

## **Chapter 3**

### **Enforcement of Lobbyist Code of Ethics**

#### **HR5-3-101 Enforcement -- Written complaint.**

- (1) To initiate an ethics complaint against a lobbyist, volunteer lobbyist, or government official who has violated the lobbyist code of ethics established in HR5-2-101, three representatives shall file a written complaint with the speaker of the House, the House minority leader, and the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint.
- (2) The written complaint shall contain:
  - (a) the name and address of each of the three representatives who are filing the complaint;
  - (b) the name of the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint;
  - (c) the nature of the alleged violation, citing specifically to the provisions of HR5-2-101 that the lobbyist, volunteer lobbyist, or government official is alleged to have violated;
  - (d) all documents that support the complaint as an attachment to it; and
  - (e) the facts alleged to support the complaint.
- (3)
  - (a) A complaint filed under this rule is a protected record under Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, until referred to the House Management Committee for action, because disclosure of the information in the complaint would constitute a clearly unwarranted invasion of personal privacy and that disclosure is not in the public interest.
  - (b) A complaint filed under this rule that is dismissed by the speaker and minority leader is a protected record under Utah Code Title 63G, Chapter 2, Government Records Access and Management Act, because disclosure of the information in the complaint would constitute a clearly unwarranted invasion of personal privacy and that disclosure is not in the public interest.

#### **HR5-3-102 Enforcement -- Speaker review -- Minority leader review.**

- (1)
  - (a) After receiving the complaint, the speaker shall meet with the representatives who filed the complaint, the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint, and any other persons who have relevant information about the complaint.
  - (b) In that meeting, the speaker may choose to meet with those persons together or separately.
- (2)
  - (a) After the meeting, the speaker shall inform the minority leader that the speaker recommends that:
    - (i) the complaint be dismissed;
    - (ii) the lobbyist, volunteer lobbyist, or government official be privately chastised and the complaint be dismissed; or
    - (iii) the House Management Committee be convened to hear the complaint.
  - (b)
    - (i) After receipt of the speaker's recommendation, the minority leader shall meet with the representatives who filed the complaint, the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint, and any other persons who have relevant information about the complaint.

- (ii) In that meeting, the minority leader may choose to meet with those persons together or separately.
- (c) After the meeting, the minority leader shall prepare a letter informing the speaker that the minority leader:
  - (i) concurs in the speaker's recommendation for disposition of the complaint; or
  - (ii) does not concur in the speaker's recommendation for disposition of the complaint.
- (d) If the minority leader concurs in the speaker's recommendation, the speaker shall implement the decision.
- (e) If the minority leader does not concur in the speaker's recommendation, the speaker shall, within 30 days after having received the written complaint, convene the House Management Committee to hear the complaint.

**HR5-3-103 Enforcement -- Hearing -- Staff.**

- (1) If the speaker must convene the House Management Committee, the speaker shall, after consultation with the House minority leader, schedule a House Management Committee meeting to adjudicate the complaint.
- (2)
  - (a) The committee must comply with the procedures and requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act, including the procedures and requirements for closing a meeting.
  - (b) The Office of Legislative Research and General Counsel shall staff the committee.
- (3)
  - (a) At the hearing, the committee shall review the complaint.
  - (b) The committee may allow the representatives who filed the complaint to address and be questioned by the committee.
  - (c) The committee shall provide the lobbyist, volunteer lobbyist, or government official who is the subject of the complaint with the opportunity to address and be questioned by the committee.
  - (d) The committee may allow other persons with information relevant to the complaint to address and be questioned by the committee.
  - (e)
    - (i) The complainants, the lobbyist, volunteer lobbyist, or government official, and any witness appearing before the committee may have legal counsel present.
    - (ii) That counsel may privately advise their client about the client's legal rights when specifically requested to do so by their client, but may not address the committee, ask questions of any party or witness, or engage in oral arguments with the committee.
    - (iii) If counsel fails to abide by any of these rules, the committee may exclude the counsel from the meeting.

**HR5-3-104 Enforcement -- Penalty.**

- (1) If the House Management Committee determines by a preponderance of the evidence that the lobbyist, volunteer lobbyist, or government official has violated one or more provisions of HR5-2-101, the committee may impose any sanction against the lobbyist, volunteer lobbyist, or government official that is not forbidden by the United States Constitution or the Utah Constitution.
- (2) Appropriate sanctions include, but are not limited to, any, all, or some combination of the following:

- (a) prohibiting the lobbyist, volunteer lobbyist, or government official from access to some or all of the legislative area of the state capitol for a period of time; and
- (b) recommending an adjudicative proceeding be filed with the lieutenant governor against the lobbyist under Utah Code Title 36, Chapter 11, Part 4, Penalties and Statutory Construction.