

## **Upholding Ethical Conduct in Public Professional Organizations: An Assessment of ICMA's Code of Ethics**

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### **Abstract**

*Using Sava's (2007) Ethics Triangle model of virtue, principle, and consequence (greatest good) as an analytical tool, this article maps the ethical components embedded the International City Managers Association's (ICMA) Code of Ethics and accompanying Guidelines as an example of the maturation of a profession.*

Charges of personal misconduct, fiscal mismanagement, conflict of interest, and waste in government agencies perpetrated by public administrators are covered routinely by the media (Cohen, Eimicke, and Heikkila, 2008). This transparency is an important component of accountability, of course, and is to be encouraged. Professional public administrators must find ways to help ensure that conditions necessary for a democracy to flourish are maintained (Wilson, 1908). In public organizations, this is especially important because as they seek to secure and build the public trust through various accountability procedures, they must assure that these systems operate independent of the intervener (Argyris, 1980). Most often these interventions are found in codes of ethics for a profession. Fritz Morstein Marx (1949) put it this way: "Administrative morality...acquires

its inner logic from the political ideology which the machinery of government is expected to translate into social reality. The core of all administrative ethics lies in the ideas that nourish the political system,” (1119). Ethics, professionalism, and accountability go hand-in-hand because there must be some way to foster ethical behavior, learn about it, sanction wrong doers, and remove those who habitually violate professional standards.

Mature public and private professions such as medicine, law, and accountancy recognize this and use both internal and external accountability methods to uphold professional ethics in their respective fields. In the public sector, membership organizations such as the Government Finance Officers Association (GFOA) established in 1906, the International City/County Management Association (ICMA), founded in 1914, the American Society for Public Administrators (ASPA) created in 1939, and Association for Research on Nonprofit Organizations and Voluntary Action (ARNOVA) established in 1971, all help to provide ongoing training and educational opportunities. Graduate degree programs in public administration, public affairs, urban policy offer educational training to prepare students to become members of the public service profession. Of these groups, however, only ICMA currently has in place a system to sanction and remove members for violations of their professional code of ethics. But how does this system work and what violations are being discovered through it?

This article provides answers to these questions and begins with a discussion of professionalism, accountability, and ethics to provide context. Next, the composition of the ICMA code of ethics is analyzed using Svava's (2007) ethics triangle. This allows us to make transparent the ethical components embedded in the code's tenets and guidelines. We also present the number and types of

violations that have been processed by the association over the past two decades through a review of ICMA newsletters from 1990-2009, and in conversations with ICMA's Director of Ethics, Martha Perego. Finally, we end with a discussion of the importance of professional maturation that includes having a well-balanced code of ethics, a sanctioning mechanism, and appropriate training to avoid perpetuating or condoning weaknesses in the field.

### **Professionalism, Accountability and Ethics**

The term "professionalism" connotes extensive education, technical expertise or specialized training for performing tasks associated with a specific occupation. But it is more than that. "All would agree that a profession, indeed a well-developed occupation, has an ethos that acts to shape the values and behavior of members," (Stillman, 1996, p. 464). Although debate exists regarding whether public administration "is, should be, or can become a profession...there is no question that... [it]...has adopted a number of professional attributes," (Streib and Rivera, 2009-10, 9). The importance of the study of ethics for building a strong profession is widely supported by research "on ethics and integrity in governance [which] has...expanded at an astonishing rate" (Menzel, 2005,147). Plant (2001) also shows that the "connection between ethics and public professionalism has provided public administration with one of its most cherished accomplishments" (318).

Many public administrators are educated in professional degree programs that teach ethics to promote ethical behavior. Ethics education is deemed to be essential for those entering into public service. The National Association for Schools of Public Affairs and Administration (NASPAA) requires that ethics be

embedded into the curriculum of accredited member's programs of public affairs and administration. Ethics education is also offered by professional organizations such as ICMA, ASPA, GFOA and ARNOVA, among others.

Seventy years ago, Carl Friedrich (1940) argued forcefully for the importance of professionalism for upholding accountability by arguing that professional standards could serve as a moral compass to guide public administrators in their decision-making. Here, conformance to the code by members "is a matter of conversion that takes place from the inside," (Monypenny, 1953, 186). Thus, professional organizations that create a code of ethics and provide training and education about it are relying on members' voluntary compliance with the provisions in the code. Professionalism takes time to cultivate and mature but is characterized by at minimum by having in place, 1) a formal educational component that teaches the discipline and creates new knowledge about the field, 2) one or more professional organizations to provide continuing education and networking opportunities, and, 3) published standards or a code of ethics to help regulate professional conduct. Professionalism and accountability go hand-in-hand because there must be some way to foster ethical behavior, and learn about, sanction, and remove those who habitually violate professional standards. A public sector profession is not appropriately vigilant if the actions of those who would tarnish the image of public service, or place the community, clients or other stakeholders at risk of harm are ignored or tolerated.

Many public sector organizations, ASPA, for example, have created codes of ethics, which they promote through education and training. At the present time, however, ASPA, like many public professional organizations, has not created an oversight structure to

monitor or formally track compliance with their code to any significant degree. One reason may be because accountability via a code of ethics works because compliance is based on an understanding of rules, the principles that support them, and an administrator's "felt responsibility" (Harmon, 1995). From this perspective, professional accountability is self-generated by members. A second reason could simply be that it is organizationally burdensome to create a workable system of oversight.

### **The ICMA Code of Ethics**

The International City and County Managers Association (ICMA), is an organization with nearly 9,000 members (ICMA, 2010). ICMA was one of the first public sector professional organizations to create a code of ethics in 1924 (Stillman1974, Pugh 1991). In 2009 ICMA celebrated 85 years of the ICMA code of ethics. ICMA Ethics Director Martha Perego (2010) noted that the founding committee had the "foresight and wisdom to recognize that a true profession is more than a body of knowledge implemented by experienced practitioners. A true profession is anchored and guided by a set of commonly held core principles," (6). The ICMA code has been revised a number of times, in 1938, 1952, 1969, 1976, 1987, and 1998 to correspond to changes in the profession (Stillman1974; Plant, 2001), and to make it more relevant to the conditions of the day (Perego, 2009). In 1972, the ICMA Executive Board added guidelines to help interpret the meaning of the 12 central tenets and created an oversight board and an enforcement body for its code of ethics. These guidelines were most recently revised in 2004. It is one of very few public sector professional organizations to use an oversight body to monitor and sanction code of ethics violations. Similar to independent ethics commissions (Smith, 2003, 284), ICMA's status as a

501(c)(6) nonprofit organization sets it apart from government, yet allows it to monitor and enforce the ethical behavior of its public sector members.

When a person joins ICMA he or she signs a statement agreeing to abide by the code of ethics. ICMA provides ongoing education, which is aggressively enforced by a peer review process that involves investigating complaints and recommending sanctions for code violations. All members of ICMA are bound to at least some of the provisions of the code but members working for local government in appointed positions are subject to the provisions of all twelve tenets. Members working outside of local government are subject only to the provisions of Tenets 1 and 3 (ICMA website, 2010).

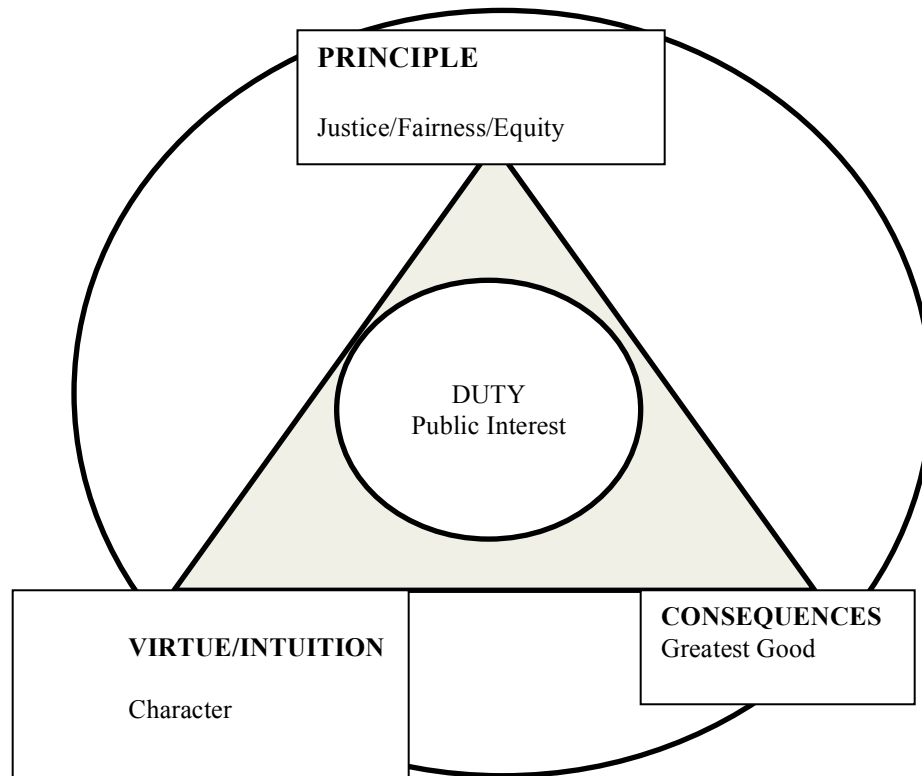
As shown in Figure 2, the ICMA tenets are broad in scope and focus. As mentioned previously, in 1972, ICMA created guidelines to help narrow and clarify the meaning of the tenets (see appendix for the tenets and guidelines). This is consistent with a code that clearly sets forth “standards that can be used to judge the behavior of administrators if their actions are challenged” (Svara, 2007, 80).

### **The Ethics Framework for Accountability**

Concerns about accountability arise when discretion, free will and agency exist. In other words, when an actor is free to choose a course of action, the content of their decision-making matters since ultimately, it influences their actions. Svara (2007) offers a triangular framework that is useful for understanding ethics and ethical decision making (Figure 1). As with other authors who have contributed to our knowledge of administrative ethics, the

triangle includes both deontological and teleological components.

**Figure 1.**  
**Svara's Ethics Triangle**



Source: Svara, J.H. (2007). *The Ethics Primer for Public Administrators in Government and Nonprofit Organizations*. Sudbury, MA: Jones and Barlett Publishers (page 68). *Circle added by authors.*

Each point on the triangle reflects a competing and a complementary approach to making ethical decisions. Virtues, principles, and consequences are the three fundamental components of ethical decision making and respectively, Svara's triad represents ideals, character, and

justice as each relates to the public administrator's duty to serve and uphold the public's interest. Duty is positioned in the center of the ethics triangle; its effectiveness is contingent on the balance between these trifurcated dimensions.

A code of ethics that is overly dependent upon just one approach (virtue, principles, or consequences, for example) is likely to result in decision-making that not only absorbs the benefits of the approach, but also displays the drawbacks (Svara, 2007). Decisions that rest too heavily on consequences, for example, may result in the design of processes (or neglect thereof) that violate expected ethical actions. A professional code of ethics that is designed with principles as the primary approach, may fail to encourage its members to examine virtue as a guiding force in decision making. We have enclosed Svara's framework within a circle to illustrate the importance of including all features of the triangle when making decisions, creating a code of ethics, or designing ethics-related training materials. Overall, a balanced and holistic approach to ethical decision-making is suggested (Svara, 2007). Although the founding members of ICMA did not intentionally use this model to craft their code of ethics; they did purposefully create a code that would enhance the quality of local government by insisting that its members be *dedicated to the highest ideals of honor and integrity*. And as we will show, in doing so, they incorporated aspects of each approach depicted in Figure 1 into their code.

## Methods

Using Svara's 2007 framework, a content analysis of ICMA's codes of ethics was conducted to identify the ethical decision making approach of the 12 tenets in the code, (i.e., virtue, principle or consequence). Two decades



of ICMA newsletters were analyzed (from 1990-2009) to identify the types of violations reported and sanctioned. The number of public censures was identified through a review of the ICMA newsletters. The number and substance of private censures were identified through conversations with the ICMA Director of Ethics in spring and summer 2010. The names and violations of those publically censured are disclosed in the ICMA newsletters. Private censure violations are reported in the newsletters but names do not appear.

We also reviewed and analyzed the ethics columns and educational articles published in ICMA's monthly magazine, *PM Magazine*, which is published 11 times during the year (it is a monthly periodical with the exception of the January/February issue which is combined). The ICMA newsletter and the *PM Magazine* are provided to members online and by hard copy each month. All documents were examined to identify the type of ethics information that was included and to track discussions of the 12 tenets found in the code of ethics.

Any assessment of the composition and integrity of an ethical code is subjective. There are multiple ontological levels to consider, language that ranges from abstract to concrete, and a myriad of interpretations. The construction or deconstruction of an ethical code must also take into account the audience, biases and understandings of those creating or analyzing it, the diversity of situations possible, and varying dimensions of language (VanWart, 2003). The framework that undergirds an ethical code is often based on universal principles ubiquitously applied. There are, however, always going to be particular cases where one principle cannot be applied the same in two different situations (Brady, 2003; Svava, 2007). Brady (2003) studied the methods used by scholars to classify different

dimensions of ethical codes and found that a tripartite model is often employed breaking the codes into deontological, teleological, and axiological levels. While there are differences in the way VanWart, Brady, and Svava model the multiple levels of ethical codes; they all divide them by establishing categories that group the dimensions into typologies ranging from abstract to concrete. To derive a systematic way to analyze ICMA's code of ethics, we applied Svava's model and coded the 12 tenets and 28 guidelines into one of three dimensions; virtues, principles or consequences (Table 1).

**Table 1: Tenets and guidelines classified using Svava  
2007**

| ICMA<br>Tenet | TENETS 12 |           |             | GUIDELINES 28 |           |             |
|---------------|-----------|-----------|-------------|---------------|-----------|-------------|
|               | Virtue    | Principle | Consequence | Virtue        | Principle | Consequence |
| 1             |           |           | X           | 0             | 0         | 0           |
| 2             | X         |           |             | 0             | 1         | 0           |
| 3             | X         |           |             | 2             | 6         | 0           |
| 4             |           |           | X           | 0             | 1         | 0           |
| 5             |           | X         |             | 0             | 1         | 0           |
| 6             |           |           | X           | 0             | 0         | 0           |
| 7             |           | X         |             | 0             | 4         | 2           |
| 8             |           | X         |             | 1             | 1         | 0           |
| 9             |           | X         |             | 0             | 0         | 0           |
| 10            |           | X         |             | 0             | 1         | 0           |
| 11            |           | X         |             | 0             | 0         | 1           |
| 12            |           | X         |             | 0             | 7         | 0           |

## **Analyzing ICMA's Code of Ethics**

### **Virtues**

Under Svara's (2007) depiction, virtues commonly draw on core societal values that are inculcated from childhood. "...acting virtuously reflects an intention by the individual to be good...it is based on positive motives" (51). "Today virtue is defined by character qualities like patience, honesty, trustworthiness, and so on, which people...try to exhibit in everyday life," (Lynch and Lynch, 2003). Decisions based on virtue are derived from one's character or inherent sense of being. Thus we classified the tenets and guidelines that specify how one should "be" as virtues. Included here are statements that are related to being an honest person or having integrity.

### **Principles**

"Deontological approaches to ethics focus on one's duty to certain ethical principles such as justice, freedom, or veracity without regard for the consequences of one's actions," (Cooper, 2006, 3). Principles are deontological and therefore serve to reinforce a sense of duty and promote cohesion among members of a profession. This is done through externally established sets of rules or standards that govern how a group should interact with others. They answer the question of "what to do" (Svara, 2007, 57). Principles are typically codified as rules that are universally applied to all members. Thus, in one sense, they serve to promote social equity since all must comply. We have coded the tenets and guidelines that provide rules or directives to govern behavior (e.g., they say what a public administrator should or should not do), as principles.

## **Consequences**

It is said that: “Teleological ethics involves a concern for the ends or consequences of one’s conduct. This is the position most notably associate with utilitarianism and its calculus of the greatest good for the greatest number,” (Cooper, 2006, 3). In seeking to understand what would constitute desired results or consequences from ICMA’s perspective, we consulted their organization’s formal “declaration of ideals” and found that most are associated with democratic outcomes such as citizen participation, openness and transparency, and equity. An example is:

The International City/County Management Association (ICMA) was founded with a commitment to the preservation of the values and integrity of representative local government and local democracy and a dedication to the promotion of efficient and effective management of public services. To fulfill the spirit of this commitment, ICMA works to maintain and enhance public trust and confidence in local government, to achieve equity and social justice, to affirm human dignity, and to improve the quality of life for the individual and the community. Members of ICMA dedicate themselves to the faithful stewardship of the public trust and embrace the following ideals of management excellence.

(ICMA, 2010, Declaration of Ideals).

We coded tenets and guidelines in ICMA’s code of ethics as being utilitarian or consequences focused when they were consistent with results such as seeking the attainment of social justice or promoting democracy. When

constructing a set of universal standards delineating the roles and responsibilities of public administrators, different circumstances may create conflict among principles, one principle may simply conflict with another, or there may be instances where there is no principle in place to guide one's action. This is a drawback to using principles as a means for ensuring ethical behavior. Likewise, what a "good" person might do in any particular circumstance may be unclear. The utilitarian approach bypasses these dilemmas by focusing on the desired consequences. Right behavior, therefore, is that which is directed toward bringing about the desired results or consequences.

### **Composition of the ICMA Code of Ethics**

As was shown in Table 1, most of the tenets (7 of 12, 58%), and the majority of the guidelines (22 of 28, 79%) reflect a principles approach. The strength of this approach is that it rests on straightforward, easy to share, and comparatively simple to comprehend statements. While there might be some confusion about what a virtuous person would do with regard to participating in elections or campaigns, the principles-based guideline under Tenet 7 of ICMA's code of ethics is unambiguous, "members shall not seek political endorsements, financial contributions or engage in other campaign activities." Likewise, while the expected benefits of professionalization might be impossible to predict, principle-based Tenet 8, "to improve the [IMCA] member's professional ability and to develop the competence of associates in the use of management techniques" is straightforward. Although the specific ability or management technique to acquire or hone is not stated, the duty to improve is clear.

Although examples of each approach are found ICMA's code of ethics, the code is dominated by

principles, especially when the guidelines are applied. Svvara (2007) argues that ethical decisions are enhanced when all three approaches are balanced. Thus, ICMA may wish to revisit the composition of the code to ensure that it does not rely too heavily on one approach. Other public sector organizations seeking to adopt or revise their code of ethics should also seek to do so to avoid the weaknesses that can occur when a single approach is used in isolation.

The strengths of using a principles approach have already been mentioned. The weaknesses occur when there is no principle to apply to a given circumstance or when two or more principles conflict. Therefore, given the design of the ICMA code, we might anticipate these problems. However, because principles are clear and unambiguous statements, it is probably more likely that violations are identified when they are in place. In other words, it is easier to report a violation or issue a sanction when there is a clear understanding that something has gone awry. When there is no stated principle, when results are difficult to anticipate or measure (as with the consequences approach), or when it is unknown what a virtuous person would do, it is possible that unethical behavior is less likely to be identified and sanctioned.

### **Censures explained**

Creating a code of ethics and expecting voluntary compliance can be seen by some as a naïve and ineffective strategy. Without an enforcement mechanism the approach lacks the necessary “teeth” to serve as an effective means for curbing unethical behavior. “A properly framed code [of ethics] is, in effect, a form of legislation...binding on employees, with specific sanctions for violation of the code. If such sanctions are absent, the code is just a list of pieties,” (Inc. Magazine, 2010). The ability to sanction

provides ICMA with an organizational mechanism to hold its members accountable for inappropriate behavior but the efficacy of these sanctions is enhanced only when those who are bound by them believe them to be valuable (Schein, 1988). Although monitoring is a common tool that can be used to help ensure compliance with directives (Smith, 2003; Svava, 2007; VanWart, 2003), in practice, in order for ICMA to initiate a review, a report of a suspected violation must reach them. ICMA does not have a formal cadre of “code of ethics inspectors” investigating in the field. As noted earlier, a report must reach ICMA for the system to work. As with all reporting systems, however, it is possible that “. . . all who know of a corrupt act [may] share an interest in concealing it,” (Johnston, 2010, 128). Thus, members of the profession must police their own.

Confirmed violations of the code of ethics trigger either a private or a public censure. A private censure is for minor trespasses and names are withheld from the public. The offender receives a letter from the executive director directing them to correct their inappropriate behavior. A public censure generates a formal review that includes due process rights for the member. If the member is found to have violated the code, he or she is publicly censured and potentially barred from future participation in the organization.

### **Findings: Private Censures**

Between 1990 and 2009 there were 106 private censures issued by ICMA (Table 2). A private censure indicates that a member has been found to have violated the Code of Ethics, that ICMA disapproves of such conduct, and that, if repeated in the future, it may be a cause for more serious sanctions. For private censures, ICMA considers the impact of the violation on the public

organization and local community, its likelihood of recurrence, the circumstances involved, the member's reputation, his or her level of responsibility, and any unique aspects involved. Whether a tenet violation is found to be a private or public matter rests solely with ICMA after consideration of the details embodied in the case.

Although a private censure does not merit public exposure, ICMA considers it prudent to sternly warn their members. Table 2 shows that the violation of just five tenets accounted for the 106 private censures issued (Tenets 3, 4, 7, 11 and 12). Thirteen censures were serious enough to result in an expulsion of the member and there were 32 membership bars. Expulsions are rare in private censure but are used to remove an individual from the association (during the ethics review). A bar prohibits an individual whose membership lapses during the ethics review from re-joining the organization until the case is resolved. Members who are expelled or barred may reapply to join ICMA after a 5-year waiting period. Our research showed that from 1990-2009 only one individual was first expelled and then later barred.



**Table 2: Violations by Tenet, 1990-2009, private censures only, n=106 cases**

| <b>Tenet Number</b> | <b>Number of Violations</b> | <b>Percentage</b> | <b>Type of Ethics Statement in the ICMA Code of Ethics</b> |
|---------------------|-----------------------------|-------------------|------------------------------------------------------------|
| <b>Tenet 1</b>      | 0                           | 0                 | Consequence                                                |
| <b>Tenet 2</b>      | 0                           | 0                 | Virtue                                                     |
| <b>Tenet 3</b>      | 34                          | 31%               | Virtue                                                     |
| <b>Tenet 4</b>      | 19                          | 17%               | Consequence                                                |
| <b>Tenet 5</b>      | 0                           | 0                 | Principle                                                  |
| <b>Tenet 6</b>      | 0                           | 0                 | Consequence                                                |
| <b>Tenet 7</b>      | 30                          | 27%               | Principle                                                  |
| <b>Tenet 8</b>      | 0                           | 0                 | Principle                                                  |
| <b>Tenet 9</b>      | 0                           | 0                 | Principle                                                  |
| <b>Tenet 10</b>     | 0                           | 0                 | Principle                                                  |
| <b>Tenet 11</b>     | 4                           | 4%                | Principle                                                  |
| <b>Tenet 12</b>     | 23                          | 21%               | Principle                                                  |
| <b>Total</b>        | <b>110*</b>                 | <b>100%</b>       |                                                            |

Source: ICMA Ethics Director Martha Perego, 2010

\* The overall number of violations shown is greater than the number of cases because some censures involved more than one tenet violation.

The most prevalent number of violations resulting in private censures, 34 (31%), were associated with Tenet 3 (a virtue ethic), to “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.” It is instructive to note that six of the eight guidelines for Tenet 3 are principles. The second most prevalent number of violations was 30 (27%),

connected with Tenet 7 (a principle ethic) to “refrain from all political activities which undermine public confidence in professional administrators. And refrain from participation in the election of the members of the employing legislative body.”

Table 3 shows the variety and types of infractions that resulted in private censures. The infractions include the misrepresentation of credentials, improper investments, misuse of public funds, professional respect, and political activity. Each of these is connected to the overall concern expressed in Tenet 3 that members “be dedicated to the highest ideals of honor and integrity.” Tampering with credentials, including the misrepresentation of one’s education or professional qualifications is incompatible with what a person of integrity would do and it undermines the “professional respect and confidence of the elected officials, of other officials and employees, and of the public.”

Clearly, tampering with, altering, lying or exaggerating on one’s resume is not tolerated by ICMA. Additionally, engaging in inappropriate political activity is also a significant concern. Thirty violations of Tenet 7 with respect to political activity were found. In August 2010, ICMA reported that during 2000-2009, engaging in restricted political activity had become the most common ethical violation by members (1). Although private censures are infrequent it is essential that public professional organizations such as ICMA continue to use prudent judgment in the administration of disciplinary action. Not all ethical violations rise to the level of public shame or embarrassment yet some managerial action is required to stem off more serious future violations.

**Table 3: ICMA private censures by category, 1990-2009, n=106 cases**

| <b>Tenet Number</b> | <b>General Category of Infraction<br/>(categories are designated by ICMA)</b> | <b>Number of Private<br/>Censures</b> |
|---------------------|-------------------------------------------------------------------------------|---------------------------------------|
| <b>Tenet 3</b>      | Credentials                                                                   | 9                                     |
| <b>Tenet 3</b>      | Credentials and Public Confidence                                             | 2                                     |
| <b>Tenet 3</b>      | Investments, Public Confidence, and Conflict of Interest                      | 1                                     |
| <b>Tenet 3</b>      | Misuse Funds or Property and Public Confidence                                | 1                                     |
| <b>Tenet 3</b>      | Political Activity and Public Confidence                                      | 1                                     |
| <b>Tenet 3</b>      | Professional Respect                                                          | 1                                     |
| <b>Tenet 3</b>      | Public Confidence                                                             | 17                                    |
| <b>Tenet 3</b>      | Seeking Employment and Contact with Elected Officials                         | 2                                     |
| <b>Tenet 4</b>      | Appointment Commitment                                                        | 7                                     |
| <b>Tenet 4</b>      | Length of Service                                                             | 12                                    |
| <b>Tenet 7</b>      | Political Activity                                                            | 28                                    |
| <b>Tenet 7</b>      | Political Activity and Misuse of Funds or Property                            | 1                                     |
| <b>Tenet 7</b>      | Political Activity and Public Confidence                                      | 1                                     |
| <b>Tenet 11</b>     | Equal Opportunity/Sexual Harassment or Misconduct                             | 4                                     |
| <b>Tenet 12</b>     | Conflict of Interest                                                          | 7                                     |
| <b>Tenet 12</b>     | Investments                                                                   | 3                                     |
| <b>Tenet 12</b>     | Investments, Public Confidence, and Conflict of Interest                      | 1                                     |
| <b>Tenet 12</b>     | Misuse Funds or Property                                                      | 6                                     |
| <b>Tenet 12</b>     | Misuse Funds or Property and Conflict of Interest                             | 1                                     |
| <b>Tenet 12</b>     | Misuse Funds or Property and Public Confidence                                | 1                                     |

|                 |                                                    |            |
|-----------------|----------------------------------------------------|------------|
| <b>Tenet 12</b> | Personal Relationships                             | 3          |
| <b>Tenet 12</b> | Political Activity and Misuse of Funds or Property | 1          |
| <b>Total</b>    | <b>Private Censures</b>                            | <b>110</b> |

Source: Interviews with ICMA Ethics Director Martha Perego, spring and summer 2010.

### **Findings: Public Censures**

Unlike a private censure, which is handled quietly between ICMA and the member, a public censure is published in the ICMA newsletter along with the violator's name. In addition, the individual's governing body at the city or county level is notified by letter and a press release issued to the local media.

Public censures do not expire and are not erased. Our research showed that 79 public censures were issued during 1990-2009. These 79 cases captured 133 tenet violations with most cases resulting from multiple tenets being violated (Table 4). As with private censures, the most common violation (49%) was of Tenet 3, which represents a dedication "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," followed by (20%) for Tenet 2 to "affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude towards local government affairs and a deep sense of social responsibility as a trusted public servants."

Tenet 12 which is to "seek no favor; believe that personal aggrandizement or profit secured by confidential

information or by misuse of public time is dishonest” was also frequently violated. There were no violations of Tenet 5, 6, 8 or 11 reported during the 20-year period.

**Table 4: Violations by Tenet, 1990-2009, public censures only, n=79 cases**

| <b>Tenet Number</b> | <b>Number of Violations</b> | <b>Percentage</b> | <b>Type of Ethics Statement in the ICMA Code of Ethics</b> |
|---------------------|-----------------------------|-------------------|------------------------------------------------------------|
| <b>Tenet 1</b>      | 2                           | 2%                | Consequence                                                |
| <b>Tenet 2</b>      | 27                          | 20%               | Virtue                                                     |
| <b>Tenet 3</b>      | 65                          | 49%               | Virtue                                                     |
| <b>Tenet 4</b>      | 7                           | 5%                | Consequence                                                |
| <b>Tenet 5</b>      | 0                           | 0                 | Principle                                                  |
| <b>Tenet 6</b>      | 0                           | 0                 | Consequence                                                |
| <b>Tenet 7</b>      | 7                           | 5%                | Principle                                                  |
| <b>Tenet 8</b>      | 0                           | 0                 | Principle                                                  |
| <b>Tenet 9</b>      | 3                           | 2%                | Principle                                                  |
| <b>Tenet 10</b>     | 1                           | 1%                | Principle                                                  |
| <b>Tenet 11</b>     | 0                           | 0                 | Principle                                                  |
| <b>Tenet 12</b>     | 21                          | 16%               | Principle                                                  |
| <b>Total</b>        | <b>133*</b>                 | <b>100%</b>       |                                                            |

Source: ICMA Newsletters, 1990-2009.

\* The overall number of violations shown is greater than the number of cases because some censures involved more than one tenet violation.

Table 5 further analyzes the breakdown of violations and provides a detailed description of the general category of infraction. For instance, violations of Tenet 3 (a virtue ethic), [and the tenet with the most violations 65 (49%)], include driving while under the influence (DUI), domestic violence, and drug abuse (8 violations). It also

captures document fraud, which includes misrepresentation of information on public or personal documents including resumes (5 violations), financial fraud which includes purposeful financial mismanagement, or misappropriation or theft of public funds (16 violations). Additional violations of Tenet 3 include discrediting conduct which includes purposeful inaccurate disclosure of facts and a loss of public confidence (8 violations), inappropriate personal relationships with employees (2 violations), sexual harassment or other types of sexual misconduct (10 violations), and miscellaneous violations that do not qualify as felony or misdemeanor but do not fit into ICMA's general categories identified in Table 5 (16 violations). These are categorized as violations of Tenet 3 since the actions do not reflect that the member was "dedicated to the highest ideals of honor and integrity" and the violations are also likely to undermine public confidence.

**Table 5: ICMA public censures only, by category, 1990-2009**

| <b>Tenet Number</b> | <b>General Category of Infraction<br/>(categories are designated by ICMA)</b> | <b>Number of Public<br/>Censures</b> |
|---------------------|-------------------------------------------------------------------------------|--------------------------------------|
| <b>Tenet 1</b>      | Commitment to Public Service                                                  | 2                                    |
| <b>Tenet 2</b>      | Falsified Public Documents                                                    | 13                                   |
| <b>Tenet 2</b>      | Public Confidence                                                             | 14                                   |
| <b>Tenet 3</b>      | Appointment Commitment                                                        | 4                                    |
| <b>Tenet 3</b>      | Credentials                                                                   | 2                                    |
| <b>Tenet 3</b>      | Credentials and Public Confidence                                             | 3                                    |
| <b>Tenet 3</b>      | Equal Opportunity/Sexual Harassment or Misconduct                             | 10                                   |
| <b>Tenet 3</b>      | Investments, Public Confidence, and Conflict of Interest                      | 8                                    |
| <b>Tenet 3</b>      | Misuse Funds or Property and Public Confidence                                | 16                                   |

|                 |                                                          |            |
|-----------------|----------------------------------------------------------|------------|
| <b>Tenet 3</b>  | Personal Relationships                                   | 2          |
| <b>Tenet 3</b>  | Political Activity and Public Confidence                 | 1          |
| <b>Tenet 3</b>  | Professional Respect                                     | 8          |
| <b>Tenet 3</b>  | Public Confidence                                        | 11         |
| <b>Tenet 4</b>  | Length of Service                                        | 5          |
| <b>Tenet 4</b>  | Misuse Funds or Property and Conflict of Interest        | 2          |
| <b>Tenet 7</b>  | Political Activity                                       | 7          |
| <b>Tenet 9</b>  | Misuse Funds or Property and Public Confidence           | 3          |
| <b>Tenet 10</b> | Misuse Funds or Property and Public Confidence           | 1          |
| <b>Tenet 12</b> | Conflict of Interest                                     | 1          |
| <b>Tenet 12</b> | Misuse Funds or Property and Conflict of Interest        | 8          |
| <b>Tenet 12</b> | Political Activity and Public Confidence                 | 1          |
| <b>Tenet 12</b> | Misuse Funds or Property                                 | 3          |
| <b>Tenet 12</b> | Investments, Public Confidence, and Conflict of Interest | 8          |
| <b>Total</b>    | <b>Public Censures</b>                                   | <b>133</b> |

Source: ICMA Newsletters, 1990-2009.

Violations related to Tenet 2 include the falsification of public documents (13 violations), which contribute to a lack of public confidence (14 violations). The connection between the falsification of documents and the undermining of public confidence demonstrates the connection between the violations (i.e., one triggers another).

Tenet 12 with 21 violations includes instances where public officials benefited financially or politically from their employment, or used public funds, equipment, or insider information for their own gain. It also included improper relationships of public employees with business interests. There were a total of two violations of Tenet 1,

both pertaining to financial fraud and misappropriating public funds for personal use, and three violations of Tenet 9 pertaining to embezzlement of funds and discrediting conduct by receiving unauthorized payments from city vendors and a lack of proper disclosure. Additionally, one violation of discrediting conduct was classified under Tenet 10 pertaining to the lack of disclosure and unauthorized transactions with city vendors. Seven violations involving conflicts of interest were classified under Tenet 7 all dealing with undue political influence or endorsing or publicly expressing opinions about political candidates. Finally, Tenet 4 had five violations when ICMA members did not stay in their current position the requisite time required, and two violations concerned the misuse of city funds or property and conflict of interest.

In sum, ICMA issued 243 censures between 1990-2009. This is a very small number (less than one percent) of its 9000+ members. Why is such a small number and percentage of violations significant? The answer is simple; each violation represents a blow to the public trust which extends far beyond the association's own organizational membership or structure. Through the electronic media, stories about public misconduct become viral instantly. Thus, even small-town or small-time ethical violations are able to have a global impact. When the public does not believe that governments can be trusted cynicism rises and public participation fades (Denhardt & Denhardt, 2003).

## **Discussion and Conclusion**

A code of ethics is of value to organizations such as ICMA and to public sector professionals because it makes explicit what is acceptable and unacceptable behavior. It helps new members learn about and adopt the attitudes and norms associated with the profession.



A balanced code of ethics includes statements reflective of virtues, principles and consequences (Svara, 2007). Our research shows that virtue tenets are violated most often in ICMA's public censures (69% virtue versus 24% principle, and barely 7% consequences). However, in the private censures the principle tenets are most violated (52% principles versus 31% virtue and 17% consequences).

One explanation for this variation lies in the nature of the infraction. In the private censures the most commonly violated tenet is a principle based one and it has to do with participating in election related activities. Such an infraction is easily visible and reportable. This indiscretion does not rise to the level of a breach of a virtuous nature, however, (since civic engagement is a virtue in and of itself, but a violation of appropriate behavior when working as a public administrator and simultaneously seeking elected public office). Thus, the violation of a principle in this instance is not a simultaneous violation of a virtue. With the preponderance of public censure violations for virtues, however, the opposite occurs. Virtue, as an ethical guide to decision making requires one to ask "what would a good person do"? While it is possible that violations of virtue tenets occur because there is a long list of disputed actions; all of which might or might not be taken by good people, we think it is the principle based guidelines that are behind the virtue tenets that are driving the reports home to ICMA.

We also suspect that as is predicted with the use of principles based ethics, violations occur because of competing ethical values. VanWart's (1998) framework is especially instructive here. The public administrator who improperly files insurance claims (and subjugates professional values), to get benefits for an uncovered

family member compromises professional standards to uphold a personal value of family loyalty. When these values clash, choices must be made. We cannot say why or under what circumstances individual public administrators violated their official positions and pursued ill-gotten gains, but their rationales no doubt exist and make sense to themselves. Unfortunately, there is no foolproof method to ensure that professional standards will always reign supreme.

As we have shown, in many cases, violations of ICMA's code of ethics are classified differently and may be either an infraction of a virtue, a principle, or both. Censures involving document fraud, for example, are sometimes categorized as a violation of Tenet 2 (virtue) but at other times, as a violation of Tenet 10 (principle). Additionally, other censures include a violation of a virtue and a principle together. For instance, an individual culpable of violating a confidentiality agreement is sanctioned for violating Tenet 3 (virtue) "Be dedicated to the highest ideals..." and its Guideline (principle) "Members should not discuss or divulge information..." These inconsistencies illustrate the difficulties and nuances involved in comprehending and classifying the actions of individuals. Acting virtuously may rest on adherence to a morality that is difficult to define. Thus, ICMA has adopted its guidelines in the code to ensure that the virtue tenet is upheld through principles, which are easier to state and teach. Depending on the circumstances, however, guidelines may be composed of virtue, principle, and/or consequence statements. Thus a multi-tiered system with the goal of ensuring ethical behavior is being employed by ICMA and overall is recommended due to the difficulties in using just one approach.

ICMA is using a number of methods to help ensure that strong professional ethics are cultivated including sanctioning but also through education, workshops, webinars and other training. We do not know how many ICMA members behave appropriately because they believe it is the right way to be, or to act, but we suspect that many do so for these reasons. Such members are likely to uphold professional standards without regard to the threat of potential sanctions. New members of IMCA are also likely to learn that the code of ethics comports with their already held convictions. Membership associations attract members for a variety of reasons including a sense of shared identity. A code of ethics that is consistent with the basic beliefs of most of its members is more likely to be upheld; otherwise, no one would willingly comply. Nonetheless, as we have shown, voluntary compliance does not always work. Alone, it is an inadequate means to ensure professionalism in the field.

We know that ICMA's accountability methods include an oversight board and sanctions, but we do not know how many members are deterred from behaving unethically because of them. Some members probably do uphold the code of ethics for fear of sanctions or public humiliation. Others may violate the tenets and never be discovered. Nonetheless, ICMA's efforts resulted in hundreds of private and public censures over the past two decades. Thus, some level of success has been attained. A stern reprimand for unprofessional behavior—the very behavior that makes the headline news—is important for members to receive, and when visible, for the public to see. When “citizens or outsiders come to view the decision making process as tainted by gifts,” (Schultz, 2010, 168), for example, they may become jaded or cynical. Thus, public sector professions must show in conspicuous ways

that they are policing themselves if they are to recapture and uphold public trust (Ott, Boonyarak, and Dicke. 2001).

Through sanctioning processes, transparency is also highlighted. Ethics can be an ephemeral topic but through ICMA's public censures, the hazy becomes concrete. Reports in the monthly newsletters provide objective data about actual ethics violations that can be analyzed. Through research, it may be possible to better understand, correct, and prevent them.

The challenges of creating good, ethical public organizations and institutions that attract and maintain ethical public administrators are perennial. As such, efforts that create awareness about what it means to become ethically aware and behave accordingly are to be applauded.

The cultivation of ethical discussions will be an important part of the continuing maturation of the public administration field. Whether in the professional or political sphere, "judgments about right and wrong are community decisions as well as private ones," (Chandler, 1983, 34).

Unfortunately, many city and county managers do not receive education and training in programs of public administration or public affairs, or through professional public sector organizations such as ICMA. It will take a collective approach to ensure that matters of ethics remain a priority. Creating awareness about the core values and concerns of the profession are laudable pursuits for professional organizations, researchers, and others who care about the quality of public service. We encourage this as a priority. "Se battre pour la bonne cause."

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### End Notes

1) In the August 2010 issues of PM Magazine, Martha Perego notes that "Running for elected office while working for a local government; signing petitions; making campaign contributions at the local, state or national level; and endorsing candidates were all violations of Tenet 7 committed by members. About a quarter of all violations involve political activity. Members working in local government should limit their activity on behalf of candidates to voting for the candidate of their choice".



**Figure 2.**  
**ICMA Code Of Ethics**  
**With Guidelines**

**The ICMA Code of Ethics was adopted by the ICMA membership in 1924, and most recently amended by the membership in May 1998. The Guidelines for the Code were adopted by the ICMA Executive Board in 1972, and most recently revised in July 2004.**

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

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.
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*

**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.

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 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.

**Reporting Ethics Violations.** When becoming aware of a possible violation of the ICMA Code of Ethics, members are encouraged to report the matter to ICMA. In reporting the matter, members may choose to go on record as the complainant or report the matter on a confidential basis.

**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.

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 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.

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 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.

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.
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.

**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.** 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.

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

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.

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.

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.

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 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.** Member 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.** Member 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.

Source: ICMA Code of Ethics <http://www.icma.org>

### **Biographical Sketch**

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