



Proposed Amendments to the Ethics Ordinance & Rules of Procedure

Board of Ethics

June 7, 2022



Proposal 1: Update to Panel Composition Requirements

- Removes requirement for a Panel of the Board of Ethics to have at least one attorney or retired jurist assigned.

Panel: an *ad hoc* subcommittee of the Board of Ethics consisting of three (3) members assigned by the Chairperson or designated by the City Auditor (as applicable) on a rotating basis, ~~(1) of which is an attorney or retired jurist.~~ **at least one**

Proposal 2: Change to Conflicts of Interest Prohibitions

- Adds receipt of more than a \$500 campaign contribution to the definition of conflicting interest.

(3) *Definition of Conflicting Interest.* For purposes of this Article, the term is defined as follows:

Conflicting Interest: a stake, share, equitable interest, or involvement in an undertaking in the form of any one (1) or more of the following:

- (A) ownership of five percent (5%) or more voting shares or stock in a Business Entity;
- (B) receipt of more than six-hundred dollars (\$600.00) in gross annual income from a Business Entity, as evidenced by a W-2, 1099, K-1, or similar tax form;
- (C) ownership of more than six-hundred dollars (\$600.00) of the fair market value of a Business Entity;
- (D) ownership of an interest in real property with a fair market value of more than six-hundred dollars (\$600.00);

(E) receipt of more than a five-hundred dollars (\$500.00) campaign contribution from an individual, Business Entity, or other organization;

Proposal 3: Alignment with Updated Ethics Complaint Form

- Clarifies that Complainants must indicate what section of the ordinance they believe was violated on the Complaint form, what is included in the contents of a complaint, and that a Panel may consider if other sections of the ordinance have been violated despite what is indicated by the Complainant.

7. **Basis.** A Panel's review is limited to the contents of the Complaint which includes all additional documents, hyperlinks, video, and audio submitted along with the original Ethics Complaint Form. The Panel may consider whether the action(s) alleged within the contents of the Complaint are a violation of any provision of the Ethics Ordinance, regardless of a provision specified by the Complainant. No extraneous information may be considered, unless the Panel wishes to review information as part of a consideration of the accuracy of the statements made in the Complaint in conjunction with the making of a recommendation that a hearing be first held on an accepted Complaint to determine if it may be frivolous.

Proposal 4: Clarification of Panel's Ability to Recommend Frivolity Hearing

- Clarifies Preliminary Panel's ability to recommend a hearing be held to determine if an Ethics Complaint is frivolous.

(c) **Panel Determination.** Within ten (10) business days of being assigned an Accepted Complaint, the Panel shall review the Complaint on its face and determine whether the Complaint is:

- (1) *Actionable:* the allegations and evidence contained in the Complaint, if true, would constitute a violation of this Article.
- (2) *Baseless:* the allegations and evidence contained in the Complaint, if true, would not constitute a violation of this Article.

Actionable Complaints shall be returned to the Chairperson for listing on an agenda for a public hearing to be held within thirty (30) calendar days of a Panel's Actionable determination. Baseless Complaints shall be dismissed. Written notification of the Panel's determination shall be filed with the City Auditor and sent to the Chairperson, the Complainant, the Respondent, and the City Attorney within two (2) business days. Written notifications of dismissal shall include notice of the right to appeal.

(d) **Recommendation to Determine Frivolity.** Before filing notification of its determination, the Panel may consider recommending a hearing first be held to determine if an Accepted Complaint is frivolous. Written notification of the Panel's recommendation to hold a hearing to determine frivolity shall be filed with the City Auditor and sent to the Chairperson, the Complainant, the Respondent, and the City Attorney within two (2) business days. Hearings to determine frivolity shall be held within thirty (30) calendar days of a Panel's recommendation.

(c) **Frivolous.**

(1) *Prohibition.* It is a violation of this Article for a Person to submit a Frivolous Complaint.

(2) *Hearing.* A hearing shall be scheduled on frivolity if the Preliminary Panel recommends an Accepted Complaint first be considered for frivolity. The Complainant is not required to testify at a hearing to determine if their submitted Complaint is frivolous.

~~(2)~~(3) *Super-Majority Vote.* If the Board of Ethics determines at the conclusion of a hearing by a vote of two-thirds (2/3) of its Members that a Complaint was Frivolous, the Board may impose a sanction as provided by Section 2-282(b). Upon finding that a Complaint is Frivolous, the Complaint is dismissed.

Proposal 5: Adjustment to Preliminary Assessment Panel Assignment Criteria

- Adjusts the criteria used to assign a Preliminary Panel to prohibit an assignment if a Board Member has previously submitted a Complaint against the Respondent.

Sec. 2-280. Preliminary Assessment

- (a) **Referral to Chairperson.** Accepted Complaint(s) shall be referred to the Chairperson of the Board of Ethics within five (5) business days of being determined administratively complete.
- (b) **Assignment of Panel.** Within five (5) business days of receiving an Accepted Complaint, the Chairperson of the Board of Ethics shall assign the Complaint to a Panel for Preliminary Assessment. Board members who have previously submitted an Ethics Complaint against the Respondent in a Preliminary Assessment shall not be assigned to the Panel unless a majority of the Board members have previously submitted an Ethics Complaint against the Respondent. The Chairperson shall order a meeting of the Panel, which shall be conducted in compliance with the Texas Open Meetings Act. Each Panel shall select a Presiding Officer to conduct Panel deliberations.

Proposal 6: Clarification of Advisory Opinion Request Timelines & Reporting Process

- Clarifies rules of procedure that staff should follow when an Advisory Opinion request is received.

C. ADVISORY OPINION

1. Assignment. The City Auditor shall refer requests to either a Panel or to Special Counsel as follows:
 - (a) If a request is received more than ten (10) business days before deliberation of the Pending Matter, the City Auditor shall assign it to a Panel;
 - (b) If a request is received more than five (5) business days before deliberation of the Pending Matter, the City Auditor shall assign it to a Panel or Special Counsel if a Panel cannot be formed at least five (5) business days before deliberation of the Pending Matter;
 - (c) If a request is received less than five (5) business days before deliberation of the Pending Matter, the City Auditor shall inform the City Official that the Advisory Opinion cannot be issued prior to deliberation and at which point the City Official may choose to withdraw the Advisory Opinion request. If a request is withdrawn the City Auditor shall provide information about the prohibitions of Sec. 2-273 and report the withdraw to the Board of Ethics at the next regular meeting.



Additional Minor Verbiage Changes

- Added “/or” from Sec. 2-279 Complaints subsection (a) Complainants.
- Clarify the thirty calendar day timeline by which a public hearing must be held for an Actionable Complaint.

Questions?

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