

WCMA Code of Ethics

Rules of Procedure and Enforcement

Adopted by WCMA Executive Board: June 18, 2014;
Amended December 15, 2022; March 1, 2023

I. General

- A. These rules govern the procedures for enforcing the WCMA Code of Ethics as adopted by the WCMA membership.
- B. All members of WCMA 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 WCMA membership that these rules are carried out carefully but expeditiously 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 Ethics Committee (EC), or the WCMA 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 who is unable to participate in the case for this reason.

II. Jurisdiction

- A. All members of WCMA in active service to a local government are subject to the Code of Ethics and are subject to sanctions for any violations 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 WCMA or otherwise allows his or her membership in WCMA to lapse.
- D. If a complaint is made against a person who is an ICMA member, the complainant will be told to forward the complaint to ICMA for review and possible action.

III. Responsibilities

- A. The WCMA 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 Ethics Committee (EC):
 - 1. Is the committee of WCMA responsible for assisting the Executive Board in implementing these rules and has the specific duties set forth in this document.
 - 2. Consists of nine (9) members nominated by the president and approved by the board of directors. Of the nine members, the president with the consent of the board of directors shall appoint a chairperson and vice-chairperson of the committee.
 - 3. All committee members shall be eligible to serve for up to three consecutive two-year terms.
 - 4. The president will nominate individuals from diverse backgrounds to ensure the committee is reflective of our membership.
 - 5. Is responsible for fact-finding and is responsible for conducting the investigation of a complaint of a violation of the code in accordance with these rules.
- C. The executive director shall assist the Executive Board and the EC 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. 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 or the EC.

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, and the complainant, indicating that the respondent has been found to have violated the Code of Ethics, that WCMA 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 member's regional news media, indicating that a violation of the code took place and that WCMA 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 to protect the public against unethical conduct in local government.
 - 3. Suspension. A suspension of membership, and all related benefits, for a period to be determined by the EC subject to the approval by the Executive Board. Adherence to the WCMA 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, and appropriate media.
 - 3. Expulsion. A revocation of the respondent's membership privileges.
 - 4. Membership Bar. A prohibition against reinstatement of the respondent's membership in WCMA.

- 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 WCMA Code of Ethics, and which occurred while the person was a member of WCMA, 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 EC of any such action and shall refer the case to the EC. The EC may commence an investigation in accordance with Part VI, 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.

- D. If a WCMA member who is also an ICMA member has been investigated by the ICMA Committee on Professional Conduct any ICMA decision will be reviewed by the WCMA Ethics Committee. If the WCMA Ethics Committee agrees with the ICMA decision, the decision will be recommended to the WCMA Board for approval as it relates to WCMA membership.

If the WCMA Ethics Committee decides that the ICMA decision is not appropriate, the WCMA Ethics Committee can perform its own investigation which will follow the WCMA Guidelines.

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 EC 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 EC 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 EC cannot determine whether the conduct alleged, if proven, might violate the Code of Ethics, no further action shall be taken with respect to the complaint or information.

 - 2. If the EC 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 EC.

VI. Investigations

- A. Upon receiving a case of an alleged violation of the Code of Ethics from the executive director, the EC 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 EC shall conduct a fact-finding investigation. If the violation is alleged to have occurred in more than one state, at least one member of the EC shall be from the state involved.
 1. The EC 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.
 2. The EC 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, excluding the name of the complainant and any other documentary evidence gathered in the course of the investigation, and shall be afforded the opportunity to respond in writing.
 3. The EC shall take all reasonable steps to ascertain the facts relevant to the case, including, but not limited to, interviews with witnesses, interviews with the respondent, review of the

respondent's submission(s), and examination of all published material judged to be relevant and reliable.

4. Within sixty (60) days of receiving a case of an alleged violation of the Code of Ethics from the executive director, 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 EC shall promptly review findings of fact and ascertain whether they are supported by sufficient reliable and relevant evidence.
 1. If the evidence is not sufficient, the EC may either: (a) dismiss the case, (b) conduct 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 EC 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 recommend to the Executive Board that the case be dismissed and so advise the respondent and the executive director.
 3. If the EC concludes on the basis of the investigation that a violation occurred, it shall determine the appropriate sanction(s). The EC shall then make a recommendation to the Executive Board of its intent to adopt the report as final, and to impose the specified sanction(s) for the reasons stated. The Executive Board shall act upon the recommendations of the EC and so advise the respondent. The respondent shall have fifteen (15) days in which to submit a written response to the EC and/or to request a hearing.
 4. In the event that the respondent makes a written submission, but does not request a hearing, the EC 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 EC shall promptly notify the executive director of its decision.

5. In the event that the respondent requests a hearing, the EC 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 Executive Board 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.

No other notification of a private censure shall be made. However, WCMA 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 EC of its determination that a public censure, 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 EC, 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 and 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 EC'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 EC 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 EC; or
 - c. Revise, and adopt as revised, the findings and/or sanction(s) recommended by the EC. However, the Executive Board may not increase the sanction(s) recommended by the EC unless new evidence, not previously available to the EC, 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 EC, 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.