

JOINT RESOLUTION ON ETHICS COMPLAINT

PROCEDURES

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Robles

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of Joint Rules, Title 6, Chapter 3, Filing a Complaint Alleging a Violation of Legislative Ethics, relating to ethics complaint procedures.

Highlighted Provisions:

This resolution:

- ▶ removes a provision prohibiting the filing of an ethics complaint against a candidate during the 60 days immediately preceding a primary or general election;
- ▶ removes a provision that permits the voluntary disclosure by a respondent of a finding by the Independent Legislative Ethics Commission that no allegations in a complaint were proved;
- ▶ removes a provision that requires dismissal, without prejudice, of an ethics complaint, if the existence of the ethics complaint is disclosed while the complaint is under review by the Independent Legislative Ethics Commission; and
- ▶ makes technical changes.

Special Clauses:

None

Legislative Rules Affected:

AMENDS:

JR6-3-101



28 **JR6-3-102**



30 *Be it resolved by the Legislature of the state of Utah:*

31 Section 1. **JR6-3-101** is amended to read:

32 **JR6-3-101. Ethics Complaints -- Filing -- Form.**

33 (1) (a) The following individuals, who shall be referred to as the complainants, may
34 file a complaint against an individual legislator if the complaint meets the requirements of
35 JR6-2-201 and Subsection (1)(b):

36 (i) two or more members of the House of Representatives, for a complaint against a
37 Representative, provided that the complaint contains evidence or sworn testimony that:

38 (A) sets forth facts and circumstances supporting the alleged violation; and

39 (B) is evidence or sworn testimony of the type that would generally be admissible
40 under the Utah Rules of Evidence;

41 (ii) two or more members of the Senate, for a complaint against a Senator, provided
42 that the complaint contains evidence or sworn testimony that:

43 (A) sets forth facts and circumstances supporting the alleged violation; and

44 (B) is evidence or sworn testimony of the type that would generally be admissible
45 under the Utah Rules of Evidence; or

46 (iii) two or more registered voters currently residing within Utah, if, for each alleged
47 violation pled in the complaint, at least one of those registered voters has actual knowledge of
48 the facts and circumstances supporting the alleged violation.

49 (b) A complainant may file a complaint only against an individual who is serving as a
50 member of the Legislature on the date that the complaint is filed.

51 (2) ~~(a)~~ Complainants shall file a complaint with the chair of the Independent
52 Legislative Ethics Commission.

53 ~~[(b) An individual may not file a complaint during the 60 calendar days immediately~~
54 ~~preceding:]~~

55 ~~[(i) a regular primary election, if the accused legislator is a candidate in the primary~~
56 ~~election; or]~~

57 ~~[(ii) a regular general election in which the accused legislator is a candidate, unless the~~
58 ~~accused legislator is unopposed in the election.]~~

59 (3) The complainants shall ensure that each complaint filed under this rule is in writing
60 and contains the following information:

61 (a) the name and position or title of the legislator alleged to be in violation, who shall
62 be referred to as the respondent;

63 (b) the name, address, and telephone number of each individual who is filing the
64 complaint;

65 (c) a description of each alleged violation, including for each alleged violation:

66 (i) a reference to:

67 (A) the section of the code of conduct alleged to have been violated; or

68 (B) the criminal provision violated and the docket number of the case involving the
69 legislator;

70 (ii) the name of the complainant or complainants who have actual knowledge of the
71 facts and circumstances supporting each allegation;

72 (iii) the facts and circumstances supporting each allegation, which shall be provided
73 by:

74 (A) copies of official records or documentary evidence; or

75 (B) one or more affidavits, each of which shall comply with the following format:

76 (I) the name, address, and telephone number of the signer;

77 (II) a statement that the signer has actual knowledge of the facts and circumstances
78 alleged in the affidavit;

79 (III) the facts and circumstances testified to by the signer;

80 (IV) a statement that the affidavit is believed to be true and correct and that false
81 statements are subject to penalties of perjury; and

82 (V) the signature of the signer;

83 (d) a list of the witnesses that the complainants wish to have called, including for each
84 witness:

85 (i) the name, address, and, if available, one or more telephone numbers of the witness;

86 (ii) a brief summary of the testimony to be provided by the witness; and

87 (iii) a specific description of any documents or evidence complainants desire the
88 witness to produce;

89 (e) a statement that each complainant:

90 (i) has reviewed the allegations contained in the complaint and the sworn statements
91 and documents attached to the complaint;

92 (ii) believes that the complaint is submitted in good faith and not for any improper
93 purpose such as for the purpose of harassing the respondent, causing unwarranted harm to the
94 respondent's reputation, or causing unnecessary expenditure of public funds; and

95 (iii) believes the allegations contained in the complaint to be true and accurate; and

96 (f) the signature of each complainant.

97 Section 2. **JR6-3-102** is amended to read:

98 **JR6-3-102. Privacy of Ethics Complaints -- Contempt -- Enforcement of Finding**
99 **of Contempt -- Dismissal.**

100 (1) (a) Except as provided in Subsection (1)(b) or (c), a person, including the
101 complainants, the respondent, commission members, a committee chair or vice chair, or staff to
102 the commission or a committee, may not disclose the existence of a complaint, a response, nor
103 any information concerning any alleged violation that is the subject of a complaint.

104 (b) The restrictions in Subsection (1)(a) do not apply to~~[-(i)]~~ a complaint or response
105 that is publicly released by the commission and referred to an ethics committee for review
106 under the procedures and requirements of JR6-4-204, and the allegations contained in the
107 publicly released complaint or response~~[-; or (ii) the respondent's voluntary disclosure of a
108 finding by the commission that no allegations in a complaint were proved, after that finding is
109 issued by the commission under the procedures and requirements of JR6-4-204].~~

110 (c) Nothing in this rule prevents a person from disclosing facts or allegations about
111 potential criminal violations to law enforcement authorities.

112 (2) A person who violates the provisions of Subsection (1)(a) is in contempt of the
113 Legislature and proceedings may be initiated to enforce the finding of contempt using the
114 procedures provided in JR6-2-304 and Section 36-14-5.

115 ~~[(3) If the existence of an ethics complaint is publicly disclosed during the period that
116 the Independent Legislative Ethics Commission is reviewing the complaint, the complaint shall
117 be summarily dismissed without prejudice.]~~

Legislative Review Note
as of 11-27-12 6:26 AM

Office of Legislative Research and General Counsel