

### Part 3

## Review of Ethics Complaint by Ethics Committee

#### **JR6-4-301 Receipt of recommendation from Independent Legislative Ethics Commission -- Scheduling of Ethics Committee hearing -- Amendments.**

- (1) Within five calendar days of the date that the chair of the Senate Ethics or House Ethics Committee receives the commission's recommendation as provided under JR6-4-204, the chair and vice chair of the committee shall:
  - (a) schedule a committee hearing to review the complaint on a date no later than 30 days after the day on which the committee receives the recommendation; and
  - (b) place the ethics complaint on the agenda for consideration at that hearing.
- (2)
  - (a) The complainants may not amend the complaint.
  - (b) The respondent may not amend the response.
  - (c) The complainant and respondent may file with the committee, within 10 days of the date of issuance of the commission's recommendations, an amended list of witnesses and evidence that they wish to have subpoenaed by the committee.

#### **JR6-4-302 Review of ethics complaint by Ethics Committee.**

- (1) The scope of the committee's review is limited to the alleged violations found to have been proven by the commission, as pled in the edited complaint and the edited response provided by the commission.
- (2)
  - (a) Before holding the hearing for review of the complaint as scheduled in JR6-4-301, the chair may schedule a separate meeting of the committee to:
    - (i) hear motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures; or
    - (ii) hold a vote of the committee, with or without the attendance of the parties, on procedural or committee business matters relating to a complaint.
  - (b) Notwithstanding JR6-4-301, the committee may, by a majority vote, change the date of the hearing scheduled in JR6-4-301 in order to accommodate:
    - (i) a meeting authorized under Subsection (2)(a); or
    - (ii) necessary scheduling requirements.
- (3)
  - (a) The committee shall comply with the Utah Rules of Evidence, except where the committee determines, by majority vote, that a rule is not compatible with the requirements of this title.
  - (b) The chair shall make rulings on admissibility of evidence consistent with the provisions of JR6-4-202.
- (4)
  - (a) A meeting or hearing held under this Chapter 4, Part 3, Review of Ethics Complaint by Ethics Committee:
    - (i) is subject to the requirements of Utah Code Title 52, Chapter 4, Open and Public Meetings Act; and
    - (ii) may be closed by a majority vote of the committee, held in the public portion of the meeting, for:
      - (A) any purpose permitted under Utah Code Section 52-4-205;

- (B) the purpose of discussing legal, evidentiary, or procedural matters with the committee or staff; or
  - (C) deliberations, as provided in JR6-4-304.
- (b) Only committee members, committee staff, and necessary security personnel may attend a closed meeting.
- (5) If a majority of the committee determines that a continuance of a meeting or hearing is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of committee members, witnesses, or a party, the chair or committee shall:
- (a) adjourn and continue the hearing or meeting to a future date and time; and
  - (b) establish that future date and time by majority vote.

**JR6-4-303 Record -- Recording of meetings.**

- (1)
- (a) Except as provided in Subsection (1)(b), an individual may not use a camera or other recording device in any meeting authorized by this part.
  - (b)
    - (i) The committee shall keep an audio or video recording of all portions of each meeting authorized by this part.
    - (ii) If the committee elects, by a majority vote, to release the committee's finding and order in a public meeting, that meeting may, upon a majority vote of the committee, be opened to cameras or other recording devices.
- (2) In addition to the recording required in Subsection (1), the chair shall ensure that a record of each hearing or meeting is made, which shall include:
- (a) official minutes taken during the meeting or hearing, if any;
  - (b) copies of all documents or other items admitted into evidence;
  - (c) copies of any documents, written orders, or written rulings issued by the chair or the committee; and
  - (d) any other information that a majority of the committee or the chair directs.
- (3)
- (a) Except as provided in Subsection (3)(b), all recordings, testimony, evidence, and other records of meetings and hearings authorized by this part are public records.
  - (b) All recordings, minutes, and other records produced during a closed meeting authorized under this part are classified as private records under Utah Code Section 63G-2-302.

**JR6-4-304 Process for making a decision -- Deliberations -- Voting in public meeting.**

- (1) After each party has presented a closing argument, the committee shall deliberate in a closed meeting:
- (a) immediately after conclusion of the closing arguments; or
  - (b) at a future meeting of the committee, on a date and time determined by a majority of the members of the committee.
- (2) The chair of the committee shall conduct the deliberations.
- (3) During the deliberations, committee members may:
- (a) discuss evidence and testimony;
  - (b) discuss and debate whether an allegation was proven or not proven;

- (c) discuss and debate what actions should be taken or not taken against the respondent in relation to each allegation;
  - (d) discuss and debate any other matter related to the allegations in the complaint that is before the committee; and
  - (e) conduct, at the call of the chair or a majority of the members of the committee, a non-binding straw poll on any matter related to the complaint.
- (4)
- (a) Notwithstanding JR6-2-306, and except as provided in Subsection (4)(b), from the time of completion of closing arguments through the time that the written finding and order are publicly issued, a committee member may not discuss any of the following matters with any other person outside of official committee deliberations:
    - (i) the substance or specifics of the allegations, testimony, or evidence of the complaint under review;
    - (ii) a committee member's intended vote;
    - (iii) a committee member's recommendation for actions to be taken or not taken against the respondent in relation to the complaint; or
    - (iv) any other non-administrative matter related to the complaint.
  - (b) During deliberations, committee members may privately consult with staff for the purpose of discussing legal, evidentiary, or procedural matters.
- (5) Deliberations shall continue until they are concluded or continued to another date and time:
- (a) at the direction of the chair, subject to JR6-2-302; or
  - (b) upon a motion approved by a majority of the committee members.

**JR6-4-305 Vote on allegations and recommendations -- Public meeting -- Standards -- Reconsideration.**

- (1) After conclusion of the deliberations, the committee shall meet in public and, for each allegation reviewed by the committee, vote on whether the allegation is:
  - (a) proven by clear and convincing evidence; or
  - (b) not proven.
- (2) For any count that has been voted as proven, the committee shall, by a motion approved by a majority of the members of the committee, recommend one or more of the following actions:
  - (a) censure;
  - (b) expulsion;
  - (c) denial or limitation of any right, power, or privilege of the respondent, if, under the Utah Constitution, the Senate or House may impose that denial or limitation, and if the violation bears upon the exercise or holding of any right, power, or privilege; or
  - (d) any other action that the committee determines is appropriate.
- (3) Votes shall be taken by verbal roll call and each member's vote shall be recorded.
- (4) A count is not considered to be proven unless a majority of the committee votes that the count is proven.
- (5) The committee, by a motion for reconsideration that is approved by a majority of the committee, may reconsider and hold a new vote provided that:
  - (a) a motion to reconsider a vote on whether an allegation was proven or not proven may only be made by a member of the committee who voted that the allegation was not proven; and
  - (b) a motion to reconsider a vote recommending an action against the respondent may only be made by a member of the committee who voted against the recommendation.

- (6) A count that is not voted as "proven" by a majority of the members of the committee is dismissed.
- (7) The committee may close the meeting for the purposes of further deliberations, subject to the requirements of JR6-4-304:
  - (a) at the direction of the chair, subject to override by the committee as provided in JR6-2-302; or
  - (b) upon a motion approved by a majority of the members of the committee.
- (8) After a final vote has been cast on each allegation and recommendation, the committee shall prepare the finding and order as provided in JR6-4-306.

**JR6-4-306 Finding and order.**

- (1)
  - (a) If the committee determines that no allegations in the complaint were proved, the committee shall prepare a finding and order that:
    - (i) lists the name of each complainant;
    - (ii) lists the name of the respondent;
    - (iii) states the date of the finding and order;
    - (iv) for each allegation contained in the complaint:
      - (A) provides a reference to the code of conduct or criminal provision alleged to have been violated; and
      - (B) states the number and names of committee members voting that the allegation was proved and the number and names of committee members voting that the allegation was not proved;
    - (v) order that the complaint is dismissed because no allegations in the complaint were found to have been proved;
    - (vi) provide any general statement that is adopted for inclusion in the recommendation by a majority of the committee members; and
    - (vii) states the name of each committee member.
  - (b) Each committee member shall sign the finding and order.
- (2)
  - (a) If the committee determines that one or more allegations in the complaint were proved, the committee shall issue a finding and order that:
    - (i) lists the name of each complainant;
    - (ii) lists the name of the respondent;
    - (iii) states the date of the finding and order;
    - (iv) for each allegation contained in the complaint:
      - (A) provides a reference to the code of conduct or criminal provision alleged to have been violated;
      - (B) states the number and names of committee members voting that the allegation was proved and the number and names of committee members voting that the allegation was not proved;
      - (C) if the allegation was not found to have been proven, orders that the allegation be dismissed; and
      - (D) if the allegation was found to have been proven, contains:
        - (I) a description of any actions that the committee recommended be taken;
        - (II) the number and names of committee members voting in favor of each recommendation and the number and names of committee members voting against each recommendation;

- (III) at the option of those members voting in favor of a recommendation, a statement by one or all of those members stating the reasons for making the recommendation; and
- (IV) at the option of those members against a recommendation, a statement by one or all of those members stating the reasons for opposing the recommendation;
- (v) contains any general statement that is adopted for inclusion in the finding and order by a majority of the committee members;
- (vi) contains a statement directing that the finding be delivered to:
  - (A) for the Senate Ethics Committee, to the president of the Senate, the Senate majority leader, and the Senate minority leader; or
  - (B) for the House Ethics Committee, to the speaker of the House of Representatives, the House majority leader, and the House minority leader; and
- (vii) states the name of each committee member.
- (b) Each committee member shall sign the finding and order.
- (3) A copy of the finding and order shall be made publicly available.
- (4) A written copy of the finding and order shall be provided to:
  - (a) the respondent;
  - (b) the first complainant named on the complaint; and
  - (c) any individuals required to receive a copy as stated in the finding and order.