

FILING AN INFORMATION OR COMPLAINT

ALLEGED VIOLATIONS OF THE RULES [Information]:

RECEIVING INFORMATION:

Any person can provide information orally or in writing to the Commission alleging a violation of the Constitutional Ethics Rules [Section 257:1-1-1 et seq. of the Rules of the Ethics Commission, Ch. 62, App.]. Alleged violations must have occurred within the past three years, or the informant must maintain that the person asserted to have committed the violation by fraud or concealment prevented its discovery.

A member or employee of the Commission may accept the information from any source but must document in writing the allegations which become confidential records of the Commission.

The Executive Director must provide the information to the Commission unless it is clear from the information that:

- no rule is alleged to have been violated, or
- the alleged violation is not within the three-year statute of limitations.

The form for providing written information to the Commission is:

[COMPLAINT/INFORMATION FORM P-1](#)

If it is in writing and verified [informant has sworn to the truth of the allegations], a majority of the members serving on the Ethics Commission may vote to initiate an investigation of the allegations. If the allegation is oral or not verified, a unanimous vote must occur to initiate an investigation.

WARNING TO INFORMANTS:

Prior to the Commission's determination to litigate a complaint pursuant to the Constitutional Ethics Rules, Section 257:30-1-4, no person who has provided information to the Commission or has knowledge that the Commission is undertaking an investigation shall disclose:

his knowledge that an investigation has been undertaken;

any information he obtains as a result of having submitted information or interacted with the Commission in connection with a particular investigation; or

the fact that he testified to or filed information with the Commission, or otherwise participated in the Commission investigation. [257:30-1-3(f)]

INVESTIGATIONS:

Within 20 days of the Commission authorizing it, the Executive Director must give notice to the subject ["Respondent"] of the investigation.

The Commission defines the "scope" of an investigation before its employees may begin. Employees may:

- request an individual to submit to an interview;
- issue subpoenas to secure documentary evidence, administer oaths and require the attendance and testimony of witnesses;
- order testimony to be taken by deposition and compel attendance and production of testimony by subpoena; and
- pay witness fees and mileage reimbursements.

Upon completion of an investigation, the Commission may, in its discretion, refer a copy of the investigatory record to the appropriate prosecuting authority for prosecution or action. If action is not taken within a reasonable time, it may proceed to file its own complaint in district court.

COMPLAINTS:

The Executive Director or designee must present all information to the Ethics Commission in executive session. If the Commission finds sufficient evidence to believe that:

- a violation of the Rules has occurred;
- the Respondent has committed the violation; and
- the jurisdiction in which the violation occurred has been ascertained, or where uncertainty exists, the jurisdiction in which the evidence indicates the violation might have been committed has been ascertained,

it may make a complaint in writing naming the Respondent and setting forth the alleged violation(s)

The Complaint must be signed by a majority of the members serving. A staff member must serve the Respondent with a copy of the complaint and a specific statement of the applicable rule(s) and how the alleged conduct violates the rule(s). A complaint may be amended prior to filing a case in district court if:

- it finds sufficient evidence to believe a violation of the rules has occurred other than or in addition to the violation(s) alleged in the complaint;
- the amended complaint is signed by a majority of the members serving; and
- a copy of the amended complaint is served to the Respondent by a staff member within 20 business days.

LITIGATION OF COMPLAINT:

The Commission's attorney must litigate the complaint in district court and seek an appropriate remedy recommended by the Commission or settle it, where appropriate, within the range of penalties appropriate for the violation. Litigation must begin no later than four years from the date the violation is alleged to have occurred.

SETTLEMENT AGREEMENTS:

The Commission may resolve any possible violation of the Rules by:

- after prior notice and an opportunity to be heard, issuing a private reprimand to the Respondent for an inadvertent violation;
- after prior notice and an opportunity to be heard, issuing a public reprimand to the Respondent; or
- electing to enter into a settlement agreement.

A settlement agreement is a bar to any other action by the Commission on the violation(s) covered in the agreement. It may include:

- a requirement that the Respondent pay a civil penalty;
- a requirement that the Respondent's conduct be conformed to the Rules
- forfeiture of gifts, receipts or profits obtained through a violation of the Rules; or
- a combination of the above.

PUBLIC INSPECTION AND CONFIDENTIALITY

A public reprimand and a settlement agreement are public records.

The following actions and records are confidential and not open for public inspection:

- information received from any source alleging violations of the Rules except the information filed in district court;
- deliberations of the Commission on ethics interpretations, investigations, complaints, settlement ranges or settlement offers, decisions, and recommendations, and discussions on pending litigation;
- records and materials obtained or work products of the Commission, its staff or independent contractors in connection with an investigation or complaint;
- communications between the Executive Director and Chief Justice of the Oklahoma Supreme Court pertaining to the disqualification of a members of the Commission; and
- private reprimands for inadvertent violations.

ALLEGED VIOLATIONS OF THE ACT [Complaints]:

If you are considering filing a complaint with the Ethics Commission alleging violations of the Political Subdivisions Ethics Act ["PSEA"], Section 301-325 of Title 51 of the Oklahoma Statutes ["Act"], you should be aware of the following legal requirements and liabilities:

A complaint alleging a violation of the PSEA will not be accepted unless it:

is in writing signed by the person making the complaint;

is verified and notarized;

states the specific section(s) of the PSEA that the respondent (the person against whom the complaint is lodged) is alleged to have violated; and

states the date of the alleged violation (which shall not be more than two years before the complaint is filed);

A complaint alleging a violation of the PSEA must remain confidential; it is unlawful to disclose:

the contents of a complaint;

a person's intention to file a complaint;

the fact that a complaint has been filed; or

a person's knowledge of another person's intention to file a complaint.

A person convicted of disclosing material made confidential by the PSEA shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$10,000.

A respondent may disclose any part of a complaint at any time; however, disclosure by the respondent of any part of the complaint makes all pertinent records open for public inspection.

A person alleging a violation of the PSEA may be liable for filing a frivolous complaint if:

he or she has submitted or has caused or conspired with the complainant to submit substantially the same complaint to the Commission within the preceding six months;

to the best of his or her knowledge, the complaint is not accurate or is not well grounded in fact; or

the complaint is made for an improper purpose, including harassment of any person named in the complaint.

A person alleging a violation of the PSEA convicted for filing a frivolous complaint shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$10,000.

Mere receipt of a complaint by the Executive Director or a staff member of the Commission is evidence only of the fact that the technical requirements of the PSEA have been met. Acceptance of a complaint will not protect a complainant from a frivolous complaint charge. The intent of the complainant may only be determined in an investigation of the facts surrounding the complaint.