

# **Texas City Management Association Code of Ethics with Guidelines and Rules of Procedure for Enforcement**

*as adopted by TCMA in April 1984 and with TCMA Board approved revisions through August 2008.*

*On April 27, 1984, the Texas City Management Association (TCMA) adopted the code of ethics, guidelines, and rules of procedure of the International City/County Management Association (ICMA). Further, TCMA believed it to be in the best interests of its members to not only clarify the applicability of the code for its members, but suggest types of behavior best conducive to truly professional relationships. Therefore, TCMA approved on June 7, 1987, the following language, which although not a part of the ICMA/TCMA Code with Guidelines, is nonetheless considered important from TCMA's viewpoint for its members to be aware. In 1998, TCMA adopted a slightly different set of enforcement rules that apply to TCMA members only. These enforcement rules were modified again in April 2005 and January 2008 by TCMA to address jurisdiction and initiation of procedures matters.*

Every member of the Texas City Management Association shall be *voluntarily governed* by the following ethical principles. These principles, which comprise the Code of Ethics, establish the fundamental ideals considered essential for professional conduct as a member of this profession. It is not intended that this Code or its related guidelines address every situation which may arise among its membership rather, it is envisioned that each member, *regardless of position*, will rely on the ideals embodied in this Code to lead them through uncertain situations.

## **Behavioral Guidelines to Professional Relationships**

- A member should strive, as appropriate opportunities arise, to enhance the credibility of a colleague with the colleague's council, staff, and community.
- A member should share knowledge and expertise with a colleague that would aid the progress of the council policy development process.
- A member should provide, whenever possible, important information to an associate so as to increase the likelihood of a sound decision.
- A member should exercise discretion in using confidential information provided by a colleague.
- A member should appropriately recognize another colleague's work.
- Each member should take an interest in the career development of associates and subordinates and ensure sufficient opportunities are provided from which their professional needs can be met.
- A member should advise, when appropriate, colleagues when approached about the colleague's performance by the city council.
- A member should encourage, through appropriate organizational channels, that the city manager selection process within their community is undertaken in a professional manner.

# Texas City Management Association

## Code of Ethics with Guidelines

**Tenet 1. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.**

**Tenet 2. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward urban affairs and a deep sense of social responsibility as a trusted public servant.**

### Guideline

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

**Tenet 3. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.**

### Guidelines

**Public Confidence.** Members should conduct themselves so as to maintain public confidence in their profession, their local government, and in their performance of the public trust.

**Impression of Influence.** Members should conduct their official and personal affairs in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.

**Appointment Commitment.** Members who accept an appointment to a position should not fail to report for that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time, but once a *bona fide* offer of a position has been accepted, that commitment should be honored. *Oral acceptance of an employment offer is considered binding* unless the employer makes fundamental changes in the terms of employment.

**Credentials.** An application for employment should be complete and accurate as to all pertinent details of education, experience, and personal history. Members should recognize that *both omissions and inaccuracies must be avoided.*

**Professional Respect.** Members seeking a management position should show professional respect for persons formerly holding the position or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity in order to be appointed to a position.

**Reporting Ethics Violations.** When becoming aware of a possible violation of the TCMA Code of Ethics, members are encouraged to report the matter to TCMA. In reporting the matter,

members must submit a written and signed complaint. The complainant may choose to have his or her identity withheld from the respondent.

**Confidentiality.** *Members should not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics.*

**Seeking Employment.** Members should not seek employment for a position having an incumbent administrator who has not resigned or been officially informed that his or her services are to be terminated.

**Tenet 4. Recognize that the chief function of local government at all times is to serve the best interests of all of the people.**

Guideline

**Length of Service.** A minimum of two years generally is considered necessary in order to render a professional service to the local government. A short tenure should be the exception rather than a recurring experience. However, under special circumstances it may be in the best interests of the local government and the member to separate in a shorter time. Examples of such circumstances would include refusal of the appointment authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or severe personal problems. *It is the responsibility of an applicant for a position to ascertain conditions of employment.* Inadequately determining terms of employment prior to arrival does not justify premature termination.

**Tenet 5. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals, and uphold and implement local government policies adopted by elected officials.**

Guideline

**Conflicting Roles.** Members who serve multiple goals—working as both city attorney and city manager for the same community, for example—should avoid participating in matters that create the appearance of a conflict of interest. They should disclose the potential conflict to the governing body so that other opinions may be solicited.

**Tenet 6. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.**

**Tenet 7. Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.**

Guidelines

**Elections of the Governing Body.** Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve, regardless of party. To this end, they should not engage in active participation in the election campaign on behalf of or in opposition to candidates for the governing body.

**Elections of Elected Executives.** Members should not engage in the election campaign of any candidate for mayor or elected county executive.

**Elections.** Members share with their fellow citizens the right and responsibility to vote and to voice their opinion on public issues. However, in order not to impair their effectiveness on behalf of the local governments they serve, they should not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office.

**Running for Office.** Members shall not run for elected office or become involved in political activities related to running for elected office. They shall not seek political endorsements, financial contributions or engage in other campaign activities.

**Elections on the Council-Manager Plan.** Members may assist in preparing and presenting materials that explain the Council-Manager form of government to the public prior to an election on the use of the plan. If assistance is required by another community, members may respond. All activities regarding ballot issues should be conducted within local regulations and in a professional manner.

**Presentation of Issues.** Members may assist the government body in presenting issues involved in referenda such as bond issues, annexations, and similar matters.

**Tenet 8. Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.**

#### Guidelines

**Self-Assessment.** Each member should assess his or her professional skills and abilities on a periodic basis.

**Professional Development.** Each member should commit at least 40 hours per year to professional development activities and ethics that are based on the practices identified by the members of ICMA. Documentation of completed ethics training must accompany new member applications and current members must attend 2 hours of ethics training every year to maintain TCMA membership. Life and distinguished members are encouraged, but not required, to take this ethics training.

**Tenet 9. Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.**

**Tenet 10. Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference and handle each problem without discrimination on the basis of principle and justice.**

### Guideline

**Information Sharing.** The member should openly share information with the governing body, while diligently carrying out the member's responsibilities as set forth in the charter or enabling legislation.

**Tenet 11. Handle all matters of personnel on the basis of merit, so that fairness and impartiality govern a member's decisions pertaining to appointments, pay adjustments, promotions, and discipline.**

### Guideline

**Equal Opportunity.** All decisions pertaining to appointments, pay adjustments, promotions, and discipline should prohibit discrimination because of race, color, religion, sex, national origin, sexual orientation, political affiliation, disability, age, or marital status.

It should be the members' personal and professional responsibility to actively recruit and hire a diverse staff throughout their organizations.

**Tenet 12. Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.**

### Guidelines

**Gifts.** Members should not directly or indirectly solicit any gift or accept or receive any gift—whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form—under the following circumstances:

1. it could reasonably be inferred or expected that the gift was intended to influence them in the performance of their official duties; or
2. the gift was intended to serve as a reward for any official action on their part.

It is important that the prohibition of unsolicited gifts be limited to circumstances related to improper influence. In *de minimus* situations, such as meal checks, for example, some modest maximum dollar value should be determined by the member as a guideline. The guideline is not intended to isolate members from normal social practices where gifts among friends, associates, and relatives are appropriate for certain occasions.

**Investments in Conflict with Official Duties.** Members should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with their official duties.

In the case of real estate, the potential use of confidential information and knowledge to further a member's personal interest requires special consideration. This guideline recognizes that members' official actions and decisions can be influenced if there is a conflict with personal investments. Purchases and sales which might be interpreted as speculation for quick profit ought to be avoided (see the guideline on "Confidential Information").

Because personal investments may prejudice or may appear to influence official actions and decisions, members may, in concert with their governing body, provide for disclosure of such

investments prior to accepting their position as local government administrator or prior to any official action by the governing body that may affect such investments.

**Personal Relationships.** Members should disclose any personal relationship to the governing body in any instance where there could be the appearance of a conflict of interest. For example, if the manager's spouse works for a developer doing business with the local government, that fact should be disclosed.

**Confidential Information.** Members should not disclose to others, or use to further their personal interest, confidential information acquired by them in the course of their official duties.

**Private Employment.** Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve conflict of interest or impair the proper discharge of their official duties. Prior notification of the appointment authority is appropriate in all cases of outside employment.

**Representation.** Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

**Endorsements.** Members should not endorse commercial products by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, whether or not for compensation. Members may, however, agree to endorse the following, provided they do not receive any compensation:

1. books or other publications;
2. professional development or educational services provided by nonprofit membership organizations or recognized educational institutions;
3. products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local government are appropriate and useful to the profession when included as part of professional articles and reports.

# **Texas City Management Association Rules of Procedure for Enforcement**

*as adopted in 1998 with TCMA Board approved revisions through January 2008.*

*TCMA and ICMA share the same Code of Ethics and Guidelines, with the exception of the "Reporting Ethics Violations" guideline under Tenet 3. In 1998, TCMA adopted a slightly different set of enforcement rules that apply to TCMA members only. If you are also a member of ICMA, you continue to be subject to the ICMA Rules of Procedure for Enforcement. TCMA and ICMA will cooperate with each other to ensure coordination of the appropriate procedure.*

## **I. General**

**A.** These rules govern the procedures for enforcing the TCMA Code of Ethics as adopted by the TCMA membership.

**B.** All members of TCMA agree to abide by the Code of Ethics, as indicated by their signature for application to membership.

**C.** 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.

**D.** It is the intention of the TCMA 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 Ethics Committee, or the TCMA President, 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 interests. The Chairman of the Ethics Committee may select a replacement for any person who is unable to participate in a case for this reason.

**F.** Tenet 3 applies, which states within its guidelines "members should not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics."

**G.** These rules of procedure apply strictly to TCMA members who are not members of ICMA. Members of ICMA will be expected to abide by the TCMA Code of Ethics, but suspected ethics violations will be processed according to ICMA Rules of Procedure for Enforcement.

## **II. Jurisdiction**

**A.** All members of TCMA in active service with 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 not subject to Tenet 5, Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals, and uphold and implement local government policies adopted by elected officials.; Tenet 7, Refrain from all political activities which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body; Tenet 9, Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service; Tenet 11, Handle all matters of personnel on the basis of merit, so that fairness and impartiality govern a member's decisions pertaining to appointments, pay adjustments, promotions, and discipline; and Tenet 12, Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest. 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. A person shall no longer be considered a TCMA member when his or her membership dues are in arrears for a period of three (3) months after annual dues renewals have been mailed and he or she has been notified of the suspension of his or her membership. 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 committee shall retain jurisdiction over an investigation of a respondent who, before the conclusion of the investigation, resigns from TCMA or otherwise allows his or her membership in TCMA to lapse.

**D.** If the individual whose actions are questioned is not a member, the chairman of the Ethics Committee will notify the complainant, the individual accused of the alleged violation, and only if the City Council contacts the TML or TCMA, will the Chairman of the Ethics Committee provide a written letter stating that the individual in question is not a member.

**E.** If an individual is a member of both TCMA and ICMA, TCMA relinquishes the right of investigation and actions to ICMA. All complaints concerning a member of ICMA or ICMA and TCMA will be processed by ICMA under the ICMA Rules of Procedure for Enforcement, and will not be subjected to an investigation by TCMA as long as that member is a member of ICMA. Once ICMA has completed its investigation, notice will be sent to the TCMA President and Ethics Committee chair, whereupon the TCMA Board shall accept the decision and actions of ICMA and shall apply the same sanction(s) to the member as TCMA's action.

### **III. Responsibilities**

**A.** The TCMA Board 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 censured, expelled, or barred from membership without the approval of the TCMA Board.

1. If a possible violation of the TCMA Code of Ethics has occurred and if that incident is already being addressed by a county, state, or federal legal agency or court, all activity concerning the enforcement of the TCMA Code of Ethics will be suspended pending the final determination of the county, state, or federal legal

agency or a court of competent jurisdiction. This final decision may be used in determining the outcome of the suspended possible TCMA Ethics Code violation.

**B.** The Ethics Committee is the committee of TCMA responsible for assisting the TCMA Board in implementing these rules and has the specific duties set forth hereinafter.

1. The Ethics Chair is responsible for appointing fact-finding committees pursuant to Section VI.

**C.** The Executive Secretary, as defined in the TCMA Constitution or his or her designee, shall assist the TCMA Board and the Ethics Committee in enforcing the code and implementing these rules, and publicizing the existence and importance of the code.

1. The Executive Secretary may designate a member of the TML staff to carry out any of the responsibilities assigned to the Executive Secretary under these rules.

2. The Executive Secretary and TML Staff will not participate in the actual fact-findings.

#### **IV. Initiation of Procedures**

**A.** To initiate action against a TCMA member under these rules of procedure, the complaint must be in writing and signed by the complainant. A written complaint shall include the name of the complainant, which tenet(s) were violated, facts constituting alleged violation, name of member(s) involved, and whether the complainant wants his or her identity to be withheld from the respondent.

**B.** Upon receiving such a written complaint, the Ethics Committee Chair will determine if the member is also a member of ICMA. If the member is a member of ICMA, the Ethics Committee Chair will refer the complaint to ICMA and provide a reply to the complainant acknowledging the referral. (see Article II, E).

**C.** If the member is solely a member of TCMA, the Ethics Committee chair must ascertain whether the complaint 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 Ethics Committee chair concludes that the complaint is not sufficiently clear or complete to initiate proceedings, he or she shall seek further clarification from the complainant or other source before taking any further action.

1. If the Ethics Committee chair cannot determine whether the conduct alleged, if proven, might violate the Code of Ethics, he or she shall refer the question to the Ethics Committee membership for a ruling. No further action shall be taken with respect to the complaint or information unless the Ethics Committee rules that the conduct alleged, if true, may constitute a violation of the code.

2. If the Ethics Committee chair concludes that the complaint is sufficiently clear and complete to initiate proceedings, and may, if proven, indicate a violation of the code, the Ethics Committee Chair shall appoint a Fact Finding Committee. A Fact-Finding Committee must be appointed within fifteen (15) days of the date the complaint is determined to be complete.

3. If the Ethics Committee chair determines that the conduct did not constitute a violation of the Code of Ethics, the case shall be dismissed and the Ethics Committee chair shall inform the complainant, respondent, and TCMA President of this decision.

## **V. Fact-Finding Committee**

**A.** The fact-finding committee (FFC) is a sub-committee of the Ethics Committee, appointed by the chairman of the Ethics Committee, and is responsible for conducting the investigation of a complaint of a violation of the code in accordance with these rules. Members of a fact-finding committee shall serve until the conclusion of the investigation they were appointed to conduct, or until such later date as the chairman of the Ethics Committee may request.

**B.** The fact-finding committee will be comprised of the chair or vice-chair of the Ethics Committee and their designation of two (2) to four (4) others. Of this, at least one (1) member, if possible, should be the Region Director from the region where the alleged violation occurred. In an attempt to obtain a person from the region where the alleged violation occurred, a non-Ethics Committee member may be chosen as long as the person is a TCMA member.

**C.** Upon receiving a case of an alleged violation of the Code of Ethics from the Ethics Committee chair, the FFC shall commence an investigation into the allegations within 15 days of receiving the complaint... However, no investigation by TCMA's FFC 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 has been found guilty and has exhausted all appeals, in a criminal case involving the same conduct, or (3) it is determined the individual is a current member of ICMA, in which case, the complaint will be referred to the ICMA.

1. A copy of the complaint or information shall be forwarded by registered mail to the respondent named in the complaint by the fact-finding committee designated by the Ethics Committee chair. The respondent shall be informed at that time of the provisions of the code which he or she is alleged to have violated. The Fact-Finding Committee 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 Fact-Finding Committee.
3. The Fact Finding Committee 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 may be accompanied by a representative. Alternatively, the respondent may appear through a representative.
4. The Fact Finding Committee 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.
5. The Fact Finding Committee 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.
6. Within sixty (60) days of the respondent's reply to the Fact-Finding Committee chair, the investigation shall be concluded, and a written report of the FFC's proposed findings of fact shall be sent to the Ethics Committee and the

respondent. Each finding must be supported by reliable and relevant evidence which had been made available to the respondent for review.

7. Time limits are to facilitate prompt resolution. If time limits are not met it does not constitute grounds for dismissal. The Ethics Committee chairman and respondent each may request a time waiver of the TCMA President. A waiver is a one-time request for each side. The TCMA President may grant, in writing, a ninety (90) day extension.

## **VI. 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, the TCMA Board's file, the complainant, and a report in the TCMA Newsletter without names of the City, person, etc. indicating that the respondent has been found to have violated the Code of Ethics, that TCMA 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 that no action was taken.

**2. Public Censure.** Notification to the respondent, complainant, TCMA Board's file, appropriate local governing bodies, and TCMA Newsletter including the name of the City, person, etc. indicating that a violation of the code took place and that TCMA strongly disapproves of such conduct and the nature of the sanction(s) imposed.

**3. Expulsion.** A revocation of the respondent's membership privileges for a period of time. Notification to the respondent, complainant, TCMA Board's file, when appropriate, the local governing body, and TCMA Newsletter including name of the City, person, etc.

**4. Membership Bar.** A prohibition against membership reinstatement of the respondent's membership in TCMA. Notification to the respondent, complainant, TCMA Board's File, when appropriate local governing bodies, and TCMA Newsletter including name of the City, person, etc.

**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 TCMA Code of Ethics and which occurred while the person was a member of TCMA, the TCMA 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 TCMA President shall advise the Ethics Committee of any such action and shall refer the case to the Ethics Committee. The Ethics Committee may commence an investigation 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   B   are imposed, or the case is dismissed, in accordance with these Rules.

## **VII. Decisions**

**A.** The Ethics Committee shall promptly review the fact-finding committee's proposed findings of fact and shall ascertain whether they are supported by sufficient reliable and relevant evidence.

1. If the evidence is not sufficient, the Ethics Committee may either (a) dismiss the case; (b) return it to the fact-finding committee for further investigation in accordance with these rules; or (c) refer the case to the TCMA Board for a hearing in accordance with part VIII of these rules.
2. If the Ethics 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. If not, it shall dismiss the case and so advise the respondent, the complainant, the fact-finding committee, and the TCMA Board; and publish it in the TCMA Newsletter with the consent of the member cleared.
3. If the Ethics Committee concludes on the basis of the fact-finding committee's report that a violation has occurred, it shall determine the appropriate sanction(s). The Ethics Committee shall then notify the respondent of its intent to adopt the fact-finding committee's report as final, and to impose the specified sanctions 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 did not previously consider. The respondent shall have fifteen (15) days in which to submit a written response to the Ethics Committee and/or to request a hearing.
4. In the event the respondent makes no submission, and does not request a hearing, the Ethics Committee shall promptly adopt or amend and adopt the proposed findings and recommend sanction(s) to the TCMA Board.
5. In the event the respondent makes a written submission, but does not request a hearing, the Ethics Committee shall review the submission and may either adopt, or revise and adopt as revised, the proposed findings and/or recommend sanction(s), as it deems appropriate. The Ethics Committee shall promptly notify the TCMA Board of its decision.
6. In the event the respondent requests a hearing, the Ethics Committee shall refer the case, including its recommended sanction(s), for a hearing before the TCMA Board. Hearings shall be conducted in accordance with part VIII of these rules. No sanction(s) shall be imposed before the hearing is concluded.
7. If no hearing is requested the TCMA Board shall have thirty (30) days from the time it is referred to them to render a final decision.

**B.** Upon receiving notice from the Ethics Committee of its determination that a private censure is the appropriate sanction, and that the respondent has not requested a hearing, the TCMA Board shall send a letter of private censure to the respondent, with copies to the complainant, and copies sent to the TCMA Board's file. The case shall then be closed. No other notification of the private censure shall be made. However, TCMA 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.** Upon receiving notice from the Ethics Committee of its determination that a public censure, expulsion, or membership bar is the appropriate sanction, and that the respondent has not requested a hearing, the TCMA Board may vote to adopt the recommended decision of the Ethics Committee, to modify said decision, or to dismiss the case without imposing sanctions.

The respondent shall be immediately notified of the decision of the TCMA Board 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 Ethics Committee Chair shall notify the respondent by registered or certified mail that a hearing has been scheduled before the TCMA Board. 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 TCMA 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 fact-finding committee's report shall be admissible evidence at the hearing.
2. The TCMA Board 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 Ethics Committee 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 TCMA Board 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 that was put before the TCMA Board may be considered as a basis for the decision.
2. The TCMA Board's decision may be to:
  - a. Dismiss the case;
  - b. Adopt the findings and sanction(s) recommended by the Ethics Committee; or
  - c. Revise, and adopt as revised, the findings and/or sanction(s) recommended by the Ethics Committee unless new evidence, not previously available to the Ethics Committee, 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 without going through the above process.
3. A copy of the written decision of the TCMA Board shall be sent immediately by registered mail to the respondent, the TCMA Board's file, the Ethics

Committee, the Ethics Committee Chair, the complainant, and published in the TCMA Newsletter including names of the City, person, etc.

4. Promptly after receiving a copy of the written decision, the Ethics Committee Chair shall implement the sanction(s), if any, imposed by the TCMA Board in accordance with the Rules.