

MASSACHUSETTS MUNICIPAL MANAGEMENT ASSOCIATION

CODE OF ETHICS AND SEXUAL HARASSMENT POLICY, INCLUDING PROCEDURES

Adopted by MMMA Executive Committee:

September 8, 2016

All Members of MMMA must sign on to this Code each year when taking out or renewing membership

MASSACHUSETTS MUNICIPAL MANAGEMENT ASSOCIATION CODE OF ETHICS WITH GUIDELINES

Adopted December 2002

Applies to all MMMA Members.

Subject to the formal approval of the Executive Committee, the MMMA Code of Ethics with Guidelines will be amended any time the ICMA Code of Ethics with Guidelines is updated to match the exact wording of the ICMA Code of Ethics with Guidelines.

The mission of MMMA is to create excellence in local governance by developing and fostering professional local government management. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of MMMA, who shall:

Note: MMMA Tenets 1 – 12 exactly match the language of ICMA Tenets 1 – 12.

ICMA & MMMA 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.

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

Guideline for Tenet 2:

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. Members who want to serve in either minor elected or appointed positions outside their employing community must comply with the MMMA policy on Members Serving in Elected or Appointed Positions.

ICMA & MMMA 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 for Tenet 3:

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 terms of employment.

Credentials. An application for employment or for ICMA's Voluntary Credentialing Program 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.

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.

ICMA & MMMA 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 for Tenet 4:

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 appointing 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.

ICMA & MMMA 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 for Tenet 5:

Conflicting Roles. Members who serve multiple roles--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.

ICMA & MMMA 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.

ICMA & MMMA 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 for Tenet 7:

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.

Running for Office. Members shall not become involved in political activities related to running for elected office, seek political endorsements or financial contributions or engage in other campaign activities. Members shall not run for elected office in the community in which they are employed, nor shall members seek elected office with significant policy

making responsibility outside their employing community. Members who want to serve in a minor elected office outside their employing community must comply with the MMMA policy on Members Serving in Elected or Appointed Positions.

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 shall 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.

Elections in 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 governing body in presenting issues involved in referenda such as bond issues, annexations, and similar matters.

ICMA & MMMA 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 for Tenet 8:

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 that are based on the practices identified by the members of ICMA.

ICMA & MMMA 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.

ICMA & MMMA 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 for Tenet 10:

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.

ICMA & MMMA 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 for Tenet 11:

Equal Opportunity. Members should develop a positive program that will ensure meaningful employment opportunities for all segments of the community. All programs, practices, and operations should: (1) provide equality of opportunity in employment for all persons; (2) prohibit discrimination because of race, color, religion, sex, national origin, political affiliation, physical handicaps, age, or marital status; and (3) promote continuing programs of affirmative action at every level within the organization.

It should be the members' personal and professional responsibility to actively recruit and hire minorities and women to serve on professional staffs throughout their organizations.

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

Guidelines for Tenet 12:

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 be reasonably 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, 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 appointing 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 or services 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 governments are appropriate and useful to the profession when included as part of professional articles and reports.

NOTE: MMMA Tenets 13 – 14 are unique to the MMMA and do not mirror ICMA Tenets.

MMMA Tenet 13. MMMA members may not seek election to or serve in an elected position in the member's employing municipality or in any political jurisdiction of which the member's employing municipality is a member or otherwise participates, such as county, state or federal offices. An MMMA member may not seek appointment to or serve in an appointed position in the member's employing municipality or in any political jurisdiction of which the member's employing municipality is a member or otherwise participates, such as state boards or commissions, unless the appointment is made by or approved by vote of the member's appointing authority.

Guidelines for Tenet 13:

An MMMA member who does not reside in their employing municipality may seek election or appointment to serve in an elected or appointed position in their home municipality if the MMMA Ethics Committee determines that the member is in compliance with the following guidelines before the member seeks appointment or election:

- 1) the elected or appointed position is not on a significant policy making body (i.e. board of selectmen, city council, school committee, or the equivalent, or county, state, or federal offices)
- 2) the member's service in an elected or appointed position will not undermine public confidence in professional administrators
- 3) the election or appointment is approved by vote of the member's appointing authority
- 4) the member has informed and consulted with the manager/administrator of the municipality about serving in an elected or appointed position
- 5) the member acknowledges that service in an elected or appointed position requires adherence to Tenet 2
- 6) the member does not seek political endorsements, financial contributions or engage in other campaign activities

The member must submit a letter and related documentation requesting a determination to the Ethics Committee before seeking an elected or appointed position, and before seeking reelection or reappointment. The Ethics Committee shall notify the member and the Executive Committee of its determination in writing. The MMMA President shall notify the ICMA Committee on Professional Conduct in writing whenever a request by an ICMA member results in a positive determination by the Ethics Committee. A member may appeal a negative determination by the Ethics Committee to the Executive Committee.

If a member received prior approval from the Ethics Committee and continues service in the position past the initial term of appointment or election, the member will notify the Ethics Committee in writing of the renewed service. The member will also notify the Ethics Committee in writing about any material change in the position that may impact the prior

approval of the Ethics Committee on the member's appointed or elected service. If the material change is determined to be substantial, the Ethics Committee reserves the right to make a new determination about the member's continued service.

If a member is found to be in violation of MMMA Tenet 13, the Ethics Committee reserves the right to treat disciplinary situations on a case by case basis. Disciplinary action need not be progressive and may take any form as warranted and deemed appropriate by the Ethics Committee, which may require further action of the Executive Committee.

The Ethics Committee will keep a list of all appointed and elected positions previously approved for member service under MMMA Tenet 13.

MMMA Tenet 14. MMMA members may not violate the MMMA Harassment Policy. See Attachment A.

Guidelines for Tenet 14:

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

Professional Respect. Members should demonstrate professional courtesy and respect for their colleagues at all times and on all occasions. In addition to professional interactions, members who attend MMMA-sponsored events and conferences have the opportunity to interact and socialize with fellow members. Members should remember that they represent themselves, their local government and their profession at all times and should conduct themselves appropriately.

MASSACHUSETTS MUNICIPAL MANAGEMENT ASSOCIATION RULES OF PROCEDURE FOR ENFORCEMENT OF CODE OF ETHICS

A. These rules govern the procedures for enforcing the Code of Ethics for the Massachusetts Municipal Management Association (MMMA).

B. All Active and Cooperative members of the MMMA agree to abide by the Code of Ethics, as indicated by their signature on the application for membership or subsequent endorsement.

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 MMMA 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 that may be granted by the MMMA President or Ethics Committee Chair, for reasonable cause, upon request.

E. No person may participate in any proceedings on a complaint made under these rules if that person is or may be a witness or complainant in that case, except that members of the Executive Committee and Ethics Committee may participate in proceedings on a complaint which such member has brought forward as a member of said committee and in the interest of the MMMA. No person may participate if his or her participation would otherwise create, or appear to create a conflict of interest.

F. Members of the executive committee and the ethics committee shall not discuss or divulge information with anyone outside of these committees about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the MMMA Code of Ethics.

G. The timeframes and procedures identified in the Rules of Procedure for Enforcement of the MMMA Code of Ethics are intended as guidelines to follow and, depending on the circumstances, may be adjusted and/or waived at the discretion of the MMMA President and Ethics Committee Chair as deemed appropriate.

H. The MMMA reserves the right to treat disciplinary situations on a case by case basis. Disciplinary action need not be progressive and may take any form as warranted and deemed appropriate by the Executive Committee and Ethics Committee.

I. Jurisdiction

A. All members of MMMA in active service with local government are subject to the Code of Ethics and are subject to sanctions for any violations thereof that occur during their membership. However, members not in service are subject to only Tenets 1 and 3. A member may be subject to sanctions for a violation that 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 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. If a respondent resigns from his or her municipal position, resigns from MMMA or otherwise allows his or her membership in MMMA to lapse, before the conclusion of an investigation, the investigation shall continue to a conclusion but may be suspended during criminal processes or appeals.

D. If the individual whose actions are questioned is not a member, the chair of the Ethics Committee will notify the complainant and the individual accused of the alleged violation. Only if the City Council or Board of Selectmen contacts the MMMA will the President provide a written letter stating that the individual in question is not a member.

II. Responsibilities

A. The MMMA Executive Committee is responsible for making the final decision on matters pertaining to the enforcement of the code, including, but not limited to sanctions for the violations thereof. No current or former member may be censured, expelled, or barred from membership without the approval of the MMMA Executive Committee as provided in Section VI.

B. The Ethics Committee is the committee of MMMA responsible for assisting the MMMA Executive Committee in implementing these rules and has the specific duties set forth hereinafter. The Ethics Committee shall consist of five or more members who shall be appointed by the President of MMMA.

C. The President, Executive Committee, and Ethics Committee are responsible for publicizing and promoting the Code of Ethics with the membership, elected officials, and the

general public.

III. 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 violations, 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 complainant, the MMMA Executive Committee's file, and a report to all Active MMMA members, without the name of the member, municipality, etc., indicating that a member has been found to have violated the Code of Ethics, the nature of the violation, and that, if it is repeated in the future, it may be cause for more serious sanction.
2. **Public Censure.** Notification to the respondent, complainant, MMMA Executive Committee's file, the MMMA membership, and the appropriate local governing body, including the name of the member, municipality, etc., indicating that the member has been found to have violated the Code of Ethics, the nature of the violation, and that, if it is repeated in the future, it may be cause for more serious sanction.
3. **Expulsion.** A revocation of the respondent's membership privileges for a period of time.
4. **Membership Bar.** A prohibition against membership reinstatement of the respondent's membership in MMMA.
5. **Executive Committee Determination.** Any sanction or action may include such other form(s) of disciplinary action as the Executive Committee deems appropriate under the circumstances.

C. Upon receiving documented evidence that a member has been found guilty after trial by a judge or jury of criminal conduct, which constitutes a violation of the Code of Ethics and which occurred while the person was a member of MMMA, the MMMA 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 MMMA President shall advise the Ethics Committee of any such action and shall refer the case to the Ethics Committee. The Committee may commence an investigation in accordance with Part VI hereof, 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 IV. B. are imposed or the case is dismissed, in accordance with these Rules.

IV. Initiation of Procedures

A. Proceedings against an individual for an alleged violation of the Code of Ethics may be initiated by agreement of the President and the Ethics Committee Chair (or by vote of the Executive Committee, if the President and the Chair have not agreed to initiate proceedings), upon receiving a written complaint or other written information from any source indicating that a violation may have occurred. The Ethics Committee shall be notified of all written complaints. The complaint's name shall, at the complaint's request, remain confidential.

B. Upon receiving such a written complaint or information, the President and the Chair shall ascertain whether it 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.

1. If the President and the Chair conclude that the complaint is not sufficiently clear or complete to initiate proceedings, they shall seek further clarifications from the complainant or other source before taking further action. If the President and the Chair cannot determine whether the conduct alleged, if proven, might violate the Code of Ethics, the question shall be referred to the Ethics Committee for a ruling. No action shall be taken with respect to a complaint or information unless the President and the Chair (or the Ethics Committee) rules that the conduct alleged, if true, may constitute a violation of the Code.
2. If the President and the Chair (or the Ethics Committee) conclude that the complaint is sufficiently clear and complete to initiate proceedings, and may if proven, indicate a violation of the code, a copy of the complaint or information shall be forwarded by registered mail to the respondent named in the complaint. The respondent shall be informed at that time of the provisions of the code which he or she is alleged to have violated and shall be provided with a copy of these Rules of Procedures. The President or Chairman may also request that the respondent answer specific questions pertaining to the alleged violation.
3. The respondent shall be given fifteen (15) 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 President.
4. Upon receipt of the respondent's response is received, or upon the expiration of the fifteen (15) days, the President and Ethics Committee Chair (or the Executive Committee) shall determine whether the complaint shall be dismissed or referred to the Ethics Committee for investigation.

V. Investigations

A. Upon receiving a referral of an alleged violation of the Code of Ethics from the President, the Ethics 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, or (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.

B. The Ethics Committee Chair shall appoint a three-member fact-finding committee of the Ethics Committee to conduct the investigation in accordance with these Rules. The fact finding committee may seek professional assistance in conducting the investigation.

C. Within fifteen (15) days of receipt of a notice to proceed with an ethics investigation, 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.

D. 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.

E. 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.

F. The fact-finding committee shall present its proposed findings of fact to the Ethics Committee for approval, revision or referral back to the fact-finding committee.

G. Within forty-five (45) days of the notice to proceed, the investigation shall be concluded and a written report of the Ethics Committee's proposed findings of fact shall be sent by the Ethics Committee Chair to the President, Executive Committee, and the respondent. Each finding shall be supported by reliable and relevant evidence that has been made available to the respondent for review. A reasonable extension to any of the above specified timeframes may be granted by the President.

VI. Decisions

A. The MMA President, 1st Vice-President and 2nd Vice-President shall review the Ethics Committee report promptly and determine whether the findings are supported by the evidence and whether the findings demonstrate that a violation of the Code of Ethics has occurred.

B. If the President, 1st Vice-President and 2nd Vice-President determine that the proposed

findings are supported by the evidence, they shall determine whether the proposed findings demonstrate that a violation of the Code of Ethics has occurred. If not, they shall dismiss the case and so advise the respondent, the complainant, and the Ethics Committee.

C. If the President, 1st Vice-President and 2nd Vice-President conclude, on the basis of the Ethics Committee's report, that a violation has occurred, it shall determine the appropriate sanction(s) to be recommended to the Executive Committee, along with the recommendation that the Ethics Committee report be adopted as the final report. The President shall notify the respondent of the recommendation by the President, 1st Vice-President and 2nd Vice-President to adopt the Ethics Committee's 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 sanctions(s) should not be imposed as recommended. The respondent shall have fifteen (15) days in which to submit a written response to the President and/or to request a hearing.

D. If the respondent submits no response, the Executive Committee shall promptly consider whether to approve the proposed findings and sanction(s).

E. If the respondent makes a written submission, but does not request a hearing, the President, 1st Vice-President and 2nd Vice-President shall review the submission and may reaffirm or revise the recommended findings and/or sanction(s) as they deem appropriate or may refer the submission to the Ethics Committee for a supplemental report. Following any such reaffirmation, revision or supplemental report, the Executive Committee shall promptly consider whether to approve the proposed findings and sanction(s).

F. If the respondent requests a hearing, the President shall refer the case, including the recommended findings and sanction(s), for hearing before the Executive Committee. Hearings shall be conducted in accordance with part VII of these rules. No sanction(s) shall be imposed before the hearing is concluded.

VII. Hearings

A. These procedures shall govern all hearings conducted pursuant to these Rules.

B. No Executive Committee member may hear any case if his or her participation in that case would create an actual or apparent conflict of interest.

C. Within fifteen (15) 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 Executive Committee. The hearing date shall be at least twenty-five (25) days, but no more than forty-five (45) 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/or 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 Executive Committee 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 Ethics Committee's report shall be admissible evidence at the hearing.
2. The Executive Committee may not hear evidence of any alleged ethics violations by the respondent that was not the subject of the initial investigation. However, in determining sanction(s) the Executive Committee shall consider any previous findings and sanctions regarding other ethics violations.

E. At any hearing conducted under these rules, the President and/or Ethics Committee Chair shall first present evidence in support of its recommended findings and sanction(s). Upon conclusion of that presentation, the respondent shall have the opportunity to present evidence in his or her defense.

F. Within thirty (30) working days of the conclusion of the hearing, the Executive Committee shall make a determination in the case.

1. The decision shall be in writing and shall include a statement of the reasons therefor. Only evidence that was put before the Executive Committee may be considered as the basis for the decision.
2. The Executive Committee decision may be to:
 - a. Dismiss the case;
 - b. Adopt the findings and sanction(s) recommended by the President, 1st Vice-President and 2nd Vice-President; or
 - c. Revise, and adopt as revised, the findings and/or sanction(s) recommended by the President, 1st Vice-President and 2nd Vice-President. However, the Executive Committee may not increase the sanction(s) recommended by the President, 1st Vice-President and 2nd Vice-President unless new evidence, not previously available to the President, 1st Vice-President and 2nd Vice-President, 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 was not the subject of the initial investigation.

3. The President shall immediately send, by registered mail, a copy of the written decision of the Executive Committee to the respondent; as well as a copy by first class mail to the complainant.

VIII. Miscellaneous

A. Except as provided in other sections of this policy, the Executive Committee shall decide whether to notify the governing body of disciplinary action.

B. The Executive Committee is authorized to secure legal counsel and professional liability coverage to assist and protect the Ethics Committee members and Executive Committee members related to ethics cases that come before it. Depending on the nature and severity of the complaint, the Massachusetts Municipal Association Executive Director will be notified for liability insurance purposes.

C. The Executive Committee shall determine whether any former or previous member who has been found to have violated the Code of Ethics through an ICMA, MMMA or other state association ethics investigation shall be eligible for membership. The Executive Committee may request the Ethics Committee to review submit findings regarding any such previous ethics investigation.

D. All proceedings are confidential. The Chair of the Ethics Committee shall determine logistical and administrative considerations related to investigations; the President shall determine logistical and administrative considerations related to hearings. Decisions of the Executive Committee are final and binding.

E. If a governmental agency or body is conducting an investigation of any alleged wrongful behavior of a member, the MMMA may defer any investigation until the agency investigation is complete.

F. The timeframes and procedures identified in the Rules of Procedure for Enforcement of the MMMA Code of Ethics are intended as guidelines to follow and, depending on the circumstances, may be adjusted and/or waived at the discretion of the MMMA President and Ethics Committee Chair as deemed appropriate.

G. The MMMA reserves the right to treat disciplinary situations on a case by case basis. Disciplinary action need not be progressive and may take any form as warranted and deemed appropriate by the Executive Committee and Ethics Committee.

ATTACHMENT A

MASSACHUSETTS MUNICIPAL MANAGEMENT ASSOCIATION HARASSMENT POLICY

I. Introduction

It is the goal of the MMMA to promote an environment that is free of sexual harassment or any other unlawful harassment including harassment on the basis of race, color, religion, national origin, ancestry, sex, gender identity, age, handicap (disability), participation in discrimination complaint-related activities, sexual orientation, genetics, or active military or veteran status.

Said harassment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing an environment free from unlawful harassment, the conduct that is described in this policy will not be tolerated and the MMMA has provided a procedure by which inappropriate conduct will be dealt with, if encountered by members.

Because the MMMA takes allegations of unlawful harassment seriously, it will respond promptly to complaints of harassment and where it is determined that such inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth the MMMA's goals of promoting an environment that is free of unlawful harassment, the policy is not designed or intended to limit the Association's authority to discipline or take remedial action for conduct which it deems unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

II. Definition of Sexual Harassment

The MMMA adopts the language provided by the Massachusetts Commission Against Discrimination for employment discrimination and applies it to this organization and its members.

The legal definition for sexual harassment is this: "sexual harassment" means sexual

advances, requests for sexual favors, and verbal or physical conduct of a sexual nature.

The legal definition of unlawful harassment is broad and in addition to the above examples, other conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute harassment.

While it is not possible to list all those additional circumstances that may constitute harassment, the following are some examples of conduct which if unwelcome, may constitute harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's protected class; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess
- Displaying sexually suggestive objects, pictures, cartoons
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments
- Inquiries into one's sexual experiences, and
- Discussion of one's sexual activities
- Slurs or other derogatory comments, objects, pictures, cartoons, or demeaning gestures connected to one's membership in a protected group.

All members should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a harassment complaint is unlawful and will not be tolerated by this organization.

III. Complaints of Harassment

If any of our members believes that he or she has been subjected to unlawful harassment, the member has the right to file a complaint with our organization. This may be done in writing or orally.

If a member would like to file a complaint, the member may do so by contacting the MMMA President, First Vice President, Second Vice President, or Ethics Committee Chair. These persons are also available to discuss any concerns the member may have and to provide information to the member about the Association's policy on unlawful harassment and its complaint process. Whoever receives the complaint will notify the Massachusetts Municipal Association Executive Director of the complaint for liability insurance purposes.

IV. Harassment Investigation

When the Association receives the complaint it will promptly investigate the allegation in

a fair and expeditious manner in accordance with the MMMA Rules of Procedure for Enforcement of Code of Ethics. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation will include a private interview with the person filing the complaint and with witnesses. The Association will also interview the person alleged to have committed sexual harassment. When the Association has completed the investigation, it will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, the Association will act promptly to eliminate the offending conduct, and where it is appropriate the Association will also impose disciplinary action.

V. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our members, the Association will take such action as is appropriate under the circumstances. Such action may range from counseling to termination of a person's membership, and may include such other forms of disciplinary action as the Association deems appropriate under the circumstances.