or any other state or country. Provided, however, the MCMA Executive Board in its' sole discretion may elect to review any such membership bar or sanction on a case by case basis.

IX. Miscellaneous

- A. The Executive Board is authorized to secure legal counsel. MCMA shall provide professional liability coverage to assist and protect the MCMA and the participants in the ethics peer review process.
- B. All proceedings set forth in these Rules of Procedure shall be confidential.
- C. "Working Day" shall mean Monday through Friday between 8:00 a.m. and 5:00 p.m. "Calendar Day" shall mean a twenty-four-hour period from 12:00 a.m. to the following 11:59 p.m.
- D. All time frames may be extended at the Executive Board's discretion.