

IIMC Code of Ethics Rules of Procedure

I. General

- A. These rules govern the procedures for enforcing the International Institute of Municipal Clerks ("IIMC") Code of Ethics and Article X Ethical Standards of the Constitution of IIMC as adopted by the IIMC membership (jointly referred to hereinafter as the "Code").
- B. All members of IIMC agree to abide by the Code.
- C. The purpose of these rules is to provide a 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 IIMC 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. Accordingly, time limits stated in these rules are binding, subject to extensions which may be granted by the IIMC Board of Directors, 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 President as confirmed by the IIMC Board of Directors may select a replacement for any person who is unable to participate in the case for this reason.

II. Jurisdiction

- A. All members of IIMC in active service to a Legislative Governmental Body (herein after referred to as a 'local government') are subject to the Code and are subject to sanctions for any violations thereof which occur during their membership. 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. Sanctions may be imposed for improper conduct which occurred while in service to a local government and a member of IIMC even after the relationship with the local government is terminated so long as membership status is retained.
- 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 IIMC Board shall retain jurisdiction over an investigation of a Respondent who, before the conclusion of the investigation, resigns from IIMC or otherwise allows his or her membership in IIMC to lapse.

III. Responsibilities

- A. The IIMC Board of Directors 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 IIMC Board of Directors.
- B. An ad hoc ESC is the committee of IIMC responsible for assisting the IIMC Board of Directors in implementing these rules and has the specific duties set forth hereinafter.
- C. The ESC shall act as a body and no member of the ESC shall take individual action unless assigned a specific task by a majority of the ESC.

IV. Initiation of Procedures

- A. Allegations of unethical conduct shall be submitted in writing on the approved Request to Investigate an Alleged Violation of Improper Conduct form ("Request to Investigate") to the President or the Executive Director who shall immediately provide a copy to members of the IIMC Board. The Board will make an initial determination as to whether an ad hoc ESC committee will be appointed to investigate and report on the allegations of improper or unethical behavior of a member. Appointments of an ESC are outlined in provisions of Article X of the IIMC Constitution
- B. Upon receiving a Request to Investigate, the IIMC Board will make an initial assessment to ascertain whether the complaint is sufficiently clear and complete to initiate proceedings, and, if so, whether it alleges conduct that may be a violation of the Code. If the IIMC Board concludes that the Request to Investigate is not sufficiently clear or complete to initiate proceedings, the IIMC Board shall seek further clarification from the Complainant or other source before appointing an ad hoc ESC_or taking any further action.
 - 1. If the IIMC Board during its initial assessment of the complaint and after seeking clarification from the Complainant cannot determine whether the conduct alleged, if proven, may constitute a violation of the Code, no further action shall be taken with respect to the Request to Investigate. Further if the IIMC Board during its initial assessment feels that the complaint is either frivolous or vexatious no further action will be initiated and an ad hoc ESC will not be appointed.
 - 2. If the_IIMC Board determines that the complaint is sufficiently clear and complete to initiate proceedings, and may indicate a violation of the Code, a copy of the Request to Investigate shall be forwarded by certified mail to the Respondent named. The Respondent shall be informed at the time of the provisions of the Code which he or she is alleged to have violated. The ESC once appointed 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 Request to Investigate, to provide any further information or material he or she considers relevant to the allegations, and to answer any specific questions asked by the ESC.
- C. All documentation and matters pertaining to a Request to Investigate shall be treated as confidential.

V. Investigations

- A. Upon determination by the IIMC Board that there may be a violation of the Code, an ad hoc ESC shall be appointed as per provisions in article X of the IIMC Constitution and the committee 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, (2) the Respondent has already entered a guilty plea, or (3) the Respondent has been found guilty and has exhausted all appeals, in a criminal case involving the same conduct.
- B. The investigation shall include a fact-finding process which affords the Respondent and/or the Respondent's representative an opportunity to converse with the committee and may, at the ESC's discretion, afford such an opportunity to the Complainant as well.
- C. The fact-finding process 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.
- D. Upon completion of the fact-finding process and conclusion of the investigation, the ESC shall prepare a written report of proposed findings of fact. Each finding must be supported by relevant evidence which has been made available to the Respondent for review.

VI. Proposed Findings and Proposed Sanctions

- A. The ESC shall promptly review the written report of proposed findings of fact and shall ascertain whether they are supported by sufficient relevant evidence.
 - 1. If the evidence is not sufficient, the ESC shall make a recommendation to the IIMC Board that the matter be dismissed and that the Respondent and Complainant be advised accordingly.
 - 2. If the ESC determines that the proposed findings are supported by the evidence, it shall determine whether they demonstrate that a violation of the Code has occurred. If not, it shall advise the IIMC Board with a recommendation that the case be dismissed. The IIMC Board will make a decision on the recommendation and the Respondent and the Complainant will be advised in due course.
 - 3. If the ESC concludes on the basis of the fact-finding report that a violation has occurred, the ESC shall then notify the Respondent of its intent to adopt the proposed findings of fact report unless the Respondent can show that the findings of facts are erroneous. The Respondent shall have fifteen (15) days in which to submit a written response to the ESC and/or to request a hearing before the ESC.
 - 4. In the event the Respondent requests a hearing, the ESC shall conduct a hearing in accordance with Part VIII of these rules. No findings shall be adopted before the hearing is concluded.
 - 5. In the event the Respondent makes no submission, and does not request a hearing, the ESC shall promptly adopt the proposed findings of facts and make its recommendation to the IIMC Board.

6. Upon completion of the actions set forth in Part VI.A.3, the ESC shall prepare a written report of proposed sanctions to be imposed. The ESC shall then notify the Respondent of its intent to recommend the proposed sanctions unless the Respondent can show that the proposed sanction(s) should not be imposed in light of certain mitigating factors which the ESC did not previously consider. The Respondent shall have fifteen (15) days in which to submit a written response to the ESC and/or to request a hearing before the ESC.
7. In the event the Respondent makes no submission and does not request a hearing, the ESC shall promptly forward the recommended findings and sanctions to the IIMC Board of Directors.

VII. Sanctions

- A. Sanctions may be imposed in accordance with these rules upon members who are found to have violated the Code. In determining the 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. Censure. A letter to the Respondent and the Complainant indicating that the Respondent has been found to have violated the Code, that IIMC disapproves of such conduct, and that, if it is repeated in the future, it may be cause for more serious sanctions.
 2. Loss of Privilege. A loss of privilege to vote, serve on the IIMC Board of Directors or its committees, or participate in member services for specific periods of time.
 3. Expulsion. A revocation of the Respondent's membership privileges.
 4. Membership Bar. A prohibition against reinstatement of the Respondent's membership in IIMC.
- C. A member who has been expelled from membership under these rules may apply for reinstatement to IIMC membership only after a period of at least five (5) years from the date of expulsion, or one year from the date of the last review of a request for reinstatement. The expelled former member must submit a written request to the IIMC Board of Directors for a reinstatement review and include the reasons why he or she believes it should be considered.

VIII. Hearings

- A. These procedures shall govern all hearings conducted pursuant to these rules.
- B. No ESC 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 ESC shall notify the Respondent by certified mail that a hearing has been scheduled. 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 at the hearing personally at his/her own expense, or by other means at the discretion of the ESC;
 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 in his or her defense at the hearing.
- D. The ESC shall not be bound by any formal rules of evidence but may accord appropriate weight to the evidence based on its relevance and reliability.
- E. At any hearing conducted under these rules, the ESC 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 fifteen (15) working days of the conclusion of the hearing, the ESC shall render a decision in the case.
1. The decision shall be in writing and shall include a statement of the reasons. Only evidence which was put before the ESC may be considered as a basis for the decision.

IX. Final Decisions

- A. Within thirty (30) days, but no sooner than five (5) days, of receiving notice from the ESC of its recommended findings of facts and sanctions, the IIMC Board of Directors shall meet to act upon the recommended decision of the ESC.
1. The Respondent shall be given the opportunity to file a written response to the recommended findings of facts and sanctions for consideration by the IIMC Board of Directors in making its final decision.
 2. The IIMC Board of Director's decision may be to:
 - a. Dismiss the case;
 - b. Adopt the findings and sanction(s) recommended by the ESC; or
 - c. Revise, and adopt as revised, the findings and/or sanction(s) recommended by the ESC. However, the IIMC Board of Directors may not increase the sanction(s) recommended by the ESC unless new evidence, not previously available to the ESC, 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 IIMC Board of Directors shall be sent immediately by certified mail to the Respondent, the Complainant, and the ESC.