Ethical Issues That Most Frequently Trip Up and/or Entrap City Managers

Presenters
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The #1 value that guides my conduct is...

Audience Poll

Why Ethics Matter

Trust is the key ingredient for success

Ethical conduct builds trust

Values guide acceptable conduct and decisions
ICMA’s Enforcement Process

- Confidential
- Highly structured process
  - Presumption of innocence
  - Member input
  - No room for alternative facts
- Balance fast vs. fair
  - Allegations of illegal conduct produce delays
- Retain Jurisdiction
  - If membership lapses during the review process

Audience Poll

Who is covered by the Code?
### Who is Covered by the Code?

<table>
<thead>
<tr>
<th>If you work for a local government</th>
<th>If you are life member, elected official, student, professor, consultant, retired</th>
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| • All 12 Tenets                    | • Tenet 1 (Democracy)  
• Tenet 3 (Integrity)              |

### CPC Activity in the Last 10 Years

- 187 ethics cases
- 73 closed without sanction
- 50 public censures
- 67 private censures

Some with membership bar, expulsion, suspension and/or credential revocation
Where Do City Managers Trip Up?

Illegal Activity:

- DUI
- Sex with minors
- Theft
- Falsifying records
- Assault
- Domestic violence

Where Do City Managers Trip Up?

Political Activity:

- Running for Office
- Campaigning/Publicly Supporting
- Endorsing
- Making Contributions
- Comments on Social Media
In the last year, have you used social media to tweet, like, or otherwise express your opinion on:

- The President
- The Governor
- Your Mayor/City Council
- An op-ed commenting on politics
- A candidate for U.S. Senate
- A public issue in your city
- A public issue not related to your work

Newly elected Governor (D) caught everyone off guard with her 1st year goals. Near the top was restoring voting rights for convicted felons. It was not part of her campaign platform. The State Legislature (majority R) is opposed and won’t take the bill out of committee. You view this as a human rights issue and think the Governor is right.
Which of the following can you do without violating the ICMA Code of Ethics?

- Participate in a public demonstration
- Contribute to a PAC supporting the legislation
- Write an op-ed supporting the Governor’s position
- Serve on the Board of Directors of a human rights NGO
- Launch a social media campaign to get support
- None of the above
- All of the above

Inappropriate Relationships or Behavior

- Personal Relationships with Subordinate Employees
- Inappropriate Comments, Behavior toward Employees
- Unusual Sexual Activity
- Porn in the Workplace
- Unprofessional Public Comments
Employment Matters

- Short Tenure – 2 Year Rule
- Disrespect for Colleague
- Interfering in Other Community’s Personnel Matters
- Failing to Keep Appointment Commitment
- Dishonesty in Employment Search

Improper Financial Gain

- Excessive Compensation
- Embezzlement/Theft
- Conflict of Interest
- Misuse of Credit Cards
- Misuse of Public Funds or Property
- Gaming the Benefits System
Lack of Transparency

- Failure to Disclose
  - Investments
  - Conflict Relationship
  - Spouse’s Employment
- Slanting Reports for Political Reasons
- Falsifying Records

Safeguards

- Reread Code of Ethics and Discuss with Senior Managers Regularly
- Uphold the Highest Ethical Standards – Not Sure? Ask Martha
- Don’t Break the Law
- Implement and Enforce Proper Policies, Procedures and Checks
- Report Potential Code of Ethics Violations to ICMA
More Safeguards

- Train on Ethics
- Investigate Complaints
  Take Necessary Action
  Be Transparent
- Front Page Test
- Use Your Head!

Investigation Focus:
Workplace Culture Misconduct

What is Workplace Culture?

Culture-Related Misconduct Complaints

- Harassment/Hostile Work Environment
- Abusive Conduct (Bullying)
- Respectful Workplace Issues
#MeToo – Revealing the Crisis

50% increase in EEOC filed harassment suits

12% increase in new charges filed with the EEOC

$70 million recovered by EEOC through litigation and administrative enforcement of sexual harassment issues in 2018

- Up from $47.5 million the year before
Local Government Leaders and #MeToo

Los Angeles Times
In Maywood, allegations of sexual harassment add to troubled city’s problems

Waco Tribune-Herald
Longtime Woodway city manager Zakhary resigns amid sexual harassment complaints

The Seattle Times
New Mexico city manager faces sexual misconduct allegations

Lesson Learned #1: Silence is Critical

- Fear of retaliation, damage to future employment
- Shame
- Won’t be believed
- Nothing will change
- Don’t want to be seen as a complainer or “weak”
Lesson Learned #2: Incivility is a Gateway

- “Employees [want to] address incivility and work environments [that are] rude, harassing and bullying... Respect is the number one complaint among employees. They do not feel respected by colleagues, bosses and the [organization] itself.”

- “We’re not looking at the real problem. It isn’t that someone doesn’t know a specific law; the problem is the whole place just isn’t civil. There’s no feeling of respect, courtesy or fairness [at work]. It’s the little things that people say and do, not just the big things.”

Lesson #3: Policies Alone Don’t Work

- Compliance vs. Building respectful, inclusive workplace culture
- Literal translations of law vs. Breaking the silence/Failure to report
- Reactive vs. Proactive
- Didn’t address how to have honest conversations about what’s not OK
Enabling Disrespectful Behavior
Leads to Harassment

- Emphasis on Respect and Civility in the Workplace
- “Pressure” or “Elite” Culture
- Tolerating Bad Behavior

Abusive Conduct Defined

- “Abusive conduct” is conduct in the workplace, perpetrated with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer’s legitimate business interests.

- Like harassment, AB 2053 provides that a single act is not abusive “unless especially severe and egregious.”
Robert, the City Manager of the mid-size City, is known for his “salty” demeanor. He becomes upset when his assistant Angela doesn’t do her work correctly. During one week, Angela arrives late, forgets to notify Robert of several urgent community stakeholder requests, and incorrectly calendars an important meeting. Robert yells at her in the office: “What the f*** is wrong with you? Pull your head out of your @$%!”

The next day, Angela forgets to pick up lunch for Robert’s meeting with Councilmember Lee. Robert comes out of his office, throws money on Angela’s desk, and slams his office door. Councilmember Lee watches silently. After this incident, Angela calls in sick for a week. She says she won’t come back if she has to report to Robert, because she “doesn’t feel safe” around him. Robert says he meant no harm - he was just frustrated that Angela’s work “wasn’t done right.” Robert says he holds his staff to the same high standard as himself.

**Does Robert’s behavior rise to the level of abusive under the California standard? (Y/N)**

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**Respectful Work Environments Prevent Harassment**

- Promote a culture of Respect and Inclusion
- Review Anti-Harassment, Anti-Bullying and Respectful Workplace Policies
- Conduct trainings in Anti-Harassment & Bullying, and Unconscious Bias
- Assess Workplace Culture when needed
- Conduct Investigations promptly
Confidential advice

- Talking about an ethics mistake doesn’t trigger a review
- In an ethics hole? Strategy to extricate you!

Ethics Enforcement
Training
Ethics Matter!

Think It through

“It was like when you make a move in chess and just as you take your finger off the piece, you see the mistake you’ve made, and there’s this panic because you don't know yet the scale of disaster you've left yourself open to.”

-Kazuo Ishiguro
THANK YOU

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