

**MICHIGAN CITY MANAGEMENT ASSOCIATION
RULES OF PROCEDURE FOR ENFORCEMENT OF THE
ICMA CODE OF ETHICS**

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 Michigan Local Government Management Association. (MLGMA). These Rules shall apply specifically to members of the MLGMA who are not ICMA members. Members of the MLGMA who are members of the ICMA shall be covered by Rules of Procedure for the ICMA.
- B. All members of the MLGMA 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 MLGMA 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 MLGMA 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.

JURISDICTION

- A. All members of the MLGMA are subject to the ICMA Code of Ethics and are subject to sanctions for any violations whereof which occur during their membership. As a condition of membership, the MLGMA membership application shall include a provision that requires MLGMA members to acknowledge and adhere to the ICMA Code of Ethics. 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 for membership.
- B. If a complaint is made against a person who was an MLGMA member at the time the alleged violation occurred, but who is not a member of the MLGMA 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 re-admission to membership in MLGMA until an outstanding and unresolved complaint against the individual for conduct while formerly an MLGMA member has been reviewed in accordance with these Rules.
- C. The MLGMA shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from the MLGMA or otherwise allows his or her membership to elapse.

RESPONSIBILITIES

- A. Subject to these Rules, the MLGMA Board of Directors shall be responsible for making the final decision on matters pertaining to enforcement of the code of Ethics.

- B. The MLGMA Ethics Committee shall be responsible for implementing these Rules and shall have specific duties as set forth hereinafter.
- C. The MLGMA President, Board of Directors, and Ethics Committee shall be responsible for publicizing and promoting the ICMA Code of Ethics with the membership, elected officials, and the general public.

SANCTIONS

- A. Sanctions may be imposed in accordance with these Rules upon MLGMA 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 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:
 - 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 the MLGMA 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 MLGMA strongly disapproves of such conduct, and the nature of the sanction(s) imposed. Notice shall also be published in the MLGMA newsletter.
 - 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 the MLGMA have been revoked. Notice shall also be published in the MLGMA newsletter.
 - d. Membership Bar: If the respondent is no longer a member of the MLGMA, 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 published in the MLGMA newsletter.
- 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 MLGMA, 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 Chair of the Ethics Committee and the Board of Directors of the action. The President may (a) ask the Chair of the Ethics Committee 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.

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 Chair of the Ethics Committee,

- 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, in conjunction with the Chair of the Ethics Committee, 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 and Chair of the Ethics Committee conclude that the evidence is sufficiently clear and complete and that the action does not constitute a violation of the Code of Ethics, the Chair of the Ethics Committee shall so notify the complainant in writing. Copies of said notification shall also be provided to the MLGMA Board of Directors.
 - b. If the President and Chair of the Ethics Committee conclude that the complaint is not sufficiently clear or complete to initiate proceedings, the Chair of the Ethics Committee shall seek further clarification from the complainant or other sources before taking any further action.
 - c. If the President and Chair of the ethics Committee conclude that the complaint is sufficiently clear and complete to initiate proceedings, and may, if proven, indicate a violation of the Code of Ethics, the Chair of the Ethics Committee shall forward a copy of the complaint or information 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 which he or she is alleged to have violated. The Chair of the Ethics Committee may also request that the respondent answer specific questions pertaining to the alleged violation.
 - d. The respondent shall be given third (30) 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 Chair of the ethics Committee.
 - e. After receiving all requested information within the specified time limit, the Chair of the Ethics Committee shall refer the question to the ethics Committee 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 MLGMA Board of Directors for disposition in accordance with Section VII of these Rules.

INVESTIGATIONS

- A. Upon referral from the Chair of the Ethics Committee, a subcommittee of not more than three members of the Ethics Committee shall be appointed by the Chair of the Ethics Committee to begin an investigation into the allegations.
- B. Within thirty (3) working days of receipt of a notice to proceed with an ethics investigation, the subcommittee shall afford the respondent an opportunity to meet with the subcommittee 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 subcommittee 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 the notes and statements, and any other documents or

- evidence gathered in the course of the investigation and shall be afforded the opportunity to respond in writing thereto.
- D. The subcommittee 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), an examination of all published materials judged to be relevant and reliable.
 - E. Within forty-five (45) working days, the investigation shall be concluded and a written report of the subcommittee's proposed findings of fact shall be sent to the Chair of the Ethics Committee, the MLGMA President, 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 subcommittee shall also recommend a specific sanction to be administered, if appropriate.

DECISIONS

- A. The Ethics Committee shall review the subcommittee report and determine if the evidence supports the findings and recommendations.
 - a. If the Ethics Committee concludes that the evidence is not sufficiently clear or complete to reach a decision, it may return the matter to the subcommittee with a specific request for further investigation in accordance with these Rules.
 - b. If the Ethics Committee determines that the evidence supports the proposed findings, it shall determine whether the findings demonstrate that a violation of the Code of Ethics has occurred. If not, it shall dismiss the case with a finding of "no violation occurred" and so advise the respondent, the complainant, and the President.
 - c. If the Ethics Committee concludes on the basis of the subcommittee report that a violation has occurred, it shall determine the appropriate sanction(s). The committee shall notify the respondent of its intent to adopt the subcommittee 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 which the Committee had not previously considered. The respondent shall also be notified of his or her right to a hearing. The respondent shall have thirty (30) calendar days in which to submit a written respond to the Committee and/or request a hearing.
 - d. In the event that the respondent makes no further submission and/or does not request a hearing, the Ethics Committee shall promptly adopt the proposed findings and sanction(s) as final and so inform MLGMA Board, the respondent and the complainant. However, in a case that is resolved with a private censure, the complainant, the subcommittee investigating the complaint, the MLGMA President, and the respondent shall be notified.
 - e. In the event the respondent makes a written submission, but does not request a hearing, the Ethics Committee 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 Committee may also request additional information from the respondent. The Committee shall notify the respondent, the MLGMA President and the complainant of its decision. In the event the respondent requests a hearing, the Ethics Committee shall conduct a

hearing. Hearings shall be conducted in accordance with this section of rules. No sanction(s) shall be imposed before the hearing is concluded.

- B. If the Ethics Committee determines that a private censure is the appropriate sanction, and the respondent has not requested a hearing, the Chair shall send a letter of private censure to the respondent and a copy to the MLGMA President and the complainant. The case shall then be closed. No other notification of the private censure shall be made. However, the MLGMA 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 Ethics Committee 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 this section of Rules.

HEARINGS

- A. The following procedures shall govern all hearings conducted pursuant to these Rules.
- B. The hearing shall be conducted by the Ethics Committee, which shall be convened by the Committee Chair.
- C. Within thirty calendar days of receiving a request for a hearing, the Chair shall notify the respondent by registered or certified mail that a hearing has been scheduled before the ethics Committee. 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.
- D. The Ethics Committee shall not be bound by any formal rules of evidence but may accord appropriate weight to the evidence based on its relevance and reliability.
 - a. The subcommittee report shall be admissible evidence at the hearing.
 - b. The Ethics Committee may not hear evidence of any alleged ethics violation by the respondent that was not related to the initial investigation.
- E. At any hearing conducted under these Rules, the Chair of the subcommittee, or his/her designee shall first present evidence in support of the subcommittee's report and recommendation. Upon conclusion of the presentation, the respondent shall have the opportunity to present evidence in his or her defense.
- F. The Chair of the Ethics Committee shall have the right to question or cross-examine any witness testifying at the hearing.
- G. Within forty-five (45) working days of the conclusion of the hearing, the Ethics Committee shall render a decision in the case. Members of the subcommittee will not be allowed to participate in the decision-making process.

- a. The decision shall be in writing and shall include a statement of the reasons therefore. Only evidence which was put before the Ethics Committee may be considered as a basis for the decision.
 - b. The Ethics Committee decision may be to:
 - i. Dismiss the case;
 - ii. Adopt the findings and sanction(s) recommended; or
 - iii. Revise, and adopt as revised, the findings and/or sanction(s) recommended. However, the Ethics Committee may not increase the sanction(s) recommended by the subcommittee unless new evidence, not previously available, 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 Ethics Committee shall be sent to the respondent, the complainant, and the MLGMA Board.
 - d. Promptly after receiving a copy of the written decision, the MLGMA President shall implement the sanction(s), if any, imposed by the Ethics Committee in accordance with these Rules.
- H. The Ethics Committee shall determine logistical and administrative considerations related to hearings. Decisions of the Ethics Committee shall be final and binding.

MISCELLANEOUS

- A. The Board of Directors is authorized to secure legal counsel to represent the MLGMA and, more specifically, the Ethics Committee and any subcommittees it may establish during an ethics peer review process. MLGMA shall provide professional liability coverage to assist and protect the MLGMA 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 a.m. and 5 p.m.
"Calendar Day" shall mean a twenty-four period from 12 a.m. to the following 11:59 a.m.