

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

I. General

- A. These Rules of Procedure shall govern enforcement of the International City/County Management Association (ICMA) Code of Ethics, which is shared by the Arizona City/County Management Association (ACMA). These Rules of Procedure shall apply specifically to members of ACMA who are not ICMA members. Members of ACMA who are members of ICMA shall be covered by the ICMA Rules of Procedure.
- B. All members of ACMA 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 investigation and determination of violations of the ICMA Code of Ethics with a fair opportunity for individual response.
- D. It is the intention of the ACMA 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 that may be granted by the ACMA President for reasonable cause upon submittal of a timely request.
- E. No person may participate in a complaint brought under these Rules if that person's participation would otherwise create, or appear to create, a conflict of interest.

II. Jurisdiction

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

III. Responsibilities

- A. Subject to these Rules, the Officers of ACMA and other members of the ACMA Board of Directors shall be responsible for making the final decision on matters pertaining to enforcement of the Code of Ethics, including, but not limited to, sanctions for the violation thereof.
- B. The Committee on Professional Conduct (CPC) shall be the committee responsible for assisting the Board of Directors in implementing these Rules and shall have the specific duties set forth hereinafter.

- C. The ACMA President, Board of Directors and the CPC shall be responsible for publicizing and promoting the ICMA Code of Ethics with the membership, elected officials and the general public.

IV. Sanctions

- A. Sanctions may be imposed in accordance with these Rules upon non-ICMA members who are found to have violated the 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 that 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:
 - a. **Private Censure.** A letter to the respondent and the complainant indicating that the respondent has been found to have violated the Code of Ethics, that ACMA disapproves of such conduct, and that, if it is repeated in the future, it may be cause for more serious sanctions.
 - b. **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 Code of Ethics took place, that the ACMA strongly disapproves of such conduct, and the nature of the sanction(s) imposed. Notice shall also be published in the ACMA newsletter and provided to ICMA.
 - c. **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 ACMA have been revoked. Notice shall also be published in the ACMA newsletter and provided to ICMA.
 - d. **Membership Bar.** If the respondent is no longer a member of ACMA, 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 readmission. Notice shall also be published in the ACMA newsletter and provided to ICMA.
- C. Upon receiving documented evidence that (1) a member has been found guilty of criminal conduct after trial by a judge or a jury, (2) the member's conduct violates the Code of Ethics, and (3) the conduct occurred while the person was a member of the ACMA, the President shall immediately issue, by registered 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 CPC and Board of Directors of the action. The President may (a) ask the CPC to commence an investigation in accordance with Section VI or these Rules; or (b) defer consideration until the person has exhausted legal appeals or the time for legal appeals has expired. The suspension of membership shall continue until final disposition of the case.

V. Initiation of Procedures

- A. Proceedings against an individual for an alleged violation of the Code of Ethics may be initiated by the President, after consulting with the Chairperson of the CPC, 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 President 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.
 - a. If the President concludes that the evidence is sufficiently clear and complete and that the action does not constitute a violation of the Code of Ethics, the President shall so notify the complainant in writing.

- b. If the President 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 sources before taking any further action.
- c. If the President 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 that time of the provisions of the Code of Ethics that he or she is alleged to have violated. The President may also request that the respondent answer specific questions pertaining to the alleged violation.
- d. The respondent shall be given thirty calendar 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 President.
- e. After receiving the requested information within the specified time limits, the President shall refer the question to the CPC for investigation in accordance with these Rules. However, no investigation shall be required if the respondent admits to the violation in his or her response. In that circumstance, the matter shall be referred to the ACMA Officers for disposition in accordance with Section VII of these Rules.

VI. Investigations

- A. Upon referral from the President, the CPC shall begin an investigation into the allegations.
- B. Within thirty working days of receipt of a notice to proceed with an ethics investigation, the CPC shall afford the respondent an opportunity to meet with the CPC 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 may be accompanied by a representative. Alternatively, the respondent may appear through a representative.
- C. The CPC 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.
- D. The CPC 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 forty-five working days, the investigation shall be concluded and a written report of the CPC's proposed findings of fact shall be sent to the President and the respondent. Each finding must be supported by reliable and relevant evidence that has been made available to the respondent for review. In its report the CPC may, at its discretion recommend that disciplinary action be considered. However, in doing so, the CPC shall not recommend a specific sanction.

VII. Decisions

- A. The Officers of ACMA, comprised of the President, President-elect, and Immediate Past President (the Officers) shall review the CPC report and determine if the findings are supported by the evidence.
 - a. If the Officers conclude that the evidence is 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.

- b. 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 Code of Ethics has occurred. If not, they shall dismiss the case and so advise the respondent, the complainant, and the CPC.
 - c. If the Officers conclude on the basis of the CPC's report that a violation 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 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 in light of certain mitigating factors that the Officers had not previously considered. The respondent shall also be notified of his or her right to a hearing. The respondent shall have thirty calendar days in which to submit a written response to the Officers and/or to request a hearing.
 - d. In the event that 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 so inform the respondent, the Board of Directors, and the complainant. However, in a case that is resolved with a private censure, only the complainant and the respondent shall be notified.
 - e. 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 they deem appropriate. Before making a decision, the Officers may also request additional information from the respondent. The Officers shall promptly notify the Board of Directors, the respondent, and the complainant of their decision. However, in a case that is resolved with a private censure, only the complainant and the respondent shall be notified.
 - f. 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 Part 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, the 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. However, ACMA may publish a description of the conduct that resulted in a private censure, provided that names and identifying details are not disclosed.
- C. If the Officers determine 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 Section IV-B.b, B.c and B.d of these Rules.

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 VIII-G.
- C. The Board of Directors shall appoint a Chairperson for the hearing.
- D. Within thirty calendar days of receiving a request for a hearing, the Chairperson shall notify the respondent by registered or certified mail that a hearing has been scheduled before the Board of Directors. 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:
 - a. To appear personally at the hearing;
 - b. To be accompanied and represented at the hearing by an attorney or other representative;
 - c. To review all documentary evidence, if any, against him or her, in advance of the hearing;
 - d. To cross examine any witness who testifies against him or her at the hearing; and

- e. To submit documentary evidence, and to present testimony, including the respondent's, in his or her defense 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.
 - 1. The CPC's report shall be admissible evidence at the hearing.
 - 2. The Board of Directors may not hear evidence of any alleged ethics violation by the respondent that was not related to the initial investigation.
- F. At any hearing conducted under these Rules, the President or his/her designee shall first present evidence in support of the Officer's decision. Upon conclusion of the presentation, the respondent shall have the opportunity to present evidence in his or her defense.
- G. The President or his/her designee shall have the right to question or crossexamine any witness testifying at the hearing.
- H. Within forty-five working days of the conclusion of the hearing, the Board of Directors shall render a decision in the case.
 - a. The decision shall be in writing and shall include a statement of the reasons therefore. Only evidence that was put before the Board of Directors may be considered as a basis for the decision.
 - b. 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 serious. No sanction may be imposed for any violation of which the respondent had no prior notice.
 - c. A copy of the decision of the Board of Directors shall be sent to the respondent, the complainant, and the Officers.
 - d. Promptly after receiving a copy of the written decision, the ACMA 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. Decisions of the Board of Directors shall be final and binding.

IX. Miscellaneous

- A. The Board of Directors is authorized to secure legal counsel. ACMA shall provide professional liability coverage to assist and protect ACMA and the participants in the ethics peer review process.
- B. All proceedings set forth in these Rules of Procedure shall be held confidential by ACMA members.
- 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.