

Lynne Ranson
Legal Counsel
WVa. Ethics Comm.

SERIES 4

FILED

INVESTIGATIVE PANEL

1999 FEB -9 PM 4: 08

158-4-1 General

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

1.1 Scope--The following procedural rules and regulations set forth the practice and procedure established by the West Virginia Ethics Commission for carrying out its responsibilities in the administration and enforcement of the West Virginia Governmental Ethics Act, (hereafter referred to as the "Act") West Virginia Code section one, article one, chapter six-B, et seq.

1.2 Authority-- W.Va. Code 6B-2-1(e)

1.3 Filing Date--

1.4 Effective Date--

1.5 The chairperson shall appoint three (3) Commission members within fourteen (14) days of receipt of a verified complaint to act as an investigative panel.

1.6 The investigative panel shall not be composed of all members of the same political affiliation.

1.7 The investigative panel must first determine whether the allegations stated in the complaint if taken as true would constitute a violation of the Act.

1.8 If two members of the investigative panel determine that the complaint is insufficient in this regard then the investigative panel shall dismiss the complaint by order.

1.9 A complaint dismissed by the investigative panel does not preclude the Commission from initiating an investigation through an unverified complaint process.

158-4-2 Notice of Investigation

2.1 If the investigative panel determines the complaint to be sufficient, in that the allegations set forth would on their face constitute a violation of the Act, then the Executive Director or his designee shall give notice of a pending investigation by the panel to the complainant and respondent.

2.2 The notice accompanied by a copy of the complaint if one was filed shall be mailed to the parties and be sent to the respondent by certified mail, return receipt requested, marked "Addressee only, personal and confidential."

2.3 The notice shall describe respondent's conduct which is the basis for the alleged violation of law.

2.4 The notice shall advise the respondent that the purpose of the investigation is to determine whether probable cause exists to believe a violation of law has occurred which may subject the respondent to sanctions by the Commission, criminal prosecution by the state, or civil liability as appropriate.

2.5 The notice shall also inform the respondent that he has the right to appear and make an oral response before the investigative panel if he or she requests an appearance in writing within 15 days.

2.6 The notice shall also inform the respondent that he or she may respond in writing to the Commission within thirty (30) days of receipt of notice.

2.7 The notice shall also advise the respondent that his or her failure or refusal to respond to a fact or allegation is not taken as admitted.

158-4-3 Investigation

3.1 The investigative panel has forty five (45) days following the mailing of notice of investigation to consider:

- (a) The allegations raised in the complaint, or the Commission's inquiry;
- (b) Any timely received written response of respondent;
- (c) Other competent, relevant evidence submitted by any person to the Commission;
- (d) Other competent, relevant evidence gathered by the Commission.

3.2 The investigative panel chairman will schedule a meeting to be held after the time has passed for respondent to file his written response (within 30 days after notice of investigation received by respondent). Respondent, his counsel, legal counsel to the Commission and the Commission investigator(s) may be present at the meeting.

3.3 The respondent will have thirty minutes to make an oral response or statement of defense to the charges or allegation contained in the complaint. The investigative panel in its discretion may allow the respondent additional time for his oral response.

3.4 The panel may seek additional probative information from the respondent as is necessary for its investigation.

3.5 The Commission and investigative panel may issue subpoenas as is necessary and any subpoena issued has the same effect as one issued by a circuit court of the state.

3.6 Enforcement of any Commission subpoena may be had upon application to a circuit court of the county in which the investigative panel is conducting its investigation, through the issuance of a rule or an attachment against the respondent in a contempt case.

158-4-4 Confidentiality requirements

4.1 All matters or information received by the Commission and investigative panel relating to a complaint, including the identity of the complainant and respondent must be kept confidential.

4.2 However, if the respondent agrees in writing to a release of confidential information the information relating to a complaint including the identity of the respondent and complainant it may be disclosed.

4.3 No present or former Commission member or employee may knowingly and improperly disclose any confidential information acquired by him in the course of his official duties.

4.4 The Commission may order a person filing a complaint to be bound to confidentiality if the Commission makes a finding that there is a reasonable likelihood that the dissemination of information regarding a pending or imminent proceeding will interfere with a fair hearing or otherwise prejudice the due administration of justice.

SUBMITTED BY



DATE FILED: February 9, 1990