

Chapter 2
House and Senate Ethics Committees and
Independent Legislative Ethics Commission

Part 1
Membership, Meetings, and Staff

JR6-2-101 Ethics committees -- Membership.

- (1) There is established a Senate Ethics Committee and a House Ethics Committee.
- (2) The Senate Ethics Committee shall be composed of:
 - (a) the chair and three additional senators appointed by the president of the Senate; and
 - (b) the vice chair and three additional senators appointed by the Senate minority leader.
- (3) The House Ethics Committee shall be composed of:
 - (a) the chair and three additional representatives appointed by the speaker of the House of Representatives; and
 - (b) the vice chair and three additional representatives appointed by the House minority leader.
- (4) A committee member shall serve a two-year term.
- (5)
 - (a) If a member of an ethics committee is accused of wrongdoing in a complaint to be reviewed by the committee, or if a member of an ethics committee determines that he or she has a conflict of interest in relation to a complaint to be reviewed by the ethics committee, a member of the Senate or House shall be appointed to temporarily serve in that member's place while the complaint is under review as follows:
 - (i) except as provided in Subsection (5)(a)(ii), the member shall be appointed by the person who appointed the member who is being temporarily replaced, consistent with Subsection (2), for a member of the Senate Ethics Committee, or Subsection (3), for the House Ethics Committee; or
 - (ii) if the person designated to make the appointment under Subsection (5)(a)(i) is accused of wrongdoing in the complaint or determines that he or she has a conflict of interest in relation to the complaint, the appointment shall be made by:
 - (A) the Senate majority leader, if the person designated is the president of the Senate;
 - (B) the Senate minority whip, if the person designated is the Senate minority leader;
 - (C) the House majority leader, if the person designated is the speaker of the House; or
 - (D) the House minority whip, if the person designated is the House minority leader.
 - (b) The temporary committee member's term ends when the committee has concluded its review of the complaint.

JR6-2-102 Ethics committee -- Meetings and staff.

- (1) The Senate and House Ethics Committees shall operate as both standing and interim committees.
- (2) The committees shall meet as necessary, either as called at:
 - (a) the discretion of the chair; or
 - (b) by a majority vote of the committee.
- (3) A majority of the committee is a quorum.
- (4) The staff of each committee consists of:
 - (a) the director of the Office of Legislative Research and General Counsel;

- (b) the legislative general counsel; and
- (c) any other staff designated by the director or the legislative general counsel.

JR6-2-103 Independent Legislative Ethics Commission -- Membership.

- (1) There is established an Independent Legislative Ethics Commission.
- (2) The commission is composed of five persons, each of whom is registered to vote in this state, appointed as follows:
 - (a) two members, who have served as judges of a court of record in this state, each of whom shall be nominated by the mutual consent of the president of the Senate and the speaker of the House, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;
 - (b) one member, who has served as a judge of a court of record in this state, nominated by the mutual consent of the Senate minority leader and the House minority leader, and appointed by a majority vote of the president of the Senate, speaker of the House, Senate minority leader, and House minority leader;
 - (c) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the president of the Senate and the speaker of the House of Representatives; and
 - (d) one member, who has served as a member of the Legislature in this state no more recently than four years before the date of appointment, appointed by the mutual consent of the Senate minority leader and House minority leader.
- (3) A member of the commission may not, during the member's term of office on the commission, act or serve as:
 - (a) an officeholder as defined in Utah Code Section 20A-11-101;
 - (b) an agency head as defined in Utah Code Section 67-16-3;
 - (c) a lobbyist as defined in Utah Code Section 36-11-102; or
 - (d) a principal as defined in Utah Code Section 36-11-102.
- (4)
 - (a)
 - (i) Except as provided in Subsection (4)(a)(ii), each member of the commission shall serve a four-year term.
 - (ii) When appointing the initial members upon formation of the commission, one member nominated by the president of the Senate and the speaker of the House of Representatives and one member nominated by the Senate minority leader and House minority leader shall be appointed to a two-year term so that approximately half of the commission is appointed every two years.
 - (b)
 - (i) When a vacancy occurs in the commission's membership for any reason, a replacement member shall be appointed for the unexpired term of the vacating member using the procedures and requirements of Subsection (2).
 - (ii) For the purposes of this rule, an appointment for an unexpired term of a vacating member is not considered a full term.
 - (c) A member may not be appointed to serve for more than two full terms, whether those terms are two or four years.
 - (d) A member of the commission may resign from the commission by giving one month's written notice of the resignation to the president of the Senate, speaker of the House, Senate minority leader, and House minority leader.

- (e) The chair of the Legislative Management Committee shall remove a member from the commission if the member:
 - (i) is convicted of, or enters a plea of guilty to, a crime involving moral turpitude;
 - (ii) enters a plea of no contest or a plea in abeyance to a crime involving moral turpitude; or
 - (iii) fails to meet the qualifications of office as provided in this rule.
 - (f) If a commission member is accused of wrongdoing in a complaint, or if a commission member determines that he or she has a conflict of interest in relation to a complaint, a temporary commission member shall be appointed to serve in that member's place for the purposes of reviewing that complaint using the procedures and requirements of Subsection (2).
- (5)
- (a) A member of the commission may not receive compensation or benefits for the member's service, but may receive per diem and expenses incurred in the performance of the member's official duties as allowed in:
 - (i) Utah Code Section 63A-3-106;
 - (ii) Utah Code Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Utah Code Sections 63A-3-106 and 63A-3-107.
 - (b) A member may decline to receive per diem and expenses for the member's service.
- (6)
- (a) The commission members shall convene a meeting annually each January and elect, by a majority vote, a commission chair from among the commission members.
 - (b) A person may not serve as chair for more than two consecutive years.

JR6-2-104 Independent Legislative Ethics Commission -- Meetings -- Staff.

- (1) The Independent Legislative Ethics Commission shall meet for the purpose of reviewing an ethics complaint when:
 - (a) except otherwise expressly provided in this title, called to meet at the discretion of the chair; or
 - (b) called to meet by a majority vote of the commission.
- (2) A majority of the commission is a quorum.
- (3)
 - (a) The commission shall prepare, on an annual basis, a summary data report that contains:
 - (i) a general description of the activities of the commission during the past year;
 - (ii) the number of ethics complaints filed with the commission;
 - (iii) the number of ethics complaints reviewed by the commission;
 - (iv) the number of complaints filed against a member of the House of Representatives;
 - (v) the number of complaints filed against a member of the Senate;
 - (vi) a summary description of any ethics complaints that were recommended by the commission for review by a Legislative ethics committee; and
 - (vii) an accounting of the commission's budget and expenditures.
 - (b) The summary data report shall be submitted to an appropriate committee of the Legislature on an annual basis.
 - (c) The summary data report shall be a public record.
- (4) The Senate and the House of Representatives shall employ staff for the commission at a level that is reasonable to assist the commission in performing its duties as established in this chapter.
- (5)

- (a) The Legislative Management Committee shall:
 - (i) authorize each staff position for the commission; and
 - (ii) approve the employment of each staff member for the commission.
- (b) Notwithstanding Subsection (5)(a), the commission may hire an individual without authorization from the Legislative Management Committee if:
 - (i) the individual is hired by a majority vote of the commission, which authorization, in order to preserve the confidentiality of the complaint, shall be discussed and voted upon in a closed meeting of the commission;
 - (ii) the individual is hired for the purpose of assisting the commission with organizing, reviewing, and marshaling facts and evidence raised in connection with a complaint filed with the commission;
 - (iii) the individual is hired on a temporary, contractual basis; and
 - (iv) the total amount payable under the contract for services does not exceed \$5,000.
- (c) A contract issued under Subsection (5)(b) is a private record as provided in Utah Code Section 63G-2-302.
- (6) Staff for the commission shall work only for the commission and may not perform services for the Senate, House of Representatives, or other legislative offices.

Part 2 General Powers and Procedures

JR6-2-201 Authority to review complaint -- Grounds for complaint -- Limitations on filings.

- (1) Subject to the requirements of this chapter, the Senate Ethics Committee, the House Ethics Committee, and the Independent Legislative Ethics Commission are authorized to review an ethics complaint against a legislator if the complaint alleges:
 - (a) a violation of the code of official conduct as provided in JR6-1-102;
 - (b) a violation of JR6-1-103;
 - (c) a conviction of, or a plea of guilty to, a crime involving moral turpitude; or
 - (d) a plea of no contest or a plea in abeyance to a crime involving moral turpitude.
- (2)
 - (a) For an alleged violation under Subsection (1)(a), the complaint must be filed within two years of the date that the action or omission that forms the basis of the alleged violation occurred or within two years of the date that the action or omission would have been discovered by a reasonable person.
 - (b) For an alleged violation under Subsection (1)(c) or (d), the complaint shall be filed within two years of the date that the plea or conviction that forms the basis of the allegation was entered.
- (3)
 - (a) A complaint may not contain an allegation if that allegation and the general facts and circumstances supporting that allegation have been previously reviewed by the commission or an ethics committee unless:
 - (i) the allegation was previously reviewed by the commission and dismissed without being referred to an ethics committee for review;
 - (ii) the allegation is accompanied by material facts or circumstances supporting the allegation that were not raised or pled to the commission when the allegation was previously reviewed; and

- (iii) the allegation and the general facts and circumstances supporting that allegation have only been reviewed by the commission on one previous occasion.
- (b) If an allegation in the complaint does not comply with the requirements of Subsection (3)(a), the allegation shall be summarily dismissed with prejudice by:
 - (i) the chair of the Independent Legislative Ethics Commission, when reviewing the complaint under JR6-4-101; or
 - (ii) the commission, when reviewing the complaint under JR6-4-201.

JR6-2-202 General powers -- Jurisdiction.

- (1) The commission and the committees have jurisdiction only over an individual who is currently serving in the Legislature.
- (2) The commission and the committees shall dismiss an ethics complaint if the respondent legislator resigns from the Legislature.

Part 3
General Provisions Governing Hearings on Ethics Complaint

JR6-2-301 General procedures for conducting a hearing on an ethics complaint.

- (1) In conducting a hearing on a complaint, the Independent Legislative Ethics Commission or the Senate or House Ethics Committee shall comply with the following process in the order specified:
 - (a) introduction and instructions for procedure and process, at the discretion of the chair;
 - (b) complainants' opening argument, to be presented by a complainant or complainants' counsel;
 - (c) complainants' presentation of evidence and witnesses in support of allegations in the complaint;
 - (d) consideration of motions to dismiss the complaint or motions for a directed verdict, as applicable;
 - (e) respondent's opening argument, to be presented by the respondent or respondent's counsel;
 - (f) respondent's presentation of evidence and witnesses refuting allegations in the complaint;
 - (g) presentation of rebuttal evidence and witnesses by the complainants, at the discretion of the chair;
 - (h) presentation of rebuttal evidence and witnesses by the respondent, at the discretion of the chair;
 - (i) complainants' closing argument, to be presented by a complainant or complainants' counsel;
 - (j) respondent's closing argument, to be presented by the respondent or respondent's counsel;
 - (k) deliberations by the commission or committee; and
 - (l) adoption of the commission's or committee's findings.
- (2) The commission or an ethics committee may, in extraordinary circumstances, vary the order contained in Subsection (1) by majority vote and by providing notice to the parties.
- (3) The chair may schedule the examination of a witness or evidence subpoenaed at the request of the chair or the committee under JR6-2-303 at the chair's discretion.

JR6-2-302 Chair as presiding judge.

- (1) Except as expressly provided otherwise in this title, the chair of the Independent Legislative Ethics Commission and the chair of the Senate or House Ethics Committee is vested with the power to direct the commission or committee during meetings authorized by this title.
- (2) Unless expressly prohibited from doing so under this title, the commission or committee may overrule a decision of the chair by using the following procedure:
 - (a) If a member objects to a decision of the chair, that member may appeal the decision by stating:
 - (i) "I appeal the decision of the chair."; and
 - (ii) the basis for the objection.
 - (b) This motion is nondebatable.
 - (c) The chair shall direct a roll call vote to determine if the commission or committee supports the decision of the chair.
 - (d) A majority vote of the commission or committee is necessary to overrule the decision of the chair.
- (3) The chair may set time limitations on any part of a meeting or hearing authorized by this title.

JR6-2-303 Subpoena powers.

- (1) For all proceedings authorized by this title, the Independent Legislative Ethics Commission or the Senate or House Ethics Committee may issue a subpoena to:
 - (a) require the attendance of a witness;
 - (b) direct the production of evidence; or
 - (c) require both the attendance of a witness and the production of evidence.
- (2) The commission shall issue a subpoena under this rule:
 - (a) as required under JR6-2-305;
 - (b) at the direction of the commission chair, if the chair determines that the testimony or evidence is relevant to the review of a complaint under Chapter 4, Part 2, Review of Ethics Complaint by the Independent Legislative Ethics Commission; or
 - (c) upon a vote of a majority of the commission members.
- (3) An ethics committee shall issue a subpoena under this rule:
 - (a) as required under JR6-2-305;
 - (b) at the direction of the committee chair or vice chair, if the chair or vice chair determines that the testimony or evidence is relevant to review of a complaint under Chapter 4, Part 3, Review of Ethics Complaint by Ethics Committee; or
 - (c) upon a vote of a majority of the committee members.
- (4) The director of the Office of Legislative Research and General Counsel shall issue a subpoena on behalf of an ethics committee when requested to do so by one of the persons or entities authorized to do so under Subsection (3).

JR6-2-304 Contempt of the Legislature.

- (1)
 - (a) The following actions constitute contempt of the Legislature in relation to actions and proceedings under this title:
 - (i) disobedience to a direction of the commission chair;
 - (ii) disobedience to a direction of an ethics committee chair;
 - (iii) failure to answer a question during a hearing when directed to do so by:

- (A) the commission chair, unless the direction is overridden by the commission under JR6-2-302;
 - (B) an ethics committee chair, unless the direction is overridden by the committee under JR6-2-302; or
 - (C) a majority of the commission or committee;
 - (iv) failure to comply with a subpoena or other order issued under authority of this title;
 - (v) violation of privacy provisions established by JR6-3-102;
 - (vi) violation of the communication provisions established by JR6-2-306;
 - (vii) violation of a request to comply with a provision of this title by a chair or a majority of the members of the commission or committee; or
 - (viii) any other ground that is specified in statute or recognized at common law.
- (b) Because the purpose of the Fifth Amendment privilege not to incriminate oneself is to prevent prosecution for criminal action, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.
- (2)
- (a) The following persons may authorize an enforcement action against a person in contempt of the Legislature under the provisions of this title:
 - (i) the commission chair, subject to the provisions of JR6-2-302;
 - (ii) members of the commission, by means of a majority vote;
 - (iii) an ethics committee chair, subject to the provisions of JR6-2-302; or
 - (iv) members of an ethics committee, by means of a majority vote.
 - (b) In initiating and pursuing an action against an individual for contempt of the Legislature, the plaintiff shall comply with the procedures and requirements of Utah Code Section 36-14-5.

JR6-2-305 Testimony and examination of witnesses -- Oath -- Procedure -- Contempt.

- (1)
- (a) The chair shall ensure that each witness listed in the complaint and response is subpoenaed for appearance at the hearing unless:
 - (i) the witness is unable to be properly identified or located; or
 - (ii) service is otherwise determined to be impracticable.
 - (b) The chair shall determine the scheduling and order of witnesses and presentation of evidence.
 - (c) The commission or committee may, by majority vote:
 - (i) overrule the chair's decision not to subpoena a witness under Subsection (1)(a);
 - (ii) modify the chair's determination on the scheduling and order of witnesses under Subsection (1)(b);
 - (iii) decline to hear or call a witness that has been requested by the complainant or respondent;
 - (iv) decline to review or consider evidence submitted in relation to an ethics complaint; or
 - (v) request and subpoena witnesses or evidence according to the procedures of JR6-2-303.
- (2)
- (a) Each witness shall testify under oath.
 - (b) The chair or the chair's designee shall administer the oath to each witness.
- (3) After the oath has been administered to the witness, the chair shall direct testimony as follows:
- (a) allow the party that has called the witness, or that party's counsel, to question the witness;
 - (b) allow the opposing party, or that party's counsel, to cross-examine the witness;
 - (c) allow additional questioning by a party or a party's counsel as appropriate;

- (d) give commission or committee members the opportunity to question the witness; and
 - (e) as appropriate, allow further examination of the witness by the commission or committee, or the parties or their counsel.
- (4)
- (a) If the witness, a party, or a party's counsel objects to a question, the chair shall:
 - (i) direct the witness to answer; or
 - (ii) rule that the witness is not required to answer the question.
 - (b) If the witness declines to answer a question after the chair or a majority of the commission or committee determines that the witness is required to answer the question, the witness may be held in contempt as provided in JR6-2-304.
- (5)
- (a) The chair or a majority of the members of the commission or committee may direct a witness to furnish any relevant evidence for consideration if the witness has brought the material voluntarily or has been required to bring it by subpoena.
 - (b) If the witness declines to provide evidence in response to a subpoena, the witness may be held in contempt as provided in JR6-2-304.

JR6-2-306 Communications of commission and committee members.

- (1) As used in this section, "third party" means:
- (a) for a member of the Independent Legislative Ethics Commission, a person who is not a member of the commission or staff to the commission; or
 - (b) for a member of an ethics committee, a person who is not a member of the committee or staff to the committee.
- (2) While a complaint is under review by the commission or an ethics committee, a member of that commission or committee may not initiate or consider any communications concerning the complaint with a third party unless:
- (a) the communication is expressly permitted under the procedures established by this title; or
 - (b) the communication is made by the third party, in writing, simultaneously to:
 - (i) all members of the commission or committee; and
 - (ii) a staff member of the commission or committee.
- (3)
- (a) While the commission is reviewing a complaint under this title, a commission member may communicate outside of the meetings, hearing, or deliberations with another member of, or staff to, the commission, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.
 - (b) While a committee is reviewing a complaint under this title, a committee member may communicate outside of the meeting, hearing, or deliberations with another member of, or staff to, the committee, only if the member's communication does not materially compromise the member's responsibility to independently review and make decisions in relation to the complaint.
- (4) While a complaint is under review by an ethics committee, a member of the commission may not comment publicly or privately about the commission's decision, reasoning, or other matters relating to the ethics complaint, but may provide or refer a questioner to the commission's written recommendation.

JR6-2-307 Attorney fees and costs.

- (1) A person filing a complaint under this title:
 - (a) may, but is not required to, retain legal representation during the complaint review process;
and
 - (b) is responsible for payment of complainants' attorney fees and costs incurred.
- (2)
 - (a) A legislator against whom a complaint is filed under this title:
 - (i) may, but is not required to, retain legal representation during the complaint review process;
and
 - (ii) is responsible for that legislator's own attorney fees and costs involved, except as provided in Subsection (2)(b).
 - (b) The Senate, for a senator, or the House of Representatives, for a representative, shall pay the reasonable attorney fees and costs incurred by a legislator against whom a complaint is filed under this title if:
 - (i) the commission declines to recommend that any allegation in the complaint be reviewed by an ethics committee; or
 - (ii) an ethics committee determines that none of the allegations in the complaint that were recommended for review by the commission have been proved.
- (3)
 - (a) An attorney participating in a hearing before the commission or an ethics committee shall comply with:
 - (i) the rules of professional conduct established by the Utah Supreme Court;
 - (ii) the procedures and requirements of this title; and
 - (iii) the directions of the chairs, commission, and ethics committees.
 - (b) Violations of Subsection (3)(a) may constitute:
 - (i) contempt of the Legislature under JR6-2-304; or
 - (ii) a violation of the rules of professional conduct subject to enforcement by the Utah State Bar.