

# Rules of Procedure for Enforcement of the ICMA Code of Ethics

## LGRC Milwaukee Discussion

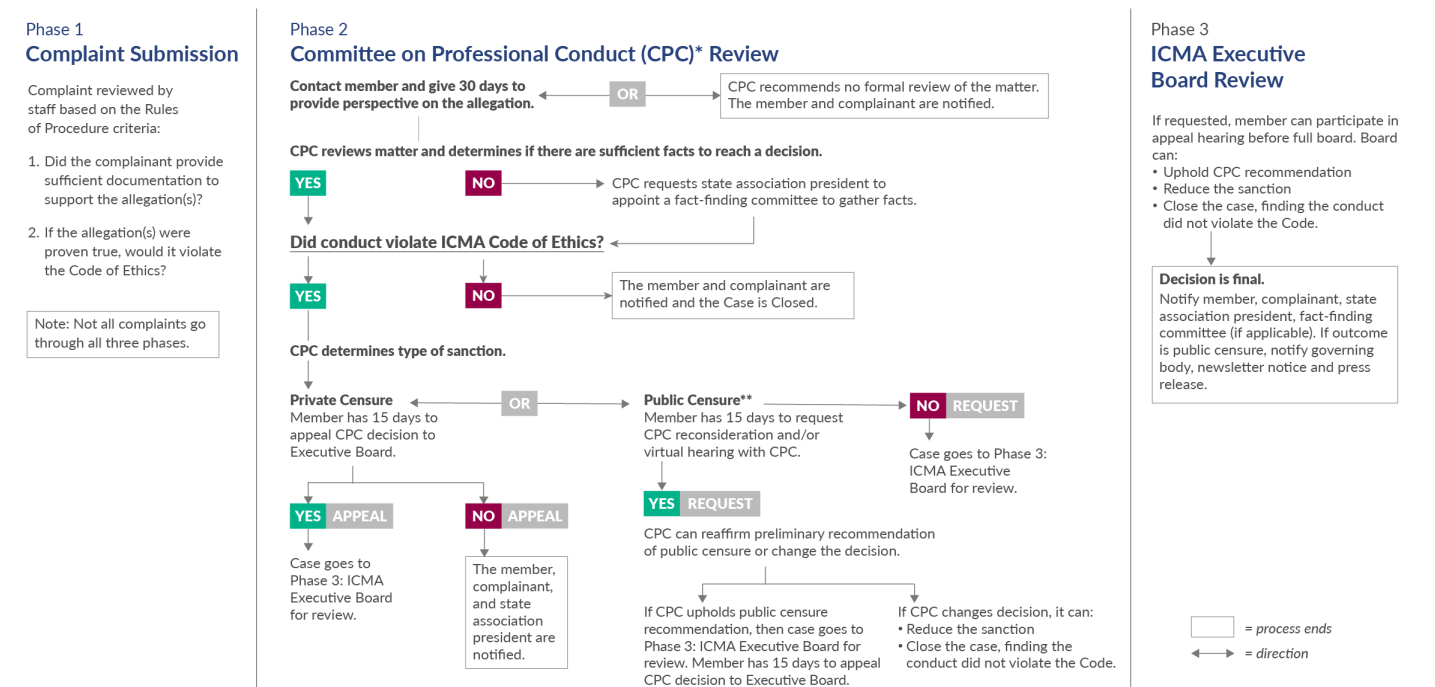
### Background

ICMA has a [Code of Ethics](#) the membership first adopted in 1924 and the Executive Board (Board) approved the [Rules of Procedure for Enforcement of the Code of Ethics](#) in 1962. The Rules formalize the review process when ICMA receives a complaint that alleges a member's conduct has violated the Code.

The Board's Committee on Professional Conduct (CPC) proposes Rules revisions to the Board based on trends in ethics enforcement. Since 2021, the CPC has been intensively reviewing the Rules, and this resulted in June 2023 revisions. The Rules also are a model for state associations to enforce the Code when ICMA lacks jurisdiction to proceed with the review itself, but the person is a member of the state association, and it has the authority to review the alleged conduct.

ICMA's peer-review ethics process is intentionally deliberative as the graphic, below, details and usually takes between 6-12 months to complete. The graphic is not confidential and is part of FAQs for those looking to file an ethics complaint (<https://icma.org/documents/icma-rules-procedure-enforcement-code-ethics>). It is important to note ethics staff who support the CPC do not seek out unethical conduct in the profession or file complaints.

### ICMA Ethics Review Process



\*CPC: A standing committee of up to six members of the ICMA Executive Board.

\*\*Additional sanctions to public censure include credential revocation, membership suspension, membership bar, and membership expulsion.

### Core Values Articulated in the Rules

As the graphic above shows, the Rules detail steps in the process and are a touchstone to inform the profession's values. The principles below define the approach to enforcing the Code by providing guidance and clarity for all involved:

<b>Jurisdiction</b>	<ul style="list-style-type: none"> <li>• All members working in local government must follow the entire Code.</li> <li>• Members not in service must adhere to Tenet 1 (commitment to the profession) and Tenet 3 (honor and integrity). Tenet 7 (political activity) does not apply to elected officials.</li> </ul>
<b>Confidentiality</b>	<ul style="list-style-type: none"> <li>• ICMA does not share whose conduct is under review or has been reviewed unless the conduct resulted in a public censure.</li> <li>• Members are bound to maintain the confidentiality of the process as stated in Tenet 3's guideline.</li> </ul>
<b>Presumption of Ethical Conduct</b>	<ul style="list-style-type: none"> <li>• Members are presumed to conduct themselves ethically unless the facts prove otherwise.</li> </ul>
<b>Anonymity</b>	<ul style="list-style-type: none"> <li>• When ICMA receives an ethics complaint, the individual chooses between being named as the complainant or remaining anonymous. This choice does not affect the overall process, only whether the name can be shared with the member.</li> <li>• Complaints generally come from ICMA colleagues, state associations or its standing ethics committee, or community residents or elected officials.</li> </ul>
<b>Due Process</b>	<ul style="list-style-type: none"> <li>• The process is intentionally deliberate to ensure the case is handled fairly.</li> <li>• The Rules provide deadlines to keep the review moving forward in a timely manner.</li> </ul>
<b>Objectivity</b>	<ul style="list-style-type: none"> <li>• The CPC evaluates the unique details and circumstances of each complaint.</li> </ul>

### Key Facts About the Enforcement Process in the Rules

- ✓ **Complaint Submission:** ICMA has an online complaint portal to streamline the process and make it uniform for all complaints. A complainant must submit a written narrative with documentation (e.g., media articles, texts/emails, legal documents, etc.) to substantiate the ethics allegation.
- ✓ **Fact-Based Decisions:** ICMA's ethics review decisions are fact-based. As examples, factors include the nature and willfulness of the violation, the member's prior violations, and the member's level of professional or public responsibility.
- ✓ **Reconsideration and Appeal Rights:** A member can (1) request the CPC reconsider its decision based on new or clarifying information, (2) request a CPC hearing on its recommendation for public censure, and/or (2) appeal the decision to the Board. Only the Board has authority to publicly censure a member for conduct that violated the Code. The Board hears cases in executive session, and the Board's decision is final.
- ✓ **Notifications:** Private censure remains a confidential matter, and it receives no public comment from ICMA. When the individual submitting a complaint is not a member, ICMA has no mechanism to enforce the confidentiality of the process, so the complainant is notified only that the ethics review is complete. A public censure notice goes to the member, complainant, ICMA membership, the state association president, the appropriate governing body, and a press release to local news media.

**Roundtable Discussion Questions**

**1. Who should have the standing to file an ethics complaint?**

ICMA’s complaint process holds members accountable for conduct that undermines the integrity of the profession and damages public trust. Over the last few years, the CPC has seen an increasing trend of nonmembers filing ethics complaints who may not have the same motivations as ICMA. The 5-year data on who filed complaints and their resolution illustrates this issue.

Between FY 2020 and FY 2024, ICMA received 351 ethics complaints. Of those complaints, 124 (~35%) met the Rules criteria to open a review - did the complainant provide sufficient documentation to support the allegation(s) and if the allegation(s) were proven true, would it violate the Code?

Nonmembers were the complainants in 19 (15%) of these cases and most did not result in a review:

- 55 cases: conduct *did not* violate the Code. Nonmembers submitted 14 (~25%).
- 69 cases: conduct *did* violate the Code. Nonmembers submitted 5 (~7%).

Of those 69 cases where member conduct did violate the Code:

- 45 cases: conduct resulted in a private censure. Nonmembers submitted 3 and 1 member reported it as well.
- 7 cases: conduct resulted in a public censure only. Nonmembers submitted zero.
- 17 cases: conduct resulted in a public censure with an increased sanction, e.g., expulsion, bar, credential revocation, suspension. Nonmembers submitted 2 and members reported as well.

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<b>Current Rules</b>	<ul style="list-style-type: none"> <li>• The executive director/CEO may initiate proceedings against a member for an alleged violation of the Code upon receiving a written complaint from any source indicating that a violation may have occurred. The complaint must be accompanied by documentation that supports the allegation a member’s conduct may have violated the Code. The complainant may be anonymous, choose to go on record as the individual that filed the complaint, or have his/her identity withheld.</li> </ul>
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<b>Proposed Language</b>	<ul style="list-style-type: none"> <li>• The executive director/CEO may initiate proceedings against a member for an alleged violation of the Code upon receiving a written complaint from (1) a current member, (2) a current state/country association member, (3) a current affiliate or strategic partner of ICMA, or (4) a nonmember whistleblower who the alleged conduct directly impacted (such as a member’s employee or governing body member in the organization).</li> <li>• The complaint must be accompanied by documentation that supports the allegation that a member’s conduct may have violated the Code. The complainant may be anonymous or choose to go on record as the individual that filed the complaint.</li> <li>• The respondent’s right to confidentiality means the complainant shall not discuss or divulge information with anyone about it, except when the process is final and the Board has determined public censure is the appropriate sanction. If the respondent does not have the benefit of confidentiality, ICMA may not process the complaint under these Rules.</li> </ul>

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**What do you think about the proposed language regarding who has the standing to file ethics complaints as well as the provisions on confidentiality and anonymity?**

## 2. Notification of Ethics Decisions

### *State Association Presidents*

State associations are partners in promoting ethics and presidents are the principal liaisons between organizations, represent leadership in the region, and may be part of the pipeline to ICMA Board service. A tool in the Rules is to request the state association form a fact-finding committee on ethics complaints where more facts are needed for the CPC to review the matter and determine if the conduct violated the Code.

Current practice is notification to a state association president (and fact-finding committee members as applicable) of the CPC's decision when the review results in a finding the member conduct did not or did violate the Code. **The CPC proposes this notification to the state association president occur when it is determined a member's conduct did violate the Code or in the very limited circumstances of when a fact-find committee is appointed.**

### *Complainants*

Current practice is members who file complaints are notified of the decision and factors leading to it. Unless the decision is a public censure, nonmembers receive no information on the outcome or considerations; only that the matter is complete.

By requiring standing to file an ethics complaint, the frustration for nonmembers to receive no details from ICMA on the decision, unless it results in public censure, would be significantly reduced.

**What do you think about the notification process to state association presidents and complainants?**

## 3. Time Limits on Conduct

Conduct that is alleged to have occurred at any time is within the bounds of the current ethics review process. Complainants may hunt for old issues that may have even been part of a prior ethics review to make allegations in the current complaint.

A five-year time limitation is consistent with the Credentialing program's policy that five-years must have elapsed from the public censure date (as well as a focus on ethics education) and the maximum length of time for a membership suspension. The CPC proposes language to put parameters on the complaint's length of time:

*"Member conduct that is alleged to have occurred more than five (5) years ago will not be processed under these Rules except when there is an allegation the member concealed the conduct itself."*

**What do you think about the 5-year time limit with this exception?**