

1 **JOINT RULES RESOLUTION ON ETHICS COMPLAINTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John L. Valentine**

5 House Sponsor: Kevin S. Garn

6 Cosponsor: Curtis S. Bramble

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions of the joint legislative rules that govern the receipt and
11 review of ethics complaints.

12 **Highlighted Provisions:**

13 This resolution:

14 ▶ provides procedures for the submission and technical review of legislative ethics
15 complaints and their compliance with form and content requirements;

16 ▶ provides that allegations that have been previously heard by the commission or an
17 ethics committee may be dismissed by the Independent Legislative Ethics
18 Commission at the time of the chair's initial review of the complaint for technical
19 compliance or during review of the complaint by the commission;

20 ▶ requires that ethics complaints be filed with the Independent Legislative Ethics
21 Commission rather than the chair and vice-chair of the Senate or House legislative
22 ethics committee; and

23 ▶ provides that the chair of the Independent Legislative Ethics Commission performs
24 the review of an ethics complaint for technical compliance rather than the chair and
25 vice-chair of the Senate or House legislative ethics committee;

26 ▶ requires the chair of the commission to provide notice of a filing of an ethics
27 complaint to the Speaker of the House of Representatives or the President of the



28 Senate and to the chair and vice-chair of the House or Senate legislative ethics committee, but
29 requires that the filing remain confidential until publicly disclosed by the commission; and

30 ▶ makes technical changes.

31 **Special Clauses:**

32 This bill coordinates with S.J.R. 3, Joint Resolution on Ethics Complaint Procedures,
33 by providing substantive and conforming amendments.

34 **Legislative Rules Affected:**

35 AMENDS:

36 **JR6-2-201**

37 **JR6-4-101**

38 **Legislative Rules Affected by Coordination Clause:**

39 **JR6-3-101**

40 **JR6-4-203**

41 **JR6-4-204**

42 **JR6-4-306**



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

45 Section 1. **JR6-2-201** is amended to read:

46 **JR6-2-201. Authority to Review Complaint -- Grounds for Complaint --**

47 **Limitations on Filings.**

48 ~~[The] (1) Subject to the requirements of this chapter, the Senate Ethics Committee~~
49 ~~[and], the House Ethics Committee [shall review and adjudicate any charges brought against a~~
50 ~~member of the Senate or House for acts that violate:], and the Independent Legislative Ethics~~
51 ~~Commission are authorized to review an ethics complaint against a legislator if the complaint~~
52 ~~alleges:~~

53 (a) a violation of the Code of Official Conduct as provided in JR6-1-102;

54 (b) a conviction of, or a plea of guilty to, a crime involving moral turpitude; or

55 (c) a plea of no contest or a plea in abeyance to a crime involving moral turpitude.

56 (2) (a) For an alleged violation under Subsection (1)(a), the complaint must be filed
57 within two years of the date that the action or omission that forms the basis of the alleged
58 violation occurred or within two years of the date that the action or omission would have been

59 discovered by a reasonable person.

60 (b) For an alleged violation under Subsection (1)(b) or (1)(c), the complaint shall be
 61 filed within two years of the date that the plea or conviction that forms the basis of the
 62 allegation was entered.

63 (3) (a) A complaint may not contain an allegation if that allegation and the general
 64 facts and circumstances supporting that allegation have been previously reviewed by the
 65 commission or an ethics committee unless:

66 (i) the allegation was previously reviewed by the commission and dismissed without
 67 being referred to an ethics committee for review;

68 (ii) the allegation is accompanied by material facts or circumstances supporting the
 69 allegation that were not raised or pled to the commission when the allegation was previously
 70 reviewed; and

71 (iii) the allegation and the general facts and circumstances supporting that allegation
 72 have only been reviewed by the commission on one previous occasion.

73 (b) If an allegation in the complaint does not comply with the requirements of
 74 Subsection (3)(a), the allegation shall be summarily dismissed with prejudice by:

75 (i) the chair of the Independent Legislative Ethics Commission, when reviewing the
 76 complaint under JR6-4-101; or

77 (ii) the commission, when reviewing the complaint under JR6-4-201.

78 ~~[(1) the Code of Official Conduct; or]~~

79 ~~[(2) any law, rule, regulation, or other standard of conduct applicable to the conduct of~~
 80 ~~a member of the Senate or House in the performance of legislative responsibilities, if the~~
 81 ~~conduct would reflect discredit upon the Senate or House as a whole.]~~

82 Section 2. **JR6-4-101** is amended to read:

83 **JR6-4-101. Review of Ethics Complaint for Compliance with Form**
 84 **Requirements -- Independent Requirements for Complaint -- Notice.**

85 (1) ~~[(a)]~~ Within five business days after receipt of ~~[the]~~ a complaint, the staff of the
 86 ~~[committee]~~ Independent Legislative Ethics Commission, in consultation with the chair ~~[and~~
 87 ~~cochair]~~ of the commission, shall examine ~~[each]~~ the complaint to determine if it is in
 88 compliance with JR6-2-201 or JR6-3-101.

89 ~~[(b)-(i)]~~ (2) (a) If the chair [and cochair determine] determines that the complaint does

90 not comply with JR6-2-201 or JR6-3-101, the chair shall:

91 (i) return the complaint to the [~~complainants~~] first complainant named on the
92 complaint with:

93 (A) a statement detailing the reason for the non-compliance; and

94 (B) a copy of the applicable legislative rules [~~on ethics.~~]; and

95 (ii) notify the President of the Senate and the chair and vice-chair of the Senate Ethics
96 Committee, if the legislator named in the complaint is a Senator, or the Speaker of the House
97 of Representatives and the chair and vice-chair of the House Ethics Committee, if the legislator
98 named in the complaint is a Representative, that:

99 (A) a complaint was filed against a member of the Senate or House, respectively, but
100 was returned for non-compliance with legislative rule; and

101 (B) the fact that a complaint was filed and returned shall be kept confidential until the
102 commission submits its annual summary data report as required by JR6-2-104.

103 [~~(ii) The~~] (b) If a complaint is returned for non-compliance with the requirements of
104 this title, the complainants may [~~resubmit the~~] file another complaint if the new complaint
105 independently meets the requirements of JR6-3-101, including any requirements for timely
106 filing.

107 [~~(c)~~] (3) If the chair [~~and cochair determine~~] determines that the complaint complies
108 with [~~this title~~] the requirements of this rule, the chair shall:

109 [~~(i)~~] (a) accept the complaint;

110 (b) notify the President of the Senate and the chair and vice-chair of the Senate Ethics
111 Committee, if the legislator named in the complaint is a Senator, or the Speaker of the House
112 of Representatives and the chair and vice-chair of the House Ethics Committee, if the legislator
113 named in the complaint is a Representative, that:

114 (i) a complaint has been filed against an unidentified member of the Senate or House,
115 respectively;

116 (ii) the identity of the legislator and the allegations raised in the complaint are
117 confidential pending the commission's review of the complaint; and

118 (iii) the fact that a complaint was filed shall be kept confidential until the commission
119 publicly discloses the existence of the complaint via:

120 (A) a recommendation that an allegation in the complaint be heard by a legislative

121 ethics committee; or

122 (B) submission of the commission's annual summary data report as required by

123 JR6-2-104;

124 ~~[(ii)]~~ (c) notify each member of the [ethics committee] Independent Legislative Ethics

125 Commission that the complaint has been filed and accepted; and

126 ~~[(iii)]~~ (d) [provide each member of the ethics committee with a copy of] promptly

127 forward the complaint to the legislator who is the subject of the ethics complaint via personal

128 delivery or a delivery method that provides verification of receipt, together with a copy of the

129 applicable legislative rules and notice of the legislator's deadline for filing a response to the

130 complaint.

131 ~~[(2) No committee member or staff may disclose publically any information received~~

132 ~~by the committee concerning any alleged violation until the member of the Senate or House~~

133 ~~charged in the violation has received the Summary of the Preliminary Inquiry required by~~

134 ~~JR6-4-206.]~~

135 **Section 3. Coordinating S.J.R. 19 with S.J.R. 3 -- Merging conforming and**

136 **substantive amendments.**

137 If this S.J.R. 19 and S.J.R. 3, Joint Resolution on Ethics Complaint Procedures, both

138 pass, it is the intent of the Legislature that the Office of Legislative Research and General

139 Counsel, in preparing the Utah Code database for publication:

140 (1) modify JR6-3-101(2)(a), as amended by S.J.R. 3, to read:

141 "(2) (a) Complainants shall file a complaint with the chair of the Independent

142 Legislative Ethics Commission.";

143 (2) modify JR6-4-203(2)(b), as amended by S.J.R. 3, to read:

144 "(b) Upon a motion made by a commission member, the commission may exclude

145 commission staff from all or a portion of the deliberations by a majority vote of the

146 commission.";

147 (3) modify JR6-4-204(1)(d), as amended by S.J.R. 3, to read:

148 "(d) provide notice to each person named in Subsection (1)(c) that, under the provisions

149 of JR6-3-102 and other provisions of this title, a person who discloses the findings of the

150 commission in violation of any provision of this chapter is in contempt of the Legislature and is

151 subject to penalties for contempt."; ~~and~~ ~~and~~

152 (4) modify JR6-4-306(2)(a)(iv)(C), as amended by S.J.R. 3, to read:
153 "(C) if the allegation was not found to have been proven, orders that the allegation be
154 dismissed; and" ~~H~~→ [] ; and

154a (5) the amendments to JR6-2-201 and JR6-4-101 in this S.J.R. 19 supersede the
154b amendments to JR6-2-201 and JR6-4-101 in S.J.R. 3. ~~H~~

Legislative Review Note
as of 3-8-10 4:59 PM

Office of Legislative Research and General Counsel

S.J.R. 19 - Joint Rules Resolution on Ethics Complaints

Fiscal Note

2010 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
