

Promoting Ethics in Local Government: A Year in Review Fiscal Year 2020

Ongoing Code Review

In 2013, the ICMA Executive Board began a structured effort with the ICMA Committee on Professional Conduct (CPC) to review each tenet with the membership. To date, Tenets 1, 2, 3, 4, 5, 6, 7, and 12 and/or their respective guidelines, have been reviewed and revised. The remaining tenets to review with the membership are Tenets 8, 9, 10, and 11. Discussion of Tenets 8 and 11 began in early 2020 during the Southeast regional conference and state association meetings; however, it was necessary to pause on seeking member input on these Tenets during the COVID-19 pandemic response and recovery efforts. The CPC plans to continue the review of the Code using a revised approach.

Tenets 1 and 2 Revisions

The CPC selected Tenets 1 and 2 to review in 2017. The CPC sought member feedback first in May 2018 where over 600 members responded survey questions and provided over 1,000 written comments. Overall, members expressed an interest in seeing the tenet language streamlined and modernized. The CPC incorporated this feedback into proposed revisions to the language of Tenets 1 and 2.

The CPC then again asked members for their thoughts on the proposed revisions through a different survey sent to all members in January 2019. Over 1,200 members responded and shared nearly 1,000 written comments, specifically recommending to keep the reference to elected officials as partners and stressing the importance of the word “efficiency” in Tenet 1, and maintaining the sense of social responsibility as a trusted public servant in Tenet 2. The CPC then revised the proposed language a final time as presented, below, to membership for a vote:

Tenet 1. We believe professional management is essential to efficient and democratic local government by elected officials.

Tenet 2. Affirm the dignity and worth of local government services and maintain a deep sense of social responsibility as a trusted public servant.

All members eligible to vote (7,220) were given the opportunity to vote on the proposed changes in September 2019. A total of 2,129 members cast ballots in October 2019 resulting in ICMA membership overwhelmingly approving the proposed changes to Tenets 1 and 2.

Following membership approval of the revisions to Tenets 1 and 2 in October 2019, the CPC reviewed member feedback on the Tenet 2 guideline on advice to officials of other local governments gathered throughout 2018 and 2019. In June 2020, the Board approved the addition of the phrase “in order to uphold local government professionalism” to the existing guideline language to explicitly state the reason for providing this notification to a colleague. The revised guideline to Tenet 2 follows:

Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of other local governments, they should inform the administrators of those communities in order to uphold local government professionalism.

Tenets 5 and 6 Revisions

The CPC selected Tenets 5 and 6 to review in October 2018 because both address aspects of policy recommendation and decision-making processes and share a focus on a member's role in implementing a governing body's decisions. Following facilitated discussions with members during regional conferences and state association meetings in early 2019, the CPC proposed revised language for feedback through a membership survey in November 2019. Members were supportive of the proposed changes and the Board approved placing the revisions on the May 2020 ballot.

Members overwhelmingly voted in favor of the revisions to Tenets 5 and 6. The change to Tenet 5 included the addition of providing technical and professional advice about policy options to elected officials and updated the language to highlight the member's role in collaborating with elected officials to set goals for the community and organization. The revision to Tenet 6 better reflected the decisions elected officials make are not limited only to policy adoption, elected officials are accountable to the people for those decisions, and members remain responsible for implementing those decisions.

The updated Tenets 5 and 6 language follows:

Tenet 5. Submit policy proposals to elected officials; provide them with facts, and technical and professional advice about policy options; and collaborate with them in setting goals for the community and organization.

Tenet 6. Recognize that elected representatives are accountable to their community for the decisions they make; members are responsible for implementing those decisions.

During the June 2020 Board meeting, the Board considered the CPC's recommendation to revise the conflicting roles guideline to Tenet 5. The guideline referenced a potential conflict by serving as both the city manager and city attorney and it had not been updated since 1972. The CPC recommended new language to reframe the issue beyond the narrow example given to address situations where there could be a conflict by virtue of holding two positions within the same organization or externally and that members have an obligation to disclose and disengage to the greatest extent possible. The Board approved this change as well as the CPC's recommendation to move the conflicting roles guideline to Tenet 3, where it is now aligned with the existing guidelines on conflicts of interest.

The revised Tenet 3 guideline appears below:

Guideline on Conflicting Roles. Members who serve multiple roles – either within the local government organization or externally – should avoid participating in matters that create either a conflict of interest or the perception of one. They should disclose any potential conflict to the governing body so that it can be managed appropriately.

Social Justice and Systemic Racism

On June 10, ICMA's Executive Board issued a [statement on systemic racism](#). In this statement, the Board said, "The weight of these recent tragedies falls especially heavy on us because we are in positions of leadership in cities, counties, and towns throughout the world. The local government management profession and ICMA were founded on a [Code of Ethics](#) and a [Declaration of Ideals](#), which demand that we serve the best interests of all, achieve equity and social justice, and act with integrity so that we may earn the trust of all those we serve. Addressing systemic racism is our ethical obligation."

Specifically, the Board's statement said, "We will revisit our Code of Ethics to better integrate our ethical commitment to racial justice and equity into the very fiber of the 12 tenets."

Ethics Enforcement

ICMA enforces the Code of Ethics through a formal, peer-review process the CPC administers as outlined in the [Rules of Procedure for Enforcing the Code of Ethics](#). The confidential process provides a member with the opportunity to respond to the allegation(s) in the complaint submitted to ICMA and for the appointment of a fact-finding committee when additional documentation and information is required to reach a decision on the member's alleged conduct.

After the reviewing the facts of the matter, the CPC can decide to close a case where no violation has occurred; privately censure a member for an ethics violation; or recommend that the ICMA Executive Board publicly censure and/or expel, bar, or revoke the credential of a member who has violated the Code of Ethics. In reaching a decision, the CPC takes into consideration, as examples, the nature of the violation, any past ethics violations, the willfulness of the violation, and the level of responsibility of the member.

The CPC reviewed **24** ethics complaints filed against ICMA members. The reviews resulted in:

- 3 public censures with a membership bar;
- 1 public censure;
- 5 private censures; and
- 15 closed cases with or without advice

Conduct that resulted in a public censure and membership bar

- ▶ **Public confidence; public trust; relationships in the workplace; and personal relationships**
 - A city manager had a personal, romantic relationship with a subordinate employee for whom he made decisions on performance, promotions, and compensation. The manager and the subordinate employee lived together for at least the last six months of his tenure as the city manager, while he was her direct supervisor. (Tenets 3 and 12)
- ▶ **Advice to officials of other governments, public confidence; professional respect**
 - A member engaged in a pattern of unsolicited communications to his former governing body on operational issues and showed a repeated lack of professional respect for his successor. (Tenets 2 and 3)
- ▶ **Public confidence and public trust**
 - A city manager entered a guilty plea to the felony charge of larceny by employee and, among other outcomes, was ordered to pay restitution to the city. (Tenets 3 and 12)

Conduct that resulted in a public censure

► Public confidence and appointment commitment

- A member negotiated an employment agreement which was approved by the governing body and later withdrew his acceptance when no fundamental changes had been made to that agreement. (Tenet 3)

Conduct that resulted in a private censure

► Public confidence and gifts

- A manager inappropriately accepted and used tickets to a private event provided to the organization as a result of the organization's sponsorship of the event. (Tenets 3 and 12)

► Length of service (Tenet 3)

In reaching a decision about a member's length of service, the CPC considers, as examples, the reasons for the separation; the extent to which the member assisted in the transition period; whether the member fulfilled his or her obligations in the employment agreement; and the effects of the member's conduct on the community, governing body, and professional local government management.

- The reasons provided for a CAO's 14-month tenure did not meet the limited exceptions for a length of service of less than two years as outlined in the guideline.

► Public confidence (Tenet 3)

- In an isolated incident, a manager was charged with driving under the influence.
- A manager made an inappropriate social media post regarding elected officials.
- A member's approach to managing the organization's finances over several years significantly jeopardized the organization's fiscal condition.

Working with Fact-Finding Committees

Fact-finding committees appointed by the state association president to assist in gathering information on cases serve as an arm of the CPC and play an invaluable role in the ethics enforcement process. ICMA staff worked with seven fact-finding committees, appointed at the request of the CPC, to investigate a member's conduct in Illinois, Michigan, two from South Carolina, Texas, and two from Virginia.

Ethics Advice and Resources

ICMA staff responded to **246** ethics inquiries from members for confidential advice and assistance in resolving ethical dilemmas, over 100 more requests than in the prior fiscal year. Challenging ethical issues with relevancy for members as training tools are publicized in the ethics column of the monthly *PM* Magazine.

Members seeking ethics advice are encouraged to contact Martha Perego, ICMA Director of Membership and Ethics, at 202-962-3668 or mperego@icma.org or Jessica Cowles, Ethics Advisor, at 202-962-3513 or jcowles@icma.org