

Clark County Ethics Review Commission

Administrative Procedures

(Promulgated pursuant to Clark County Charter Section 8.13,
and Clark County Code 2.07.010)
Revised February 20, 2024

I. GENERAL

1.1 Organization

The Clark County Ethics Commission ("Commission") was established in 2023 pursuant to the Clark County Charter. The three members of the Commission ("Commissioners") are appointed by the Clark County Manager and confirmed by the Clark County Council. The Commission is comprised of qualified individuals in the area of ethical conduct in government and is charged with hearing and ruling on complaints of violations of applicable ethics rules and laws including, without limitation: Clark County Charter Section 8; Chapter 2.07 Clark County Code, Clark County Human Resources Policy 10 – Employment Standards, and Chapter 42.52 Revised Code of Washington (collectively, the "Ethics Code"). The Commission receives legal advice and representation from the Office of the Prosecuting Attorney.

1.2 Meetings

1. Regular meetings of the Commission shall be held quarterly or at such other time as may be designated by the Chair of the Commission ("Chair").
2. Special meetings of the Commission may be called by the Chair with two business days prior written notice, mailed, hand-delivered, faxed, or e-mailed to all Commissioners and posted on the official Commission website. The notice shall include the time and place of the meeting.
3. All meetings of the Commission shall be open meetings in accordance with the Washington Open Public Meetings Act, Chapter 42.30 RCW.
4. The Chair, or designee, shall be present in-person or virtually at all regular and special meetings of the Commission.
5. An agenda or standing agenda and summary minutes shall be produced for all Commission meetings and, after approval of a majority of Commissioners present, shall be posted electronically on the Commission website. These may be redacted by the Chair at the discretion of the Commission.

1.3 Virtual Participation at Meetings

Meetings will be held in a hybrid format, allowing participation in person and online.

1.4 Quorum and Voting

1. Two Commissioners are required for a quorum.
2. Any matter coming before the Commission may be decided by majority of those Commissioners present, provided that the quorum requirements are met.
3. Voting by Commissioners shall be by voice.

1.5 Leadership of the Commission

1. The Commission shall annually elect a Chair at its last regular meeting of the year, who will take office on January 1 of the following year or as soon thereafter as is practicable. If election of a Chair becomes necessary due to absence caused by the Chair's end of term, lack of reappointment for a second term, or any other circumstances, then the Commission shall elect a new Chair as soon as practicable.

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2. In the case of an election outside the annual cycle, the vote at the last regular meeting of the year may be either a vote of confidence or for the election of a new Chair at the will of a majority of the Commissioners.
3. Commissioners may request to be excused from a meeting for bona fide reasons by requesting same of the Chair in advance of the meeting. The Chair may excuse the absence during roll call unless an opposing motion from the Commission is passed.
4. Unexcused absences will be reflected in the meeting minutes. In the event any Commissioner has three unexcused absences, as deemed by the Chair, within a one-year period, they will be recorded in the minutes and the Commission shall report such fact to the Clark County Manager, along with a request that removal proceedings be initiated.

1.6 Public Records

All records of the Commission are deemed to be available for public inspection except as specifically exempted by Chapter 42.56 RCW, or other applicable law. The Clark County Manager's designee is the records custodian for the Commission's public records.

1.7 Commission Website

The Commission shall provide the following records to the County Manager's designee, who shall post them on the Commission website.

1. Rulings on violations of the Ethics Code and what action the Commission deems appropriate as provided under Clark County Code § 2.07.020.
2. Other records the Commission determines would be beneficial if made publicly available.

II. ENFORCEMENT PROCEDURES

1. Enforcement of the Ethics Code by the Commission is through the complaint and investigation process set forth in Clark County Charter Section 8.13 and the Clark County Business Process: Ethics Complaint (as may be amended from time to time only with the vote, approval, or consent of a majority of Commissioners).
2. As provided in the Ethics Code, a complaint alleging violation of the Code by any Clark County employee or elected or appointed official ("Clark County Personnel") may be filed by calling the Clark County Ethics Hotline, 564-397-2525, and leaving a message detailing the violation, or any other method approved by the Commission.
3. All complaints filed with the Commission shall be considered part of the Commission's investigative record and shall be public record and subject to public disclosure unless subject to exemption pursuant to the Code or state law.

III. CONDUCT OF HEARINGS FOLLOWING PRELIMINARY RULING OF SUFFICIENT CAUSE

3.1 General

After receipt of an ethics complaint, the Commission will determine whether the allegations in the complaint do not constitute an ethics violation and the matter should be closed, or that there is sufficient cause to warrant an investigation. If the Commission rules that there is sufficient cause to warrant an investigation, then after investigation the Commission will rule whether allegations in the complaint do not constitute an ethics violation and the matter should be closed, or that the Commission will hold a hearing on the complaint. If after investigation the Commission rules that a hearing will be held, the hearing will take place subject to the following procedures:

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1. Hearings conducted by the Commission shall be informal with technical rules of evidence not applying to the proceedings except for the rules of privilege recognized by law. Legal counsel and/or a bargaining representative may represent the complainant or respondent. Each of the complainant and respondent may provide testimony, call witnesses, cross-examine witnesses, and offer evidence to the Commission. The Commission may call witnesses on its own motion, and may request the production of any documents or materials, including electronic, paper, or other evidence. The Commission may request further testimony and evidence, on its own behalf or on behalf of the complainant or the respondent. The Commission may adjourn its hearing from time to time to allow for the orderly presentation of evidence.
2. Upon motion of complainant or respondent, or upon its own motion, the Commission may temporarily stay or permanently suspend its hearing when, in its informed discretion, the manifest needs of justice and fairness will be better served thereby.
3. Briefs, memoranda, documentation, and related materials the complainant or respondent submits for review by the Commission must be submitted to the County Manager's designee in writing no later than ten (10) business days prior to the scheduled hearing.
4. The County Manager's designee shall prepare an official record of the hearing, including all testimony (which shall be recorded manually or electronically), and exhibits; provided, the Commission shall not be required to transcribe such records unless an individual entitled to knowledge of the contents of the record presents a request accompanied by payment of the cost of transcription.
5. A hearing shall include, but not be limited to:
 - a. A brief introductory statement by the Chair;
 - b. Presentation of the complaint and investigation report by the Clark County Human Resources Director ("HR Director");
 - c. The complainant shall have an opportunity to provide testimony, call witnesses (whom respondent shall have an opportunity to cross examine), and offer evidence to the Commission;
 - d. After the complainant rests, the respondent shall have an opportunity to provide testimony, call witnesses (whom complainant shall have an opportunity to cross examine), and offer evidence to the Commission;
 - e. The Commissioners may question the complainant, following which the Commissioners may question the respondent; and
 - f. Each of the respondent and the complainant may present a summary or closing argument.
6. The Chair may alter the order of presentation of evidence.
7. Hearings shall be open to the public, provided that the Commission may hold executive sessions pursuant to the Washington Open Public Meetings Act. Because such hearings are quasi-judicial in nature, public participation is not allowed; only the parties, their representatives, or witnesses called by the parties may address the Commission. Deliberations by the Commission will be conducted in closed executive session. Executive session is a "closed to the public" portion of the meeting.
8. The final decision of the Commission shall be made by motion and vote in an open public meeting.

3.2 Presiding Officials

The Chair shall preside over all hearings. If the Chair is absent or disqualified, the remaining members shall appoint a Commissioner who shall preside as the Hearing Chair.

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1. The Commission has the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of the proceedings, and to maintain order. The Chair or the appointee shall have all powers necessary to that end, including the following:
 - a. Ruling on offers of proof and receiving evidence;
 - b. Regulating the course of hearings and the conduct of parties and their agents including the determination, either before or during the hearing, of the length of time appropriate for all hearing presentations;
 - c. Considering and ruling on all procedural and other motions appropriate to the proceedings;
 - d. Making and issuing written determinations and recommendations.
2. Any Commissioner may, on their own initiative, recuse themselves in the event of a conflict of interest, bias, or prejudice, or the appearance thereof.

A complainant or respondent may file a request that a Commissioner recuse themselves, by stating that a fair and impartial hearing cannot be had by reason of the conflict of interest, bias, or prejudice of that Commissioner. The request must set forth facts and reasons for the belief that the conflict of interest, bias, or prejudice exists. The request shall be filed not less than ten (10) business days before the date of the hearing. After consultation with the Commissioners identified in the request and any others the Chair deems necessary, the Commission shall rule on the request prior to making any other ruling, provided that the Commissioner whose recusal is sought may not vote on the request.

3.3 Time Limit on Oral Testimony

1. The Chair may impose time limitations on oral testimony as necessary to expedite proceedings and avoid continuation of a hearing. The Chair will provide as much advance notice as practicable when time limits are imposed.
2. This time limit may be announced at the beginning of the hearing and shall be enforced by the Chair in a fair and equitable manner. The time limit may be extended or limited at the discretion of the Chair for good cause shown.

3.4 Rights of Parties

1. When a complaint has been submitted to the Commission, neither the complainant nor any other person shall have special standing to participate or intervene in the investigation of the complaint.
2. Each complainant and each respondent shall have the right of due notice, presentation of evidence, objection, motion, argument, and all other rights essential to a fair hearing.
3. The Commission may request final briefs, in which case the hearing will be continued to a date and time certain not longer than 45 days. Final briefs must be filed with the County Manager's designee by noon on the fifth business day following the hearing. The Commission may accept and deliberate on these briefs in executive session.

3.5 Ex Parte Communications

1. "Ex Parte Communications" for purposes of this section means a communication with the complainant, respondent, a witness, or any other person regarding a pending complaint when that communication takes place outside of a scheduled hearing.

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2. Unless required for the disposition of administrative matters or unless necessary to procedural aspects of maintaining an orderly process, a Member shall not engage in ex parte communications.
3. A Member who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the Member received an ex parte communication.
4. If necessary to eliminate the effect of an ex parte communication received in violation of this section, a Commissioner who receives the communication may be disqualified pursuant to Section 3.3, subsection 4 of these Administrative Procedures, and the portions of the record pertaining to the communication may be sealed by order of the Chair.

3.6 Commission Rulings

Within 30 calendar days after the conclusion of a hearing on a complaint, the Commission shall, based upon a preponderance of the evidence, make and fully record, in its permanent records, a written ruling on the complaint and what action it deems appropriate as provided under Clark County Code § 2.07.020. The Commission shall promptly forward the written decision to the County Manager's designee. The designee shall promptly serve the ruling by certified mail to the complainant and to the respondent at addresses provided by such parties to the Commission.

IV. MEETINGS AND PUBLIC PARTICIPATION

4.1 Public Participation

1. Regular meetings of the Commission shall be open to the public and will always have time designated on the agenda for public input. This shall be an opportunity for interested parties to address the Commission on issues of concern or to provide feedback on issues related to the Code or its enforcement. Public input is an official "on the record" communication designed to provide the Commission with pertinent information to consider during their decision making processes. This oral process does not replace or append the process for filing a complaint.
2. When the Chair announces the time for public input, those wishing to speak will be asked to state their full name, relationship to the County, (e.g. citizen, employee, staff person, business representative, elected official etc.), and the topic of their presentation or request.
3. A time limit of three (3) minutes will be announced by the Chair to each speaker prior to their participation. The Chair shall have the discretion to extend this time limit.
4. It is best practice that the speaker's presentation be mailed, emailed, or posted to the Commission Chair prior to the meeting. This is particularly true for longer presentations reviewing a significant number of facts and better ensures such information can be organized and considered efficiently. The Chair may request a speaker to put their comments in writing to the Commission during or after their presentation in order to receive the Commission's full consideration.
5. Once the speaker has used the allotted time, Commissioners may ask questions and the speaker may respond. The Chair, at his or her discretion, may cut off the remaining time for any speaker.
6. If a member of the public wishes to have an item scheduled on an agenda, it should be submitted in writing to the Chair no later than 20 business days prior to the meeting. Such submissions do not obligate the Chair or Commission to consider the item or to place it on the agenda.

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4.2 Executive Session

Executive Session is a "closed to the public" portion of the meeting for discussion of confidential matters or for evaluation of evidence presented. No vote or final action will be taken in Executive Session. When the Chair convenes the Commission into Executive Session, the purpose and expected ending time of the session will be announced. If further time is required past this limit, a Commissioner shall announce the extended time limitation to any waiting members of the public. The Chair has the discretion to extend Executive Session for a full and reasonable opportunity to discuss all pertinent matters. Only the Commissioners, the Commission's legal counsel, the County Manager's designee, the Director of the county Human Resources Department, and those invited by the Chair to assist with the topic being discussed will be allowed to attend or participate in Executive Session. When the Commission returns from Executive Session, the regular meeting will be reconvened and any decisions related to the Executive Session topic(s) will be made in regular session where the public may attend. Executive sessions may be called for discussion of topics allowed by state law.

V. AMENDING ADMINISTRATIVE PROCEDURES

These Administrative Procedures may be amended by the affirmative vote, approval, or consent of a majority of the Commission.