

340-X-1-.01 Policy For The Handling Of Cases Being Presented To The Alabama Ethics Commission

(1) Not less than 45 days prior to any hearing before the commission, the respondent shall be given written notice that a complaint has been filed against him or her and shall be given a summary of the charges contained therein. The respondent shall have the right to be represented by retained legal counsel.

(2) The commission may not require the respondent to be a witness against himself or herself.

(3) Discovery. The commission shall provide discovery to the respondent pursuant to the Alabama Rules of Criminal Procedure.

(a) The respondent shall not be entitled to the commission's investigatory report, memoranda, witness lists, or other internal documents made by any employee or agent of the Ethics Commission in connection with the investigation of the case or the substance of any statements made by prospective witnesses.

(4) Evidence to be Considered.

(a) The commission shall consider evidence that the complainant or respondent wishes to offer. The commission may refuse to hear testimony or evidence that is merely cumulative in nature. The commission shall give testimony or evidence the weight it deems appropriate.

(b) The rules of evidence shall not be strictly applied and hearsay testimony or evidence may be considered by the commission.

(c) If evidence or issues are raised during a hearing that require additional investigation on the part of the commission staff, the commission may continue the hearing until the investigation is complete.

(d) The complainant may not raise additional issues or present additional evidence during the hearing before the commission that will require the hearing to be continued in order to allow the respondent to adequately respond.

(5) Conducting Hearings Before the Ethics Commission.

(a) Hearing conducted before the Alabama Ethics Commission are subject to the same restrictions relating to secrecy and non-disclosure as secret Grand Jury proceedings, specifically as provided in Code of Ala. 1975, Sections 12-16-214 to 12-16-216. There is no right of cross-examination of witnesses before the commission by either the complainants or the respondent.

(b) During the presentation of the complaint's case, the respondent or his or her attorney shall not be present in the hearing room. If the complainant has additional witnesses he or

she wishes to offer, the complainant or his or her attorney or other representative shall not be present during the testimony or questioning of these witnesses by the commission or commission staff.

(c) At the conclusion of the complainant's case, the respondent shall be given an opportunity to testify. While the commission cannot compel a respondent to be a witness against himself or herself, if the respondent chooses to testify, the respondent will be subject to examination by the Ethics Commission.

(d) During the presentation of the respondent's case, the complainant or his or her attorney or representative shall not be present in the hearing room. If the respondent has additional witnesses he or she wishes to offer, other than his or her own testimony, the respondent or his representative shall not be present during the testimony or questioning of these additional witnesses by the commission or commission staff.

(6) Continuances. Upon the timely request of the respondent, for good cause shown, a continuance of the hearing for not less than 30 days may be granted.

(7) Right of Appeal/Review.

(a) The respondent may request a reconsideration of the decision of the commission based on good cause shown.

(b) Good cause shown shall include, but not be limited to, additional evidence or information which was not available at the time of the initial hearing which more likely than not would have influenced the commission's decision.

(c) A request for reconsideration shall be filed with the commission within 30 days from the date of the initial ruling and shall require the consent of three commission members in order to be granted.

(8) Failure of Complainant to Appear Before Commission. The commission may in its discretion dismiss a case if a complainant fails or refuses to appear before the commission without showing good cause for failure to appear.

(9) Failure of Respondent to Appear Before Commission. The commission may proceed with a hearing when the respondent has failed or refused to appear before the commission if it be established that sufficient notification was given to the respondent.

(10) Administrative Resolution.

(a) Upon the respondent being notified of the complaint pending against him or her, the respondent shall also be informed of the Administrative Resolution provisions in the Ethics Law (assuming that Administrative Resolution would apply in the fact situation). The respondent shall also be provided a Request for Administrative Resolution form.

(b) If the respondent desires to have his or her case resolved administratively, the respondent shall fill out the Administrative Resolution Request form with the commission prior to the commencement of the hearing.

(c) The commission shall hear testimony necessary in order to make a determination of the appropriateness of an Administrative Resolution. The commission may by unanimous vote of the members present grant or deny Administrative Resolution based on the evidence presented.

(d) Upon the decision to grant the respondent's petition for Administrative Resolution, the commission shall forward the signed request to the district attorney for the appropriate jurisdiction of the Attorney General for final approval.

(e) If a respondent petitions for Administrative Resolution and the commission denies the request, the respondent's request for Administrative Resolution shall not be admissible in any further proceedings that arise from the hearing before the Ethics Commission.

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Statutory Authority: Code of Ala. 1975, §36-25-4.

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