

1 **JOINT RULES RESOLUTION ON INDEPENDENT**
2 **LEGISLATIVE ETHICS COMMISSION HIRING**
3 **MODIFICATIONS**

4 2015 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Lyle W. Hillyard**

7 House Sponsor: Stephen G. Handy

9 **LONG TITLE**

10 **General Description:**

11 This rules resolution modifies procedures related to the filing and review of complaints
12 filed with the Independent Legislative Ethics Commission and the commission's
13 procedural requirements.

14 **Highlighted Provisions:**

15 This resolution:

- 16 ▶ updates cross references;
- 17 ▶ permits, in limited circumstances, the hiring of an individual to assist the
18 Independent Legislative Ethics Commission in reviewing and processing
19 confidential ethics complaints;
- 20 ▶ permits an ethics complaint to be filed within 60 days of an election if the complaint
21 is due to a conviction, guilty plea, plea of no contest, or plea in abeyance of a crime
22 of moral turpitude;
- 23 ▶ clarifies that a required dismissal for disclosure of an ethics complaint is for
24 disclosure of the name of a party to the complaint, not merely the existence of the
25 complaint;
- 26 ▶ removes the requirement for the commission to notify the Senate and House Ethics
27 Committee chairs of the existence of a complaint;



28 ▶ provides that the commission shall notify the president of the Senate or speaker of
29 the House of Representatives of the parties to and the nature of the allegations of
30 each complaint, not merely the existence of a complaint; and

31 ▶ adds language to emphasize that individuals informed about an ethics complaint
32 during the confidential review period are required to keep the confidentiality of the
33 complaint until the commission makes a recommendation on the complaint.

34 **Special Clauses:**

35 None

36 **Legislative Rules Affected:**

37 AMENDS:

38 **JR6-1-201**

39 **JR6-2-104**

40 **JR6-3-101**

41 **JR6-3-102**

42 **JR6-4-101**



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

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

46 **JR6-1-201. Declaring and recording conflicts of interest -- Financial disclosure**
47 **form.**

48 (1) As used in this section, "conflict of interest" [~~is as~~] means the same as that term is
49 defined in Utah Code Section [~~20A-11-1603~~] [20A-11-1602](#).

50 (2) A legislator shall file a financial disclosure form in compliance with Utah Code
51 Section [20A-11-1603](#) and according to the requirements of this section:

52 (a) on the first day of each general session of the Legislature; and

53 (b) each time the legislator changes employment.

54 (3) The financial disclosure form shall include the disclosures required by Utah Code
55 [~~Section 20A-11-1603~~] Title 20A, Chapter 11, Part 16, Financial Disclosures.

56 (4) (a) The financial disclosure form shall be filed with:

57 (i) the secretary of the Senate, for a legislator that is a senator; or

58 (ii) the chief clerk of the House of Representatives, for a legislator that is a

59 representative.

60 (b) The secretary of the Senate and the chief clerk of the House of Representatives
61 shall ensure that:

62 (i) blank financial disclosure forms are made available on the Internet and at the offices
63 of the Senate and the House of Representatives; and

64 (ii) financial disclosure forms filed under this rule are made available to the public on
65 the Internet and at the offices of the Senate or the House of Representatives.

66 (5) (a) Before or during any vote on legislation or any legislative matter in which a
67 legislator has actual knowledge that the legislator has a conflict of interest which is not stated
68 on the financial disclosure form, that legislator shall orally declare to the committee or body
69 before which the matter is pending:

70 (i) that the legislator may have a conflict of interest; and

71 (ii) what that conflict is.

72 (b) The secretary of the Senate or the chief clerk of the House of Representatives shall:

73 (i) direct committee secretaries to note the declaration of conflict of interest in the
74 minutes of any committee meeting; and

75 (ii) ensure that each declaration of conflict declared on the floor is noted in the Senate
76 Journal or House Journal.

77 (6) This requirement of disclosure of any conflict of interest does not prohibit a
78 legislator from voting on any legislation or legislative matter.

79 Section 2. **JR6-2-104** is amended to read:

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

81 (1) The Independent Legislative Ethics Commission shall meet for the purpose of
82 reviewing an ethics complaint when:

83 (a) except otherwise expressly provided in this title, called to meet at the discretion of
84 the chair; or

85 (b) called to meet by a majority vote of the commission.

86 (2) A majority of the commission is a quorum.

87 (3) (a) The commission shall prepare, on an annual basis, a summary data report that
88 contains:

89 (i) a general description of the activities of the commission during the past year;

- 90 (ii) the number of ethics complaints filed with the commission;
91 (iii) the number of ethics complaints reviewed by the commission;
92 (iv) the number of complaints filed against a member of the House of Representatives;
93 (v) the number of complaints filed against a member of the Senate;
94 (vi) a summary description of any ethics complaints that were recommended by the
95 commission for review by a Legislative ethics committee; and
96 (vii) an accounting of the commission's budget and expenditures.

97 (b) The summary data report shall be submitted to an appropriate committee of the
98 Legislature on an annual basis.

99 (c) The summary data report shall be a public record.

100 (4) ~~(a)~~ The Senate and the House of Representatives shall employ staff for the
101 commission at a level that is reasonable to assist the commission in performing its duties as
102 established in this chapter.

103 ~~(b)~~ (5) (a) The Legislative Management Committee shall:

- 104 (i) authorize each staff position for the commission; and
105 (ii) approve the employment of each staff member for the commission.

106 (b) Notwithstanding Subsection (5)(a), the commission may hire an individual without
107 authorization from the Legislative Management Committee if:

108 (i) the individual is hired by a majority vote of the commission, which authorization, in
109 order to preserve the confidentiality of the complaint, shall be discussed and voted upon in a
110 closed meeting of the commission;

111 (ii) the individual is hired for the purpose of assisting the commission with organizing,
112 reviewing, and marshaling facts and evidence raised in connection with a complaint filed with
113 the commission;

114 (iii) the individual is hired on a temporary, contractual basis; and

115 (iv) the total amount payable under the contract for services does not exceed \$5,000.

116 (c) A contract issued under Subsection (5)(b) is a private record as provided in Utah
117 Code Section [63G-2-302](#).

118 ~~(c)~~ (6) Staff for the commission shall work only for the commission and may not
119 perform services for the Senate, House of Representatives, or other legislative offices.

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

121 **JR6-3-101. Ethics complaints -- Filing -- Form.**

122 (1) (a) The following individuals, who shall be referred to as the complainants, may
123 file a complaint against an individual legislator if the complaint meets the requirements of
124 [JR6-2-201](#) and Subsection (1)(b):

125 (i) two or more members of the House of Representatives, for a complaint against a
126 representative, provided that the complaint contains evidence or sworn testimony that:

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

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

130 (ii) two or more members of the Senate, for a complaint against a senator, provided
131 that the complaint contains evidence or sworn testimony that:

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

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

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

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

140 (2) (a) Complainants shall file a complaint with the chair of the Independent
141 Legislative Ethics Commission.

142 (b) ~~[A]~~ Except as provided in Subsection (2)(c), an individual may not file a
143 complaint during the 60 calendar days immediately preceding:

144 (i) a regular primary election, if the accused legislator is a candidate in the primary
145 election; or

146 (ii) a regular general election in which the accused legislator is a candidate, unless the
147 accused legislator is unopposed in the election.

148 (c) Notwithstanding Subsection (2)(b), an individual may file a complaint within the
149 time frame provided in that subsection if:

150 (i) the complaint includes evidence that the subject of the complaint has been convicted
151 of, plead guilty to, entered a plea of no contest to, or entered a plea in abeyance to a crime of

152 moral turpitude; and

153 (ii) the crime of moral turpitude is one of the allegations contained in the complaint.

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

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

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

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

161 (i) a reference to:

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

163 (B) the criminal provision violated and the docket number of the case involving the
164 legislator;

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

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

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

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

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

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

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

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

177 (V) the signature of the signer;

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

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

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

182 (iii) a specific description of any documents or evidence complainants desire the

183 witness to produce;

184 (e) a statement that each complainant:

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

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

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

191 (f) the signature of each complainant.

192 Section 4. **JR6-3-102** is amended to read:

193 **JR6-3-102. Privacy of ethics complaints -- Contempt -- Enforcement of finding of**
194 **contempt -- Dismissal.**

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

199 (b) The restrictions in Subsection (1)(a) do not apply to:

200 (i) a complaint or response that is publicly released by the commission and referred to
201 an ethics committee for review under the procedures and requirements of [JR6-4-204](#), and the
202 allegations contained in the publicly released complaint or response; or

203 (ii) the respondent's voluntary disclosure of a finding by the commission that no
204 allegations in a complaint were proved, after that finding is issued by the commission under the
205 procedures and requirements of [JR6-4-204](#).

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

208 (2) A person who violates the provisions of Subsection (1)(a) is in contempt of the
209 Legislature and proceedings may be initiated to enforce the finding of contempt using the
210 procedures provided in [JR6-2-304](#) and Utah Code Section [36-14-5](#).

211 (3) ~~[If the existence of]~~ Except as provided in [JR6-4-101\(3\)](#), if the identity of the
212 legislator who is the subject of an ethics complaint or the identity of the filer of an ethics
213 complaint is publicly disclosed during the period that the Independent Legislative Ethics

214 Commission is reviewing the complaint, the complaint shall be summarily dismissed without
215 prejudice.

216 Section 5. **JR6-4-101** is amended to read:

217 **JR6-4-101. Review of ethics complaint for compliance with form requirements --**
218 **Independent requirements for complaint -- Notice.**

219 (1) Within five business days after receipt of a complaint, the staff of the Independent
220 Legislative Ethics Commission, in consultation with the chair of the commission, shall
221 examine the complaint to determine if it is in compliance with [JR6-2-201](#) or [JR6-3-101](#).

222 (2) (a) If the chair determines that the complaint does not comply with [JR6-2-201](#) or
223 [JR6-3-101](#), the chair shall:

224 (i) return the complaint to the first complainant named on the complaint with:

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

226 (B) a copy of the applicable legislative rules; and

227 (ii) notify the president of the Senate and the chair and vice-chair of the Senate Ethics
228 Committee, if the legislator named in the complaint is a senator, or the speaker of the House of
229 Representatives and the chair and vice-chair of the House Ethics Committee, if the legislator
230 named in the complaint is a representative, that:

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

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

235 (b) If a complaint is returned for non-compliance with the requirements of this title, the
236 complainants may file another complaint if the new complaint independently meets the
237 requirements of [JR6-3-101](#), including any requirements for timely filing.

238 (3) If the chair determines that the complaint complies with the requirements of this
239 rule, the chair shall:

240 (a) accept the complaint;

241 (b) notify the president of the Senate [~~and the chair and vice-chair of the Senate Ethics~~
242 ~~Committee~~], if the legislator named in the complaint is a senator, or the speaker of the House
243 of Representatives [~~and the chair and vice-chair of the House Ethics Committee~~], if the
244 legislator named in the complaint is a representative[~~, that~~]:

- 245 (i) that a complaint has been filed against [an unidentified] a member of the Senate or
246 House, respectively;
- 247 (ii) of the identity of the legislator who is the subject of the complaint and the identity
248 of the person or persons filing the complaint;
- 249 (iii) of the nature of the allegations contained in the complaint; and
250 ~~[(ii) the identity of the legislator and the allegations raised in the complaint are~~
251 ~~confidential pending the commission's review of the complaint; and]~~
- 252 ~~[(iii)]~~ (iv) that the fact that a complaint was filed, the nature of the allegations raised in
253 the complaint, and the identity of the legislator and the complainants shall be kept confidential
254 until the commission publicly discloses the existence of the complaint via:
- 255 (A) a recommendation that an allegation in the complaint be heard by a legislative
256 ethics committee; or
- 257 (B) submission of the commission's annual summary data report as required by
258 [JR6-2-104](#);
- 259 (c) notify each member of the Independent Legislative Ethics Commission that the
260 complaint has been filed and accepted and that the existence of and contents of the complaint
261 and the identities of the parties shall be kept confidential; and
- 262 (d) promptly forward the complaint to the legislator who is the subject of the ethics
263 complaint via personal delivery or a delivery method that provides verification of receipt,
264 together with:
- 265 (i) notice that the existence of and contents of the complaint, and the identities of the
266 parties, are confidential and should not be publicly disclosed;
- 267 (ii) a copy of the applicable legislative rules; and
- 268 (iii) notice of the legislator's deadline for filing a response to the complaint.

Legislative Review Note
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Office of Legislative Research and General Counsel