

# ETHICS

## COMPLAINT PROCEDURES (11/18)



### Administrative Rules of Montana 44.10.604 through 44.10.613

A person may file a written complaint with the Commissioner of Political Practices if that person believes a violation of a provision of the ethics laws or rules has occurred. These laws and rules are contained within Montana Code Annotated Title 2, chapter 2, part 1 and Administrative Rules of Montana Title 44, Chapter 10, Sub-Chapter 6.

### HOW TO SUBMIT A COMPLAINT

A complaint may be submitted using the optional Complaint Form available from the Commissioner. The form may be requested in person or by telephone, e-mail, or fax. The form can be downloaded from the agency website: [www.politicalpractices.mt.gov](http://www.politicalpractices.mt.gov)

A complaint:

- must be typewritten or legibly handwritten or printed in ink;
- must include the complete name and complete mailing address of the person filing the complaint;
- must provide the complete name of the alleged violator and should include a complete mailing address;
- One complaint per individual, if you are alleging a violation against more than one individual, you must submit separate complaints
- must describe in detail the alleged violation, including pertinent dates and the statute(s) and/or rule(s) believed to have been violated;
- should include as an attachment any evidentiary material;
- must be signed and notarized; and
- must be delivered to the Commissioner's office in person or sent certified mail.

**Please note:** The Office of the Commissioner of Political Practices does not conduct investigations in ethics complaints. Rather, if a complaint is accepted it proceeds to an informal contested case proceeding, Mont. Code Ann. §2-4-604. The complainant and respondent are provided an opportunity to conduct discovery, and they present the evidence of the violations of the Code of Ethics to a hearing examiner and the Commissioner. Additionally, the Commissioner may assess the costs of the proceeding against the complainant or respondent, Mont. Code Ann. §2-2-136(2)(c).

## **Following Submission of an Ethics Complaint**

### State employees:

An ethics complaint, once submitted, is considered “lodged” with the COPP. The COPP will maintain the confidentiality of all non-elected state employees while it considers whether the lodged complaint concerns a person or activity under COPP jurisdiction. The complaint will be listed on the COPP website, identified by the initials of the complainant and respondent. After consideration the Commissioner will issue an initial determination accepting or rejecting the lodged ethics complaint for filing within 60 days of receipt of the complaint unless the Commissioner notifies the parties in writing explaining additional time is necessary. A complaint that is accepted for filing may trigger an informal hearing process before the Commissioner. The confidentiality provision does not apply at the hearing stage.

### Elected officials:

Confidentiality does not apply. An ethics complaint, once submitted, is considered “lodged” with the COPP. All lodged ethics complaints against an elected official will not be considered confidential while the COPP considers whether the lodged complaint concerns a person or activity under COPP jurisdiction. The complaint will be listed on the COPP website identified by the full name of the complainant and respondent. After consideration the Commissioner will issue an initial determination accepting or rejecting the lodged ethics complaint for filing within 60 days of receipt of the complaint unless the Commissioner notifies the parties in writing explaining additional time is necessary. A complaint that is accepted for filing may trigger an informal hearing process before the Commissioner.

Information on ethic complaint and processes can be found at <http://politicalpractices.mt.gov/ethics>

A complaint that is accepted for filing will trigger a hearing process before the Commissioner. A hearing officer may be appointed and an informal contested case hearing may be scheduled addressing the issues raised in the complaint. The hearing will be conducted under the rules set by the Montana Administrative Procedures Act. Following the hearing the Commissioner will issue a Decision based on the record established at the hearing.

## **Confidentiality**

An ethics complaints alleges an inappropriate work related action of a state of Montana employee or non-elected public official. Such an allegation may infringe on an area of work related privacy and ethics complaints are therefore subject to a period of confidentiality that ends with the Commissioner’s Decision as to whether to accept or reject a lodged ethics complaint. The person submitting the ethics complaint must maintain the confidentiality of the complaint until the Commissioner issues the acceptance/rejection Decision.

As applied to submitted Ethics complaints, Confidentiality does not apply to elected officials.