

REGULATIONS RELATING TO COMPLAINTS OF THE ABERDEEN ETHICS COMMISSION

Approved August 26, 2015

A. Timeliness and sufficiency.

(1) All complaints shall be in writing and signed under oath. Complaints initiated by the Commission shall be signed by the Chair. A complaint must assert facts that if proven true would constitute a violation of the provisions of Chapter 43, Public Ethics, of the Aberdeen City Code.

(2) A complaint must be filed within six months from the later of:

(i) The date of the act or omission alleged to constitute a violation; or

(ii) The date that the act or omission alleged to constitute a violation became, or reasonably should have become, known to the complainant or the general public.

(3) The Commission, without further proceedings, may dismiss a complaint that is untimely or does not assert sufficient facts to enable the Commission to evaluate whether the facts, if proven, would be a violation of Chapter 43. A decision to dismiss a complaint as untimely or insufficient shall be made within thirty (30) days of receipt of the complaint.

B. Notice.

(1) Within fifteen (15) business days after the Commission receives a complaint, the Commission shall provide the complainant with written acknowledgment of receipt of the complaint, and shall provide the respondent with copies of the complaint by certified mail, return receipt requested and by first class mail.

(2) If the Commission determines that a complaint is untimely or insufficient on its face and should be dismissed, it shall promptly notify the parties.

C. Investigation.

Upon receipt of a complaint deemed timely and facially sufficient by the Commission, the Commission may, but is not required to, direct Ethics Counsel to investigate the complaint and prepare a pre-hearing report. Regardless of whether the Commission so directs, it is not the responsibility of the Ethics Commission or its counsel to prosecute the complainant's case.

D. Representation by counsel.

(1) The complainant and the respondent shall have the right to be represented by counsel at any hearing in accordance with § 11 of the Commission's By-Laws. The Commission will be represented by Ethics Counsel.

(2) In the case of a complaint initiated by the Commission, the Commission shall have separate counsel appointed to present evidence and otherwise advocate to the Commission in support of the complaint. In such cases the Commission will request the City Council to retain a qualified attorney.

E. Amendment of complaint.

If the Commission determines that a complaint is insufficient on its face, the complainant may amend his or her complaint once within fifteen (15) business days of the date of notice of dismissal from the Commission. If the Commission again decides that the complaint is

insufficient, the complainant may not file another complaint with respect to the same underlying facts.

F. Administrative hearing.

(1) Notice of the date of an administrative hearing on the merits shall ordinarily be sent to the parties within fifteen (15) business days of the Commission's receipt of a complaint that is timely and sufficient, or as soon thereafter as practicable.

(2) An administrative hearing shall be conducted within forty-five (45) days of the Commission's receipt of a complaint that is timely and sufficient, or as soon thereafter as practicable. The Commission may grant one postponement each to the complainant and to the respondent. Each postponement shall not exceed 30 days.

(3) If, after proper notice of the hearing, a complainant fails to attend the hearing, the Commission may proceed without the presence of the complainant, or may dismiss the complaint if the complainant has material evidence or testimony necessary to the Commission's decision regarding the complaint. However, if the complainant provides reasonable cause, in advance, for a failure to attend the hearing, the Commission may reschedule the hearing.

G. Confidentiality.

Following the filing of a complaint, all meetings and activities of the Commission in connection with the complaint and any hearing will be conducted in a confidential manner and closed to the public, except that:

(1) The Commission may release information at any time if the respondent has agreed in writing.

(2) The Commission may conduct a hearing in open session if requested by a respondent.

(3) The Commission may release information to a prosecuting authority if the Commission believes that criminal conduct may have occurred.