

COMMISSIONER OF POLITICAL PRACTICES



STATE OF MONTANA

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COMMISSIONER
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Campaign Complaint and Investigation Procedures

Anyone who believes a violation of campaign finance and practices laws or rules has occurred can file a complaint with the Commissioner of Political Practices.

- The complaint must describe in detail the alleged violation;
- It *must* cite the statutes or rules under the Commissioner's authority believed to have been violated;
- Attach any evidentiary material to the complaint.

Complaints must be typewritten or legibly handwritten in ink. They must:

- Include the complete name and mailing address of the person filing the complaint;
- Provide the complete name of the alleged violator and a complete mailing address, if possible;
- Complaints must be signed and notarized; and
- Must be delivered in person or sent by certified mail.

The laws and rules under the Commissioner's jurisdiction can be found by following the links on the Political Practices website. See Montana Code Annotated Title 13, chapters 35 and 37, and in Title 44, Chapter 10 of the Administrative Rules of Montana. Only complaints of violations of these specific laws and rules can be accepted.

Information and a complaint form are available at the Commissioner's office in Helena, on the Commissioner's website, or by phone or e-mail cpphelp@mt.gov. Use of the form isn't required, but all information must be included and all other requirements met.

Following receipt of a complaint

You'll get a response, usually within a week or ten days of receipt of the complaint. When a complaint is properly filed and alleges violations of laws or rules under the Commissioner's jurisdiction, the person or group that's the subject of the complaint is sent a copy with an offer of an opportunity to respond in writing.

No investigation is required if a complaint is:

- frivolous on its face,
- illegible,
- too indefinite,
- does not identify the alleged violator, or
- is not signed, or is not notarized.

Further, no investigation is required if the complaint does not contain sufficiently detailed allegations to enable a determination that it states a potential violation of a statute or rule within the Commissioner's jurisdiction.

Complaint Response

Once a response is received, a determination is made whether the Commissioner will dismiss the complaint, issue a decision based on the information received, or assign the complaint to an investigator for investigation. The notice, response, review and determination normally take at least six weeks. Depending on workload, it can take up to several months or more.

Investigation

Once an investigation is opened, the investigator will contact both the complainant and the respondent to verify contact information. The investigator will analyze documents, collect evidence and interview witnesses as needed.

There is no set time frame for the length of an investigation. One primary consideration is workload, and the docket of active complaints often exceeds the ability of the investigators and attorneys to keep up. Some complaints are dismissed within days or weeks; others involve investigations and legal research that can go on for months or longer, depending on the complexity of the facts and legal issues involved and the degree of cooperation of the respondent and witnesses. We do everything within our power to respond in a timely way. At the same time, there is no escaping the fact that we don't have the resources to handle every complaint quickly.

Representation by Counsel

A respondent may, at his or her own expense, be represented by an attorney at any stage of the investigation. It is not required, however.

Resolution of Complaints

Once the investigation is completed and the necessary legal research has been done, the Commissioner will issue a formal *Summary of Facts and Statement of Findings* or a less formal *Letter of Decision*. One or the other of these documents comprises the decision, and a copy is sent to both the complainant and the respondent via certified mail. Two days later, the decision is posted to the web and made available to the news media and the public.

Prosecution

Montana law confers authority to prosecute violations of the campaign finance and practices laws and rules on both the county attorney of the county in which the violation takes place and the commissioner. If the commissioner has determined there is sufficient evidence to justify prosecution, the county attorney is also notified, and sent a copy of the decision. If the county attorney declines to initiate legal action or waives the right to prosecute, the commissioner is authorized to initiate appropriate legal action. The commissioner has the discretion to file a lawsuit in district court, decline to prosecute, or seek a final settlement on each complaint on a case by case basis.

Disclosure

The fact that a complaint has been filed is public information, and anyone may request a copy of the complaint at any time thereafter. If a complaint contains information raising potential claims of privacy, privilege, or confidentiality, the Commissioner will proceed according to the formal policy referenced below; otherwise, the complaint will be publicly disclosed.

The decision is a public document. Complaints and decisions are posted to the agency's website. The investigation file is not available for public inspection except as provided in the policy referenced below – requests to review any of the information in the file are subject to review and weighing of privacy rights versus the public's right to know. The procedure for this review and weighing of competing rights is available on request, and posted on the website.