

ETHICS POLICY

Ethics Committee Mission Statement: To serve as a state review agency to address charges against members regarding breach of the ICMA Code of Ethics and Code of Conduct for KACM Sponsored Events and to provide information to strengthen KACM members' knowledge of acceptable conduct under the Code.

KANSAS ASSOCIATION OF CITY/COUNTY MANAGERS RULES OF PROCEDURE FOR ENFORCEMENT OF THE CODE OF ETHICS AND CODE OF CONDUCT

GENERAL

- A. This set of rules shall govern enforcement of the International City/County Management Association (ICMA) Code of Ethics, which was adopted by the Kansas Association of City/County Managers (KACM) in 1977. These rules shall apply specifically to members of the KACM who are not also ICMA members. Members of the KACM who are also members of the ICMA shall be referred to ICMA for investigation and adjudication of alleged ethics violations.
- B. All members of the KACM are bound and agree to abide by the ICMA Code of Ethics and the supplemental Code of Conduct for KACM Sponsored Events (hereinafter referred to as "Code of Conduct").
- C. The purpose of these rules is to provide a reasonable process for investigation and determination of violations of the ICMA Code of Ethics and/or Code of Conduct with a fair opportunity for individual response.
- D. It is the intention of the KACM 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 KACM Ethics Committee Chair in counsel with the KACM 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 KACM are subject to the ICMA Code of Ethics and the Code of Conduct and are subject to sanctions for any violations thereof, which occur during their membership. As a condition of membership, the KACM membership application shall include a provision that requires KACM members to acknowledge and adhere to the ICMA Code of Ethics and Code of Conduct. 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 a KACM member at the time the alleged violation occurred, but is not a member of the KACM 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 KACM until an outstanding and unresolved complaint against the

individual for conduct while formerly a KACM member shall have been fully reviewed and resolved in accordance with these Rules.

- C. The KACM shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from the KACM or otherwise allows his or her membership to lapse.

RESPONSIBILITIES

- A. Subject to these rules, the KACM Board of Directors (Board) shall be responsible for making the final decision on matters pertaining to enforcement of the Code of Ethics and Code of Conduct.
- B. The KACM Ethics Committee shall be responsible for implementing these rules and shall have specific duties as set forth hereinafter.
- C. The Board, KACM President (President), and Ethics Committee Chair shall be responsible for publicizing and promoting the ICMA Code of Ethics with the membership, elected officials, and the general public.

INITIATION OF PROCEDURES

- A. Proceedings against an individual for an alleged violation of the Code of Ethics and/or Code of Conduct may be initiated by the President and the Ethics Committee Chair, 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 and Ethics Committee Chair, must first ascertain whether the member accused of the violation is a member of ICMA. If the member IS a member of ICMA, the complaint must be forwarded to ICMA for investigation and adjudication.
- C. If the accused member is found not to be a member of the ICMA, then the President and Ethics Committee Chair must then ascertain whether the complaint or information 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 and/or Code of Conduct.
 - 1. If the President and Ethics Committee Chair conclude that the evidence is sufficiently clear and complete and that the action does not constitute a violation of the Code of Ethics/Code of Conduct, the Ethics Committee Chair shall so notify the complainant in writing. Copies of said notification shall also be provided to the Board.
 - 2. If the President and Ethics Committee Chair conclude that the complaint is not sufficiently clear or complete to initiate proceedings, the Ethics Committee Chair shall seek further clarification from the complainant or other sources before taking any further action.
 - 3. If the President and Ethics Committee Chair conclude that the complaint is sufficiently clear and complete and may, if proven, indicate a violation of the Code of Ethics, the Ethics Committee Chair 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/Code of Conduct, which he or she is alleged to have violated. The Ethics Chair may also request that the respondent answer specific questions pertaining to the alleged violation(s).
 - 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 Ethics Committee Chair.
5. After receiving all requested information within the specified time limit, the Ethics Committee Chair 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 Ethics Committee Chair, a subcommittee of not more than three members of the Ethics Committee shall be appointed by the Chair to begin an investigation into the allegations.
- 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 based on those notes. The respondent shall be entitled to review the notes and statements, and any other documents or evidence gathered during 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 Chair of the Ethics Committee, the KACM 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 and/or Code of Conduct 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/Code of Conduct 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/Code of Conduct 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 deciding, the Board may also request additional information from the respondent.
 7. 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

The following procedures shall govern all hearings conducted pursuant to these Rules:

- A. The hearing shall be conducted by the Board, which shall be convened by the KACM President.
- B. 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.
- C. 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(s) by the respondent that was not related to the initial investigation.

- D. 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.
- E. The Chair of the Ethics Committee shall have the right to question or cross-examine any witness testifying at the hearing.
- F. 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 KACM President shall implement the sanction(s), if any, imposed by the Board in accordance with these Rules.
- G. The Board shall determine logistical and administrative considerations related to hearings.
- H. Decisions of the Board shall be final and binding.

SANCTIONS

- A. Sanctions may be imposed in accordance with these rules upon KACM members who are found to have violated the Code of Ethics and/or the Code of Conduct. In determining the kind of sanction(s) to be imposed, the following factors may be considered:
 - 1. The nature of the violation,
 - 2. Prior violations by the same individual,
 - 3. The willfulness of the violations,
 - 4. The level of professional or public responsibility of the individual, and,
 - 5. 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/Code of Conduct, that the KACM 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, the complainant, local governing bodies affected by the circumstances, indicating that a violation of the Code of Ethics and/or Code of Conduct took place, that the KACM strongly disapproves of such conduct, and the nature of the sanction(s) imposed. Notice shall also be published on the KACM listerv.

3. Expulsion: Written notification to the respondent, the complainant, local governing bodies affected by the circumstances, indicating that the respondent's membership privileges in the KACM have been revoked. Notice shall also be published on the KACM listerv.
 4. Membership Bar: If the respondent is no longer a member of the KACM, written notification to the respondent, the complainant, and local governing bodies affected by the circumstances, that the respondent has been barred from re-admission. Notice shall also be published on the KACM listerv
- D. 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/or Code of Conduct, and (3) the conduct occurred while the person was a member of the KACM, the President may (a) ask the Chair of the Ethics Committee to commence an investigation in accordance with the Initiation of Procedures section of these Rules; or (b) defer consideration until the person has exhausted all legal appeals or the time for legal appeals has expired.

MISCELLANEOUS

- A. The Board is authorized to secure legal counsel to represent the KACM and, more specifically, the Ethics Committee and any subcommittees it may establish during an investigation of alleged violations against the Code of Ethics and/or Code of Conduct. KACM shall provide professional liability coverage to assist and protect the KACM and the participants in this process.
- B. All proceedings set forth in these Rules of Procedure shall be confidential.
- C. "Business Day" shall mean Monday through Friday between 8 a.m. and 5 p.m Central Time. "Calendar Day" shall mean a twenty-four (24) period from 12 a.m. to the following 11:59 p.m.