

COMMISSIONER OF POLITICAL PRACTICES



STATE OF MONTANA

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Confidentiality in Ethic Complaints as submitted to the Montana Commissioner of Political Practices

United States Court of Appeals for the Ninth Circuit Case No. 18-35115, Tschida v. Mangan

On May 29, 2019 the United States Court of Appeals for the Ninth Circuit issued a ruling that the confidentiality provision contained in Mont. Code Ann. § 2-2-136(4) as applied to state employees and public officials in the State of Montana when an ethics complaint is filed with the Montana Commissioner of Political Practices (COPP) is unconstitutional.

Effective immediately, the COPP will apply the ruling of the Court to all future ethics complaints submitted to the Commissioner's office. What does this mean? Prior to the May 29, 2019 ruling, all ethics complaints submitted, or "lodged" with the COPP were considered confidential for state employees while the COPP determined whether the complaint would be accepted or rejected for filing. Following the ruling, the COPP will:

As of May 29, 2019, confidentiality does not apply to either elected officials or public employees. An ethics complaint, once submitted, is considered "lodged" with the COPP. All lodged ethics complaints against both elected officials and all public employees 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 a public written decision either accepting or rejecting the lodged ethics complaint for filing. The written decision will be made available on the Commissioner's website. A complaint¹ that is accepted for filing may result in an informal contested case hearing before the Commissioner.

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

Montana Commissioner of Political Practices

¹ Note – The Commissioner's office will develop guidelines to ensure protected personal information that may be contained in a complaint (such as social security number, medical information, etc.) are properly redacted.