



**MICHIGAN MUNICIPAL EXECUTIVES
ETHICS COMMITTEE**

MISSION

To serve as a state review agency for ICMA to address charges against members regarding breach of the ICMA Code of Ethics. In addition, it should look to program development to strengthen the member's knowledge of acceptable conduct under the ICMA Code of Ethics.

**MICHIGAN MUNICIPAL EXECUTIVES
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 Municipal Executives (MME), and other activities of the Ethics Committee.
- B. All members of the MME 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 MME 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 Chair of the Ethics Committee for reasonable cause upon submittal of a timely request.
- E. Members of the Ethics Committee are appointed in accordance with the MME Constitution and any associated procedures adopted by the MME Board of Directors. MME is encouraged to appoint managers to the Ethics Committee who represent various geographic locations or regions throughout the State of Michigan.
- F. The Ethics Committee will be comprised of an odd number of voting members, as appointed by the MME Board of Directors. In the event of a vacancy on the Ethics Committee, the MME Board of Directors will act to fill such a vacancy as soon as practicable. No more than nine voting members will be appointed to the Ethics Committee. At least two-thirds ($\frac{2}{3}$) of Ethics Committee members shall also be ICMA members.



- G. In accordance with the MME Constitution, members of the MME Board of Directors may also serve on the Ethics Committee. However, any individual serving simultaneously on both the MME Board of Directors and the Ethics Committee may participate in Ethics Committee discussions but shall not vote on matters considered by the Ethics Committee. Such individuals shall not be considered to be voting members of the Ethics Committee.
- H. At least once annually, and more often as necessary, the Chair of the Ethics Committee will select two voting members of the Ethics Committee to comprise (along with the Chair) a Review Committee that will serve as a subcommittee of the Ethics Committee and assume responsibility for initiating procedures as detailed herein. If a member of the Review Committee cannot participate in proceedings the Chair will appoint another voting member from the Ethics Committee to serve on the Review Committee. The Chair and the Vice-Chair of the Ethics Committee shall also be voting members.
- I. A quorum shall be defined as a majority of the voting members appointed to the Ethics Committee. A quorum shall be necessary for the Ethics Committee to issue formal recommendations on matters to the Board.
- J. 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. It is incumbent upon members of the Ethics Committee to disclose information that may create or appear to create a conflict of interest through their involvement in the processing of a case by the Ethics Committee. A conflict of interest may include, but is not limited to, a financial conflict of interest or a matter in which a respondent, complainant or witness is a family member (as defined to include a spouse, child, grandchild, parent, aunt, uncle, grandparent, sister, brother, half-sister, half-brother and the spouse of any of these relatives). In accordance with these standards, the Ethics Committee will exercise the authority to determine whether a member of the Ethics Committee must recuse themselves from participating in any given matter.
- K. In the event the Chair of the Ethics Committee cannot fulfill any function noted herein the Vice Chair shall assume the responsibility for the same.
- L. All investigations and inquiries undertaken by MME Board and/or Ethics Committee members shall be conducted in accordance with these Rules and authorized by the Board or committee as a whole. Individual members of the Board or Ethics Committee are not otherwise empowered to conduct independent inquiries or investigations on behalf of or in the name of the Board or Ethics Committee. As may be narrowly implied by these Rules, a subcommittee, the Chair or the MME President may initiate a preliminary inquiry on possible violations of non-ICMA members in order to gather information that is sufficiently clear or complete for further review. In such instances, the following actions must also be taken:
 - 1. Notify the full Ethics Committee of such activities within two (2) business days



- a. The notification shall include a description of the possible violation and preliminary inquiry activities to be undertaken
 2. Update the full Ethics Committee of actions taken and additional information gathered at least once each week until such preliminary inquiry is complete.
- M. Meetings may be called whenever deemed necessary by the Chair or any three members of the Ethics Committee by giving at least forty-eight (48) hours' notice thereof by electronic mail to each member. In such notice, the object and general character of the business to be transacted at such meeting shall be stated. Committee members are permitted to participate in meetings by telephone conference call.

JURISDICTION

- A. All members of the MME 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 MME membership application shall include a provision that requires MME 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 ICMA member at the time the alleged violation occurred, the complainant will be advised on the process of making a complaint directly to ICMA. The Ethics Committee, as a body, does not process complaints to ICMA. Members of the MME who are members of the ICMA shall be covered by Rules of Procedure for the ICMA and are not subject to the complaint process and sanctions provided by these Rules.
- C. If a complaint is made against a person who was an MME member (but not an ICMA member) at the time the alleged violation occurred, but who is not a member of the MME 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 MME until an outstanding and unresolved complaint against the individual for conduct while formerly an MME member has been reviewed in accordance with these Rules.
- D. The MME shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from the MME or otherwise allows his or her membership to lapse.
- E. If a complaint is made against a person who is neither a member of ICMA or MME, the complaint will be kept on record and the individual who is the subject of the complaint will not be granted membership into MME until the complaint is reviewed and resolved through these Rules. Notwithstanding this provision, the MME may respond to reported violations of the Code of Ethics by individuals who are not members of ICMA or MME on a case by case basis.



RESPONSIBILITIES

- A. Subject to these Rules, the MME Board of Directors (Board) shall be responsible for making the final decision on matters pertaining to enforcement of the Code of Ethics.
- B. The MME Ethics Committee shall be responsible for implementing these Rules and shall have specific duties as set forth hereinafter.
- C. The Board, MME President (President), 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 MME 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:
 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 the MME 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 and 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 MME strongly disapproves of such conduct, and the nature of the sanction(s) imposed. Notice shall also be published in the MME newsletter.
 3. Expulsion: Written notification to the respondent and the complainant, local governing bodies affected by the circumstances, and the news media indicating that the respondent's membership privileges in the MME have been revoked. Notice shall also be published in the MME newsletter.
 4. Membership Bar: If the respondent is no longer a member of the MME, 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 MME 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, or (2) the member's conduct violates the Code of Ethics, and (3) the conduct occurred while the person was a member of the MME, the Review Committee may commence an investigation in accordance with the Initiation of Procedures section of these Rules.

INITIATION OF PROCEDURES

- A. Proceedings against an individual for an alleged violation of the Code of Ethics may be initiated by the Review Committee, upon receiving a written complaint or other written information from any source indicating that a violation may have occurred. Upon receiving information of an alleged violation of the Code of Ethics, the full Ethics Committee and the MME President will be informed.
- B. Upon receiving such a written complaint or information the Review 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.
 - 1. If the Review Committee concludes 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 MME Board and full Ethics Committee.
 - 2. If the Review Committee concludes 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.
 - 3. If the Review Committee concludes 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.
 - 4. The respondent shall be given thirty (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 Review Committee.
 - 5. 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 Board for disposition in accordance with 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. These appointees may or may not be members of the Review Committee.
- B. Within three (3) business 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) calendar days, the investigation shall be concluded and a written report of the subcommittee's proposed findings of fact shall be sent to the Ethics Committee, the MME 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's report and determine if the evidence supports the findings and recommendations.
 1. 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.
 2. 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. The Ethics Committee's recommendation shall then be forwarded to the Board for final adjudication.

3. If the Board concludes that the findings demonstrate that a violation of the Code of Ethics has not occurred, it shall dismiss the case with a finding of "no violation occurred" and so advise the respondent, the complainant, and the Ethics Committee.

4. If the Board concludes that the findings demonstrate that a violation of the Code of Ethics has occurred, it shall determine the appropriate sanction(s). The Board 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 Ethics 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 response to the Board and/or request a hearing.

5. In the event that 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 so inform the appropriate parties, as outlined in Section B of the Sanctions section of these Rules of Procedure.

6. 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 they deem appropriate. Before making a decision, the Board may also request additional information from the respondent. The Board shall notify the respondent, the Ethics Committee, and the complainant of its decision. In the event the respondent requests a hearing, the Board shall conduct a hearing. Hearings shall be conducted in accordance with these Rules. No sanction(s) shall be imposed before the hearing is concluded.

HEARINGS

- A. The following procedures shall govern all hearings conducted pursuant to these Rules.
- B. The hearing shall be conducted by the Board, which shall be convened by the MME President.
- C. Within thirty (30) 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 Board. The hearing date shall not be earlier than thirty (30) 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, 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 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 subcommittee report shall be admissible evidence at the hearing.
 2. The Board 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 Ethics Committee, or his/her designee, shall first present evidence in support of the subcommittee's report and the Ethics Committee's 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, or his/her designee, shall have the right to question any witness testifying at the hearing.
- G. Within forty-five (45) calendar days of the conclusion of the hearing, the Board shall render a decision in the case. Members of the Ethics Committee will not be allowed to participate in the decision-making process.
1. The decision shall be in writing and shall include a statement of the reasons therefore. Only evidence, which was put before the Board and the Ethics Committee may be considered as a basis for the decision.
 2. The Board's decision may be to:
 - a. Dismiss the case;
 - b. Adopt the findings and sanction(s) recommended; or
 - c. Revise, and adopt as revised, the findings and/or sanction(s) recommended. 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 shall be sent to the parties, as stated in the Sanctions section of these Rules of Procedure.
 4. Promptly after receiving a copy of the written decision, the MME President shall implement the sanction(s), if any, imposed by the Board in accordance with these Rules.
- H. The Board shall determine logistical and administrative considerations related to hearings. Decisions of the Board shall be final and binding.

PROACTIVE INQUIRIES

- A. In addition to enforcing the Code of Ethics it is recognized that the Ethics Committee, with the support of ICMA, can serve as a resource for MME members experiencing an ethical dilemma or contemplating a course of action that they seek to confirm is in line with the Code of Ethics. The Ethics Committee encourages proactive inquiries and recognizes that prevention and education are preferable to violations of the Code of Ethics. It shall be understood that some proactive inquiries may demonstrate actions that already constitute a possible violation of the Code of Ethics and must be reported by the Ethics Committee member.
- B. Any MME member may submit a proactive inquiry on their own behalf to either the ICMA or the Ethics Committee for review.
- C. Upon receiving such an inquiry, further processing of the inquiry will be initiated by the Review Committee, which will inform the full Ethics Committee and the MME President of the inquiry. Proactive inquiries seeking simple clarification and/or feedback from Ethics Committee members do not require processing, unless requested by the member.
- D. If the Review Committee concludes that the evidence is sufficiently clear and complete and that the conduct that is the subject of the inquiry would not constitute a violation of the Code of Ethics, the Chair of the Ethics Committee shall so notify the inquiring party in writing. The Review Committee will consult with ICMA prior to issuing any such finding. Copies of such notification shall also be provided to the MME Board and the full Ethics Committee.
- E. If the Review Committee concludes that the evidence is not sufficiently clear or complete to issue a finding, the Chair of the Ethics Committee shall seek further clarification from the inquiring party or other appropriate sources before taking any further action.
- F. If the Review Committee concludes that the evidence is sufficiently clear and complete and that the conduct that is the subject of the inquiry may result in a violation of the Code of Ethics, the Chair of the Ethics Committee shall refer the matter to the Ethics Committee for review.
- G. The Ethics Committee will thereafter within thirty (30) days issue a determination as to whether the conduct that is the subject matter of the inquiry would constitute or not constitute a violation



of the Code of Ethics. The Ethics Committee will consult with ICMA prior to issuing any such finding. Copies of said determination shall be sent to the inquiring party and shall also be provided to the MME Board and full Ethics Committee.

- H. The above referenced time limit shall be binding, subject to extensions which may be granted by the Chair of the Ethics Committee for reasonable cause upon submittal of a timely request.
- I. In the event the Ethics Committee is unable to render a determination within the above stated time limits in response to a proactive inquiry the matter will be referred by the Chair of the Ethics Committee to the MME President for further disposition by the MME Board of Directors, which shall issue a finding on the matter as soon as practicable.
- J. Determinations made by the Ethics Committee or the MME Board in response to proactive inquiries rely upon the details provided by an inquiring member. It is recognized that the omission of certain facts by a party making a proactive inquiry or a change in circumstances for the party making a proactive inquiry may alter or may have altered the type of determination reached by the Ethics Committee. In no event will the issuance of any response to a proactive inquiry by the Ethics Committee or MME Board preclude the MME from issuing a sanction against a member for conduct that violates the Code of Ethics.

MISCELLANEOUS

- A. The Board is authorized to secure legal counsel to represent the MME and, more specifically, the Ethics Committee and any subcommittees it may establish during an investigation of alleged violations against the Code of Ethics. MME shall provide professional liability coverage to assist and protect the MME and the participants in this process.
- B. All proceedings set forth in these Rules of Procedure shall be treated in as confidential a manner as permitted by law and as necessary to conduct and complete the proceedings.
- C. "Business 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 p.m.
- D. The Ethics Committee will endeavor to strengthen MME member knowledge of ethical conduct through publishing regular articles and facilitating annual training opportunities.
- E. The Ethics Committee will review new member candidates for known ethical conflicts and investigate member inquiries of the same nature regarding new members.
- F. The Ethics Committee will review MME Interim Manager Listing applications for known ethical conflicts.