



Florida Commission on Ethics

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IMPORTANT INSTRUCTIONS FOR COMPLETING A COMPLAINT FORM

Please read all instructions and the Information for Complainants below, carefully before completing the complaint form. The Commission can only accept properly completed complaints. Improperly completed forms may be returned.

PLEASE NOTE: The Florida Commission on Ethics cannot intervene in your civil or criminal case, nor can we give you legal advice. We do not have jurisdiction to consider complaints against judges or to direct the actions of government agencies.

SECTION ONE—Person Bringing Complaint (Complainant): This is your information. Please provide your name, address, and telephone number.

SECTION TWO—Person Against Whom Complaint is Brought (Respondent): The person against whom the complaint is brought is the respondent. Give the name, address, and telephone number of the respondent, as well as that person's office or the position he or she holds or held, or for which he or she is a candidate. All complaints are considered independently, so if you are filing complaints against more than one person, use a separate complaint form and provide separate information for each person you are complaining against. All complaints are confidential until a certain point in the proceedings, so do not reference the existence of one complaint in any of the others.

SECTION THREE—Statement of Facts: On a separate sheet(s) of paper please explain fully but as briefly as possible what it is you believe the respondent did that violated the ethics laws of the State of Florida. Please limit your submission to 15 pages or less, and do not submit voluminous exhibits or copies of statutes; if your complaint is deemed legally sufficient it will be investigated and at that point the investigator will obtain any relevant materials from you. **Do not submit items such as oversize documents, audio or video tapes, CDs or DVDs, or flash drives. They will be returned.** Materials on websites referenced in a statement are not part of the complaint. If you believe information on a website is relevant, please describe what the website says that you think is important.

SECTION FOUR—Oath: Complaints must be sworn before a notary or other official authorized to administer oaths. Unsworn complaints will be returned.

**Submit the *original* form to the Commission on Ethics.
Photocopies, faxes, or emailed forms cannot be accepted.**



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PLEASE READ INFORMATION FOR COMPLAINANTS

Jurisdiction of the Commission: The Commission on Ethics has the authority to review and investigate complaints concerning possible violations of the State's ethics laws by state and local elected or appointed public officers and public employees and others as designated by Florida law. Most of the ethics laws are contained in Article II, Section 8, Florida Constitution (the Sunshine Amendment) or Part III, Chapter 112, the Code of Ethics for Public Officers and Employees. ***The Commission does not have jurisdiction with respect to the open meetings or public records laws, residency requirements, or elections laws, and has no jurisdiction with respect to judges, federal officials, or most employees or officers of private companies or attorneys in private practice.*** The Commission's jurisdiction is limited to *individual* public officers or employees.

By Florida law, the Commission on Ethics cannot conduct an investigation unless someone files a sworn complaint with the Commission alleging a violation of law has occurred, or it receives a referral from the Governor, the Florida Department of Law Enforcement, a State Attorney, or a U.S. Attorney. Without a complaint or referral, the Commission is unable to take action, even after learning of alleged misconduct through newspaper reports, letters, or phone calls. The Commission cannot accept anonymous complaints and it must disclose the identity of the complainant to the respondent. A copy of the complaint is mailed to the respondent within five (5) working days after receipt by the Commission.

Filing a Complaint: If you have knowledge that a person in government has violated the standards of conduct or disclosure laws or has committed some other breach of the public trust, you may report these violations to the Commission by filing a sworn complaint. Complaints must be on the form promulgated by the Commission. The currently used form is included with these instructions. Provide all the information you want the Commission to consider *with* the complaint; the Commission cannot consider correspondence not accompanied by a sworn complaint. In providing your statement of facts, indicate what the person did that you believe was wrong, and what facts you are aware of that give rise to that belief. If you believe the official—or some other person or entity—benefitted as a result of the alleged wrongdoing, state who you believe benefitted, and how you believe they benefitted.

Please write your complaint as briefly as possible. Including lengthy or voluminous exhibits may slow the processing of your complaint. Please do not include copies of Florida Statutes. Materials such as audio and videotapes, CDs and DVDs, and thumb drives cannot be accepted and will be returned. If you believe material in a book, periodical, website, or other outside source is important, please summarize that information and include it in your complaint, as such sources will not be considered incorporated by reference.



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All complaints are considered independent of one another, so if you are filing complaints against more than one person, please use a separate complaint form, and provide a separate statement of facts, for each person. Because each complaint is confidential until a certain stage is reached, if you file a complaint against someone, please do not refer to or identify other complaints you have made against others.

Pursuant to Section 112.324, Florida Statutes, no complaint or referral may be filed or disclosed with respect to a candidate for election within 30 days immediately preceding the date of the election, unless the complaint or referral is based upon personal information or information other than hearsay.

Statute of Limitations: All sworn complaints alleging a violation of the Sunshine Amendment or the Code of Ethics must be filed with the Commission within five years of the alleged violation. Time starts to run on the day after the violation occurred. The statute of limitations is tolled on the day a sworn complaint is filed with the Commission. If a complaint is filed and the statute of limitations has run, the complaint will be dismissed.

Confidentiality: *The complaint, as well as all proceedings and records relating to the complaint, are confidential until the respondent requests that such records and proceedings be made public or until the complaint reaches a stage in the Commission's proceedings where it becomes public. This means that unless the Commission receives a written waiver of confidentiality from the respondent, the Commission is not free to release any documents or to comment on a complaint to members of the public or press, so long as the complaint remains in a confidential stage.*

Procedures Followed by the Commission: The Florida Commission on Ethics will utilize the following process for your complaint:

1. The Commission staff must forward a copy of the original sworn complaint to the respondent within five working days of its receipt. Any subsequent sworn amendments to the complaint also are transmitted within five days of receipt. The Commission cannot exclude the identity of the complainant or any named witness from this material.
2. Once a complaint is filed, it goes through the following stages:
 - a. Determination of whether the allegations of the complaint are legally sufficient, that is, whether they indicate a possible violation of any law over which the Commission has jurisdiction. If the complaint is found not to be legally



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sufficient, the Commission will order that the complaint be dismissed without investigation, and all records relating to the complaint will become public when that order is rendered.

- b. If the complaint is found to be legally sufficient, the Commission's investigative staff will begin an investigation. The investigator will contact you and this is your best opportunity to provide any additional information you have that you would like the Commission to consider. The investigator will complete an investigative report.
- c. The investigative report is forwarded to the Commission Advocate. The Advocate is an Assistant Attorney General who represents the Commission in its prosecutorial role. The Advocate will make a recommendation as to whether there is probable cause to believe that there has been a violation of any of the ethics laws.
- d. The Advocate's recommendation will be heard by the Commission acting in a quasi-judicial capacity. Unless the respondent has waived his or her right to confidentiality, the meeting is closed to the public. Complainants may be represented by legal counsel at their own expense; however, a complainant is not a party in the Commission's proceedings, and the Commission's rules do not allow the complainant to participate. The complainant, or his or her legal counsel, will be notified of and may attend the hearing at which the Commission decides whether probable cause exists, but cannot participate.
- e. If the Commission finds that there is no probable cause to believe that there has been a violation of the ethics laws, the complaint will be dismissed and will become public when that order is rendered.
- f. If the Commission finds that there is probable cause to believe there has been a violation of the ethics laws, the complaint becomes public. A public hearing—which is similar to a trial—will be held before an Administrative Law Judge (ALJ) of the Division of Administrative Hearings (DOAH), unless the Commission Advocate and the respondent reach a stipulated agreement.
- g. The ALJ's findings, or the stipulated agreement, is then forwarded to the Commission for final action. The Commission is limited in its ability to modify findings of the ALJ. If the Commission rejects a stipulated agreement, the Advocate and the respondent may attempt to reach another agreement, or the case may proceed to DOAH for a public hearing. A person against whom a violation is found may appeal the Commission's final order to a District Court of Appeal.

When the Commission concludes that a violation has been committed, it may recommend one or more penalties to the appropriate disciplinary body or official and issues a public report of its findings. In complaints involving a sitting member of the Legislature the Commission does not have the ability to recommend a penalty.



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Costs and Attorney's Fees: If the complaint is dismissed, the respondent does not have an automatic right to recover the costs of litigation and/or attorney's fees. However, he or she can file a petition asking the Commission to have the complainant pay those costs and attorney's fees. The Commission will decide whether the petition is legally sufficient, a proceeding in which the complainant and the petitioner, or their attorneys, may participate. If the petition is found legally insufficient, it will be dismissed. If the petition is found legally sufficient, there will be a hearing at DOAH, or the complainant and the petitioner may reach a settlement. If the matter is heard at DOAH, the ALJ's recommendation will be returned to the Commission for final action. The Commission is limited in its ability to modify findings of the ALJ. **In any case in which the commission determines that a person has filed a complaint against a public officer or employee with a malicious intent to injure the reputation of such officer or employee by filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this part, the complainant shall be liable for costs plus reasonable attorney fees incurred in the defense of the person complained against, including the costs and reasonable attorney fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission. Section 112.317(7), Florida Statutes.** This decision may be appealed to a District Court of Appeal. If costs and fees are awarded, the Department of Legal Affairs may bring a civil action to recover them, if they are not paid willingly.

Dismissal of Complaints at Any Stage of Disposition: The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Commission will issue a public report stating with particularity its reasons for the dismissal.

Other Information: More information about the ethics laws and the Commission's responsibilities is available at the Commission's website, www.ethics.state.fl.us, which contains publications, rules, and other information.



Florida Commission on Ethics
 P. O. Drawer 15709, Tallahassee, Florida 32317-5709
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COMPLAINT

1. PERSON BRINGING COMPLAINT:

Name: _____ Telephone Number: _____

Address: _____

City: _____ County: _____ State: _____ Zip Code: _____

2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:

Use a separate complaint form for each person you wish to complain against:

Name: _____ Telephone Number: _____

Address: _____

City: _____ County: _____ Zip Code: _____

Title of office or position held or sought: _____

3. STATEMENT OF FACTS:

Please provide a full explanation of your complaint, describing the facts and the actions of the person named above and why you believe he or she violated the law. Include relevant dates and the names and addresses of persons whom you believe may be witnesses. Please do not submit more than 15 pages, including this form. Please do not submit video or audio tapes, CDs, DVDs, flash drives or other electronic media; such material will not be considered part of the complaint and will be returned.

4. OATH

I, the person bringing this complaint, do swear or affirm that the facts set forth in the foregoing complaint and attachments thereto are true and correct to the best of my knowledge and belief.

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me this _____ day of _____, 20 _____, by _____.

(name of person making statement)

 (Signature of Notary Public)

 SIGNATURE OF COMPLAINANT

 (Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____ OR Produced Identification _____
 Type of Identification Produced: _____