

1 **JOINT RULES RESOLUTION ON ETHICS COMPLAINTS**

2 2010 GENERAL SESSION

3 STATE OF UTAH

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

5 House Sponsor: John Dougall

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
29 committee, but requires that the filing remain confidential until publicly disclosed

30 by the commission; and

31 ▶ makes technical changes.

32 **Special Clauses:**

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

35 **Legislative Rules Affected:**

36 AMENDS:

37 **JR6-2-201**

38 **JR6-4-101**

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

40 **JR6-3-101**

41 **JR6-4-203**

42 **JR6-4-204**

43 **JR6-4-306**



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

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

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

48 **Limitations on Filings.**

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

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

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

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

57 (2) (a) For an alleged violation under Subsection (1)(a), the complaint must be filed

58 within two years of the date that the action or omission that forms the basis of the alleged
59 violation occurred or within two years of the date that the action or omission would have been
60 discovered by a reasonable person.

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

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

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

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

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

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

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

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

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

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

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

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

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

90 ~~[(b)-(i)]~~ (2) (a) If the chair ~~[and cochair determine]~~ determines that the complaint does
91 not comply with JR6-2-201 or JR6-3-101, the chair shall:

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

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

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

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

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

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

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

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

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

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

114 legislator named in the complaint is a Representative, that:

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

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

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

121 (A) a recommendation that an allegation in the complaint be heard by a legislative
122 ethics committee; or

123 (B) submission of the commission's annual summary data report as required by
124 JR6-2-104;

125 ~~[(ii)]~~ (c) notify each member of the [ethics committee] Independent Legislative Ethics
126 Commission that the complaint has been filed and accepted; and

127 ~~[(iii)]~~ (d) [provide each member of the ethics committee with a copy of] promptly
128 forward the complaint to the legislator who is the subject of the ethics complaint via personal
129 delivery or a delivery method that provides verification of receipt, together with a copy of the
130 applicable legislative rules and notice of the legislator's deadline for filing a response to the
131 complaint.

132 ~~[(2) No committee member or staff may disclose publically any information received~~
133 ~~by the committee concerning any alleged violation until the member of the Senate or House~~
134 ~~charged in the violation has received the Summary of the Preliminary Inquiry required by~~
135 ~~JR6-4-206.]~~

136 **Section 3. Coordinating S.J.R. 19 with S.J.R. 3 -- Merging conforming and**
137 **substantive amendments.**

138 If this S.J.R. 19 and S.J.R. 3, Joint Resolution on Ethics Complaint Procedures, both
139 pass, it is the intent of the Legislature that the Office of Legislative Research and General
140 Counsel, in preparing the Utah Code database for publication:

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

142 "(2) (a) Complainants shall file a complaint with the chair of the Independent
143 Legislative Ethics Commission.";
144 (2) modify JR6-4-203(2)(b), as amended by S.J.R. 3, to read:
145 "(b) Upon a motion made by a commission member, the commission may exclude
146 commission staff from all or a portion of the deliberations by a majority vote of the
147 commission.";
148 (3) modify JR6-4-204(1)(d), as amended by S.J.R. 3, to read:
149 "(d) provide notice to each person named in Subsection (1)(c) that, under the
150 provisions of JR6-3-102 and other provisions of this title, a person who discloses the findings
151 of the commission in violation of any provision of this chapter is in contempt of the
152 Legislature and is subject to penalties for contempt.";
153 (4) modify JR6-4-306(2)(a)(iv)(C), as amended by S.J.R. 3, to read:
154 "(C) if the allegation was not found to have been proven, orders that the allegation be
155 dismissed; and"; and
156 (5) the amendments to JR6-2-201 and JR6-4-101 in this S.J.R. 19 supersede the
157 amendments to JR6-2-201 and JR6-4-101 in S.J.R. 3.