

**ICMA/NCCCMA Code of Ethics:
Rules of Procedure for Enforcement
Adopted by the NCCCMA February 8, 2007**

I. General

A. The North Carolina City & County Management Association (NCCCMA) has adopted the Code of Ethics of the International City/County Management Association (ICMA) by reference in the NCCCMA Constitution

B. These rules govern the procedures for enforcing the ICMA Code of Ethics as adopted by the NCCCMA membership.

C. All members of NCCCMA agree to abide by the ICMA/NCCCMA Code of Ethics.

D. NCCCMA is the North Carolina State affiliate of ICMA. As an international association, ICMA possesses a broader perspective and has enhanced staff capacity to handle ethics complaints. ICMA can also bring a more objective “arms length” perspective to the deliberations. Therefore, it shall be the policy of NCCCMA that any complaint filed against a member who is also a member of ICMA, will be referred to ICMA for processing under its adopted Rules of Procedure for Enforcement. NCCCMA shall cooperate with ICMA as requested in processing any such complaint. The remaining procedures outlined in this document shall be for processing complaints against NCCCMA members who are not also members of ICMA.

E. 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.

F. It is the intention of NCCCMA that these rules are carried out carefully but expeditiously in order 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 Professional Conduct Committee (PCC), or the NCCCMA 2nd Vice President, for reasonable cause, upon request.

G. 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 President may select a replacement for any person (other than a member of the Executive Committee) who is unable to participate in the case for this reason.

II. Jurisdiction

A. All members of NCCCMA in active service to a local government are subject to the Code of Ethics and are subject to sanctions for any violations thereof 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 NCCCMA shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from NCCCMA or otherwise allows his or her membership in NCCCMA to lapse.

III. Responsibilities

A. The NCCCMA Executive Committee 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, expelled, or barred from membership without the approval of the Executive Committee.

B. The Professional Conduct Committee (PCC), which is established by the NCCCMA Executive Committee, is the committee of NCCCMA responsible for assisting the Executive Committee in implementing these rules and has the specific duties set forth hereinafter. The PCC should be composed of five (5) members.

C. The NCCCMA 2nd Vice President serves as Board liaison to the PCC, and has particular administrative responsibilities under these procedures.

D. The Secretariat Officer shall provide administrative support, as requested, to assist the Executive Committee, the 2nd Vice President, and the PCC in enforcing the code and implementing these rules.

E. The NCCCMA Executive Committee, 2nd Vice President, PCC, and Secretariat Officer may seek the counsel and advice of ICMA's ethics staff in carrying out these procedures and in considering complaints.

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 NCCCMA 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, and news media, indicating that a violation of the code took place and that NCCCMA 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 Committee has found it necessary to do so in order to protect the public against unethical conduct in local government.

3. Expulsion. A revocation of the respondent's membership privileges.
4. Membership Bar. A prohibition against reinstatement of the respondent's membership in NCCCMA.

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 ICMA/NCCCMA Code of Ethics and which occurred while the person was a member of NCCCMA, the NCCCMA 2nd Vice President 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 2nd Vice President shall advise the PCC of any such action and shall refer the case to the PCC. The PCC may commence an investigation in accordance with Part VI hereof, 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.

Any member who has been barred or expelled from membership under these rules may apply for reinstatement to NCCCMA 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 Executive Committee for a reinstatement review and include the reasons why he or she believes it should be considered. Such requests shall automatically be referred to the PCC. The PCC will review all the information provided, and make a recommendation to the Executive Committee. The former member requesting reinstatement review is entitled to a hearing before the Executive Committee.

V. Initiation of Procedures

- A. Proceedings against an individual for an alleged violation of the Code of Ethics will be initiated by the 2nd Vice President upon receiving a written complaint with the complainant's name (typed or printed) and signature. Upon receiving such a written complaint, the 2nd Vice President will submit the complaint to the PCC for review. The PCC will 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 PCC concludes that the complaint is not sufficiently clear or complete to initiate proceedings, it shall seek further clarification from the complainant or other source before taking any further action.
 1. If the PCC 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 the 2nd Vice President 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 2nd Vice President may also request that the respondent answer specific questions pertaining to the alleged violation.
 2. 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 2nd Vice President.
 3. As soon as the respondent's response is received, but in no event more than thirty (30) days after written notice of the alleged violation has been given to the respondent, the 2nd Vice President shall refer the case to the PCC for proceedings in accordance with these rules.

VI. Investigations

A. Upon receiving a case of an alleged violation of the Code of Ethics from the 2nd Vice President, the PCC 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.

1. The PCC 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 PCC 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.
3. The PCC 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.
4. Within sixty (60) days of the referral of a complaint to the PCC, the investigation shall be concluded, and a written report of the committee's proposed findings of fact shall be sent to the 2nd Vice President and the respondent. Each finding must be supported by reliable and relevant evidence which has been made available to the respondent for review.
5. The PCC report will include conclusions as to the veracity and seriousness of the complaint, and shall recommend appropriate action, including dismissal of the complaint or of disciplinary action.

VII. Decisions

A. The 2nd Vice President shall bring the report to the NCCCMA Executive Committee at its next regularly scheduled meeting, but no later than 30 days following receipt of the PCC report. The Executive Committee shall promptly review the PCC's proposed findings of fact, conclusions, and recommendations, and shall ascertain whether they are supported by sufficient reliable and relevant evidence.

1. If the evidence is not sufficient, the Executive Committee may either (a) dismiss the case; (b) return it to the PCC for further investigation in accordance with these rules; or (c) schedule a hearing before the Executive Committee in accordance with part VIII of these rules.
2. If the Executive Committee 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. The Executive Committee may vote to adopt the recommended decision of the PCC, to modify said decision, or to dismiss the case without imposing sanctions. If the case is dismissed without imposing sanctions, the respondent, the complainant, and the PCC shall be notified by the 2nd Vice President.
3. If the Executive Committee concludes on the basis of the PCC's report that a violation has occurred, it shall determine the appropriate sanction(s). The 2nd Vice President shall then notify the respondent of the Executive Committee's intent to adopt the PCC's report as final, and to impose the specified sanction(s) for the reasons stated, unless the respondent can show that the findings of facts are erroneous, or that the proposed sanctions(s) should not be imposed in light of certain mitigating factors

which the PCC did not previously consider. The respondent shall have fifteen (15) days in which to submit a written response to the 2nd Vice President and/or to request a hearing.

4. In event that the respondent makes no submission, and does not request a hearing, the proposed findings and sanction(s) shall be considered as final.
 5. In the event that the respondent makes a written submission, but does not request a hearing, the Executive Committee shall within 30 days of receiving the submission, review the submission and may either adopt, or revise and adopt as revised, the proposed findings and/or sanction(s), as it deems appropriate.
 6. In the event that the respondent requests a hearing, the Executive Committee shall schedule the hearing within 30 days of the receipt of the request. 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 Executive Committee has determined that a private censure is the appropriate sanction, and that the respondent has not requested a hearing, the 2nd Vice President shall send a letter of private censure to the respondent, with copies to the complainant and to the PCC. The case shall then be closed.
1. No other notification of a private censure shall be made. However, NCCCMA 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. If the Executive Committee has determined that a public censure, expulsion, or membership bar is the appropriate sanction, and that the respondent has not requested a hearing, the respondent shall be immediately notified of the decision of the Executive Committee 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 2nd Vice President shall notify the respondent by registered or certified mail that a hearing has been scheduled before the Executive Committee. 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 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.
1. The PCC's report shall be admissible evidence at the hearing.

2. The Executive Committee 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 PCC 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 Committee 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 Committee may be considered as a basis for the decision.

2. The Executive Committee's decision may be to:

a. Dismiss the case;

b. Adopt the findings and sanction(s) recommended by the PCC; or

c. Revise, and adopt as revised, the findings and/or sanction(s) recommended by the PCC. However, the Executive Committee may not increase the sanction(s) recommended by the PCC unless new evidence, not previously available to the PCC, 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 Committee shall be sent immediately by registered mail to the respondent, the PCC,

4. Promptly after receiving a copy of the written decision, the 2nd Vice President shall implement the sanction(s), if any, imposed by the Executive Committee in accordance with the rules.