

Part 2

Review of Ethics Complaint by the Independent Legislative Ethics Commission

JR6-4-201 Review of ethics complaint by the Independent Legislative Ethics Commission.

- (1) The scope of the Independent Legislative Ethics Commission's review is limited to the alleged violations stated in the complaint.
- (2)
 - (a) Before holding the meeting for review of the complaint, the commission chair may schedule a separate meeting of the commission for the purposes of:
 - (i) hearing motions or arguments from the parties, including hearing motions or arguments relating to dismissal of a complaint, admission of evidence, or procedures;
 - (ii) holding a vote of the commission, with or without the attendance of the parties, on procedural or commission business matters relating to a complaint; or
 - (iii) reviewing a complaint, with or without the attendance of the parties, to determine if the complaint should be dismissed in whole or in part, by means of a majority vote of the commission, because it pleads facts or circumstances against a legislator that have already been reviewed by the commission or an ethics committee as provided in JR6-2-201.
 - (b) Notwithstanding JR6-4-102, the commission may, by a majority vote, change the date of the meeting for review of the complaint in order to accommodate:
 - (i) a meeting authorized under Subsection (2)(a); or
 - (ii) necessary scheduling requirements.
- (3)
 - (a) The commission shall comply with the Utah Rules of Evidence except where the commission 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 JR6-2-302.
- (4)
 - (a) All meetings and hearings authorized in this part are closed to the public.
 - (b) The following individuals may be present during the presentation of testimony and evidence to the commission:
 - (i) the complainants, except that no more than three complainants may be present at one time;
 - (ii) complainants' counsel, if applicable;
 - (iii) the respondent;
 - (iv) the respondent's counsel, if applicable;
 - (v) members of the commission;
 - (vi) staff to the commission;
 - (vii) a witness, while testifying before the commission; and
 - (viii) necessary security personnel.
 - (c) The complainants, respondent, and their respective counsel may be excluded from a portion of the meeting when the commission discusses administrative, procedural, legal, or evidentiary issues by:
 - (i) the order of the chair, subject to override as provided in JR6-2-302; or
 - (ii) a majority vote of the commission.
 - (d) When the commission deliberates at the conclusion of presentation of testimony and evidence, the commission shall ensure that those deliberations are closed to all persons except for the members of the commission and commission staff.

- (5) If a majority of the commission determines that a continuance is necessary to obtain further evidence and testimony, to accommodate administrative needs, or to accommodate the attendance of commission members, witnesses, or a party, the commission shall:
- (a) adjourn and continue the meeting to a future date and time after notice to the parties; and
 - (b) establish that future date and time by majority vote.

JR6-4-202 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 commission shall keep an audio or video recording of all portions of each meeting authorized by this part.
 - (ii) If the commission elects, by a majority vote, to release the commission's recommendation in a public meeting, the meeting may, upon a majority vote of the commission, 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 the meeting or hearing 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 by the commission;
 - (c) copies of any documents or written orders or rulings issued by the chair or the commission; and
 - (d) any other information that a majority of the commission or the chair directs.
- (3) Except for the recommendation prepared by the commission, which shall be either a private or public record as determined in JR6-4-204, any recording, testimony, evidence, or other record of a meeting authorized by this part is a private record under Utah Code Section 63G-2-302 and may not be disclosed.

JR6-4-203 Process for making a decision -- Deliberations.

- (1) After each party has presented a closing argument, the commission shall, at the direction of the chair, begin its private deliberations:
- (a) immediately after conclusion of the closing arguments; or
 - (b) at a future meeting of the commission, on a date and time determined by a majority of the members of the commission.
- (2)
- (a) The chair of the commission shall conduct the deliberations.
 - (b) Upon a motion made by a commission member, the commission may exclude commission staff from all or a portion of the deliberations by a majority vote of the commission.
- (3)
- (a) During deliberations, for each allegation reviewed by the commission, each member shall determine and cast a vote stating whether the allegation is:
 - (i) proven by a preponderance of the evidence; or
 - (ii) not proven.
 - (b) A verbal roll call vote shall be taken on each allegation and each member's vote shall be recorded.
- (4)

- (a) A count is not considered to be proven unless four of the five members of the commission vote that the count is proven.
 - (b) A count that is not considered to be proven is dismissed.
 - (c)
 - (i) Before the commission issues its recommendation under JR6-4-204, the commission may, upon a majority vote, reconsider and hold a new vote on an allegation.
 - (ii) A motion to reconsider a vote may only be made by a member of the commission who voted that the allegation was not proved.
- (5) At the conclusion of deliberations, the commission shall prepare its recommendations as provided in JR6-4-204.

JR6-4-204 Recommendations of commission.

- (1) If the commission determines that no allegations in the complaint were proved, the commission shall:
- (a) issue and enter into the record an order that the complaint is dismissed because no allegations in the complaint were found to have been proved;
 - (b) classify all recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings authorized by this part as private records under Utah Code Section 63G-2-302;
 - (c) provide notice of the determination, in a manner determined by a majority vote of the commission, to:
 - (i) the respondent; and
 - (ii) the first complainant named on the complaint; and
 - (d) provide notice to each person named in Subsection (1)(c) that, under the provisions of JR6-3-102 and other provisions of this title, a person who discloses the findings of the commission in violation of any provision of this chapter is in contempt of the Legislature and is subject to penalties for contempt.
- (2) If the commission determines that one or more of the allegations in the complaint were proved, the commission shall:
- (a) if one or more allegations were not found to have been proven, enter into the record an order dismissing those unproven allegations;
 - (b) prepare a written recommendation to the Senate Ethics Committee, if the respondent is a senator, or to the House Ethics Committee, if the respondent is a representative, that:
 - (i) lists the name of each complainant;
 - (ii) lists the name of the respondent;
 - (iii) states the date of the recommendation;
 - (iv) for each allegation that was found to be proven:
 - (A) provides a reference to the code of conduct or criminal provision allegedly violated;
 - (B) states the number and names of commission members voting that the allegation was proved and the number and names of commission members voting that the allegation was not proved;
 - (C) at the option of those members voting that the allegation was proved, includes a statement by one or all of those members stating the reasons for voting that the allegation was proved, provided that the statement does not cite specific evidence, specific testimony, or specific witnesses; and
 - (D) at the option of those members voting that the allegation was not proved, includes a statement by one or all of those members stating the reasons for voting that the allegation

- was not proved, provided that the statement does not cite specific evidence, specific testimony, or specific witnesses;
- (v) contains any general statement that is adopted for inclusion in the recommendation by a majority of the members of the commission;
 - (vi) contains a statement referring the allegations found to have been proved to the appropriate ethics committee for review;
 - (vii) states the name of each member of the commission; and
 - (viii) is signed by each commission member;
- (c) direct staff to publicly release the recommendation, the complaint, and the response, subject to the redaction of any allegations that were dismissed by the commission; and
 - (d) classify all other recordings, testimony, evidence, orders, findings, and other records directly relating to the meetings and hearings authorized by this part as private records under Utah Code Section 63G-2-302.
- (3) The commission shall ensure that a copy of the recommendation is made publicly available and promptly provided to:
- (a) the respondent, together with notice that the respondent may amend the respondent's witness list as provided in JR6-4-301;
 - (b) the first complainant named on the complaint, together with notice that the complainants may amend their witness list as provided in JR6-4-301; and
 - (c) the chair and vice chair of the Senate Ethics Committee, if the respondent is a senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a representative.
- (4) The commission shall ensure that, within five business days of the date of issuance of the recommendation:
- (a) the complaint and the response are redacted to remove references to those allegations found not to have been proven by the commission, if one or more allegations were found not to have been proven; and
 - (b) the following documents are made publicly available and are provided to the chair and vice chair of the Senate Ethics Committee, if the respondent is a senator, or the chair and vice chair of the House Ethics Committee, if the respondent is a representative:
 - (i) a cover letter referring the allegations contained in the edited complaint to the ethics committee for the committee's review;
 - (ii) a copy of the edited complaint;
 - (iii) a copy of the edited response; and
 - (iv) a copy of the recommendation.