



ETHICS ADVISORY COMMISSION

RULES OF PROCEDURE

CITY OF DALLAS, TEXAS

Adopted: 10/27/06

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08/27/15, 10/1/15, 10/16/15, 06/20/17, and 10/17/23**

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Section 1. JURISDICTION AND POWERS.

1.1 Jurisdiction. The ethics advisory commission (“commission”) shall have jurisdiction to review and make findings concerning any alleged violation of the laws, ordinances, and rules listed in the Dallas City Code Chapter 12A (the Code of Ethics) by any person subject to those laws, ordinances, or rules, including but not limited to current city officials and employees, former city officials and employees, and persons doing business with the city, if an information is filed within one year after the date of the alleged violation. The commission acquires jurisdiction over an ethics case when the inspector general files an information with the city secretary alleging an ethics violation.

[See Dallas City Code, Section 12A-50]

1.2 Powers. The ethics advisory commission has the following powers only:

- (1) To establish, amend, and rescind rules and procedures governing its own internal organization and operations in a manner and form consistent with Chapter 12A.
- (2) To meet as often as necessary to fulfill its responsibilities.
- (3) To request from the city manager through the city council the appointment of such staff as is necessary to carry out the duties of the commission.
- (4) To review and dispose of informations brought by the inspector general.
- (5) To make findings of fact as necessary for the disposition of an information.
- (6) To approve, reject, or modify settlement agreements between the inspector general and respondents.
- (7) To review invoices submitted by outside counsel and determine whether the legal fees and costs are reasonable and necessary.
- (8) To make notifications and extend deadlines within the jurisdiction of the ethics advisory commission.
- (9) To advise and make recommendations to the city council concerning the city’s ethics code and ethics policies.
- (10) To make determinations that complainants are vexatious, make findings of facts, and sanction persons who are deemed vexatious complainants.
- (11) Such other powers as are specifically granted in Chapter 12A or by the city council.
- (12) To issue subpoenas for the attendance of witness or for the production of documents or other evidence.

[See Dallas City Code, Section 12A-50]

1.3 Amendments to the Rules. When the commission chair deems appropriate, the chair may appoint an ad hoc rules committee to consider amendments to the rules of procedure, with the ad hoc committee chair and vice chair also appointed by the commission chair. Recommendations made by the ad hoc rules committee are not binding on the commission. Amendments to the rules of procedure are adopted by a simple majority vote of the commission. After amending the rules of procedure, the ethics advisory commission shall provide a copy of the amended rules to the city council for acknowledgment of receipt by resolution.

Section 2. MEETINGS OTHER THAN EVIDENTIARY HEARINGS.

2.1 Regular Meetings. The ethics advisory commission shall hold regular quarterly meetings, as the responsibilities of the commission necessitate, at a location within a city building. The meeting time is 9:30 a.m. on the third Tuesday of the month, unless the commission approves alternate meeting days or times when adopting their calendar.

[See Dallas City Code, Section 8-2]

2.2 Special Meetings. Special meetings may be called by the chair at any time. Special meetings shall be called by the chair upon the written request of three members of the commission.

[See Dallas City Code, Section 8-3]

2.3 Quorum. At the beginning of each regular or special meeting, the chair shall determine whether or not a quorum exists to properly transact business of the commission. A quorum exists when there are physically present a simple majority of the number of members officially appointed to the commission, regardless of the total number of members actually provided for the commission, except that a quorum may never be fewer than six members. If a quorum does not exist 30 minutes after the time for which the meeting was called, the chair shall adjourn the meeting and may call a special meeting, depending on the circumstances.

[See Dallas City Code, Section 8-4]

2.4 Notice of Meetings. Notice of all special and regular meetings of the commission shall be published in accordance with the Texas Open Meetings Act.

[See Dallas City Code, Section 8-7]

2.5 Public Speakers. The public may speak at regular and special meetings of the commission regarding any item being considered on the commission's posted agenda at a designated time before or during the commission's consideration of the item. Each speaker will have a maximum of three minutes to speak unless the time limit is shortened or extended by a majority vote of the commission.

Public speakers and other members of the public attending a commission meeting shall comply with the rules of conduct and decorum set forth in Section 8-25 of the Dallas City Code.

[See Dallas City Code, Section 8-6(d)]

2.6 Review of Outside Counsel Invoices. When the city attorney has reason to question the reasonableness or necessity of an invoice submitted by outside legal counsel, the city attorney may request the commission to review and determine whether the invoice is reasonable and necessary. When the chair receives this request, the chair shall place an item on the commission's next regular meeting agenda to determine the reasonableness and necessity of the invoice.

[See Dallas City Code, Section 12A-48(b)(2)]

2.7 Public Character of Meetings and Actions. All meetings of the commission shall be open to the public unless pertaining to matters authorized under the Texas Open Meetings Act to be discussed in executive session. All actions of the commission shall be public and sufficient copies of the minutes shall be filed with the city secretary, who will make them available to staff members, the news media, and other interested persons upon request.

[See Dallas City Code, Section 8-6(a)]

2.8 Executive Session. When meeting in executive session, the chair shall publicly announce the category under the Texas Open Meetings Act that permits the executive session, tape record the executive session, and comply with all other requirements of the Texas Open Meetings Act applicable to executive sessions.

[See Dallas City Code, Section 8-6(b)]

Section 3. COMPUTATION OF TIME.

3.1 In general. In computing any period of time prescribed in these rules, the day of the act or event from which the designated period of time begins to run is not included.

3.2 Saturdays, Sundays, and Holidays. Time periods are calculated based on calendar days, including Saturdays, Sundays and official holidays. The last day of the time period is included, unless it is a Saturday, Sunday, or official holiday observed by the city, in which event the period runs until 5:15 p.m. of the next day that is not a Saturday, Sunday, or official holiday observed by the city.

Section 4. SETTLEMENT APPROVALS.

4.1 Consideration and Approval of Settlement Recommendations. The inspector general may enter into a settlement agreement with a respondent who is not a current city employee. The commission may reject or modify the settlement agreement by a 3/4 vote of the commission members present or approve the settlement agreement by a simple majority vote of the commission members present at the commission's next regular meeting. If the settlement is not modified or rejected at the next regular meeting, the settlement is deemed approved. If the commission rejects the settlement or modifies the settlement in a way not approved by the respondent, the information shall be scheduled for an evidentiary hearing. The subsequent deadlines for scheduling an evidentiary hearing, providing notice of hearing date, submitting a response, and exchanging witness lists, exhibits lists, and documents are counted from the date of the commission's action on the settlement.

[See Dallas City Code, Sections 12A-50(d)(6), 12A-52(b)(3)]

4.2 Recommendation of the Settlement Agreement. The commission's approved recommended sanction will be conveyed to the respective board or city council for review and approval at the next available meeting. Settlement agreements approved by the ethics advisory commission must include the final recommended sanction, if any.

[See Dallas City Code, Section 12A-58(h)]

Section 5. EVIDENTIARY HEARINGS.

5.1 Filing the Information. If the inspector general finds that there exists a credible allegation that a violation occurred and a settlement agreement has not been reached, the inspector general shall file an information with the ethics advisory commission by submitting the information to the city secretary to be distributed to the commission and respondent.

[See Dallas City Code, Section 12A-52(b)(4)]

5.2 Amending the Information. The inspector general may amend the filed information by submitting the amended information to the city secretary to be distributed to the commission and respondent. An amended information may be filed for the following reasons only:

- (1) to correct incorrect statements in the information;
- (2) to allege a new or additional violation of a law, ordinance, or rule;
- (3) to remove an alleged violation of a law, ordinance, or rule.

An amended information may only be filed within seven days after the city secretary's acceptance of the original information.

Once an amended information is filed, the subsequent deadlines for scheduling an evidentiary hearing, providing notice of hearing date, submitting a response, and exchanging witness lists, exhibits lists, and documents are reset to be counted from the date of the filed amended information.

5.3 Withdrawing the Information. The inspector general may withdraw the filed information if the respondent agrees to the withdrawal in writing. The notice of withdrawal must be received by the city secretary's office no later than 9:00 a.m. of the last business day before the date scheduled for the evidentiary hearing.

5.4 Scheduling Evidentiary Hearing. The city secretary shall schedule an evidentiary hearing a minimum of 60 days after receiving the information from the inspector general. The city secretary shall select five members on a random basis, subject to availability, from the commission to serve on the hearing panel to adjudicate the case. The panel chair shall meet a special qualification requirement and shall act as the presiding officer of the panel. Additionally, the panel must include at least one other member meeting the special qualifications requirements. The city secretary shall notify each party of the names of the panel members. If a panel member is not able to serve at the hearing, the city secretary shall promptly designate a replacement and shall inform all parties of the replacement.

[See Dallas City Code, Section 12A-49(b)]

5.5 Notice of Hearing Date. At least 45 days prior to the hearing, written notice of the hearing shall be sent to the respondent's last known address by certified mail or personal service and to the inspector general, the commission, and the city attorney's office by electronic mail. Courier service may be used to provide notice by personal service. If consent is given in writing, the respondent may agree to accept notice by facsimile, email, or first-class mail.

5.6 Responses. The respondent shall have the opportunity to submit a sworn statement, together with such other information he/she feels is relevant, in response to the charges to be considered at the evidentiary hearing. Responses should be received in the city secretary's office and in the inspector general's office at least 21 days before the date of the evidentiary hearing so that the commission and the IG may have sufficient time to review the responses.

Failure to file a response in a timely manner may result in: (1) the continuance or reset of the evidentiary hearing; or (2) the refusal of the panel to accept a response. If a response is not received by the city secretary's office before the 21-day deadline, the panel, at its discretion, may waive the requirement and the response may be considered at the hearing.

5.7 Witness Lists, Exhibits Lists, and Documents. At least 14 days before the posted start time of the hearing, the inspector general and the respondent shall submit to the opposing party:

- (1) a list of all witnesses that will testify at the hearing;
- (2) a list of all exhibits that will be introduced at the hearing; and
- (3) all documents that will be introduced at the hearing.

If a party does not meet the 14-day deadline, the chair may exclude any exhibit not exchanged by the deadline and the testimony of a witness not identified as a witness by the deadline.

5.8 Agreed Continuances. Before the day of the scheduled hearing, the inspector general and respondent may agree to a need to postpone the hearing. When the parties agree on a continuance, they shall submit their continuance request to the city secretary in writing. The written communication must include the minimum amount of time needed for the delay. The city secretary shall notify the panel and reschedule the hearing.

5.9 Preliminary Motions. Motions having to do with preliminary matters that the inspector general or respondent wishes the panel to consider at the evidentiary hearing before the parties begin presenting their cases-in-chief must be filed with the city secretary's office at least seven days before the evidentiary hearing.

Within one business day after receipt, the city secretary's office shall promptly forward the motions to the panel, the city attorney's office, the inspector general, and the respondent.

A party that requests the panel to consider a motion filed or argued after the seven-day deadline may do so only after showing good cause as to why the seven-day deadline was not met. Parties may proceed with these motions at the discretion of the chair.

The panel chair shall make any rulings on preliminary motions. The chair's rulings may be overruled or modified by a majority vote of the other panel members.

5.10 Stipulations. Subject to the panel's approval, the parties may stipulate to any factual, legal, or preliminary matters. A stipulation must be filed in writing or stated on the record.

5.11 Subpoenas. Additional information may be needed when adjudicating an ethics complaint. In those circumstances, the panel shall have the power to issue subpoenas in accordance with Section 12A-50(e).

[See Dallas City Code, Section 12A-50(e)]

5.12 Failure of Respondent to Appear. If a respondent fails to appear for the hearing in violation of a duly issued subpoena, the hearing may proceed in the respondent's absence without the respondent offering a defense. Proceeding with the hearing does not waive any remedies the city has to pursue an action against a respondent for failing to appear.

5.13 Quorum Requirement. A quorum of at least four commissioners must be present for an evidentiary hearing. If no quorum is present within 30 minutes after the posted start time, the city secretary shall reschedule the hearing date and provide all parties with written notice by certified mail, personal service, or by other means agreed to in writing by the parties, at least 10 days before the new hearing date.

[See Dallas City Code, Sections 8-4, 12A-50(d)]

5.14 Executive Session. The panel may go into executive session and shall publicly announce the purpose of such a session and the provision under the Texas Open Meetings Act that permits such session. All executive sessions of the panel must be recorded as required by Section 8-6 of the Dallas City Code.

[See Dallas City Code, Section 8-6(b)]

5.15 Placing Witnesses Under the Rule. Upon request by either party, the witnesses on both sides shall be sworn and removed from the hearing room so they cannot hear the testimony as delivered by any other witness in the case. Witnesses shall be instructed that they are not to converse with each other or with any other person about the case, other than the attorneys in the case.

5.16 Hearing Procedures. Evidentiary hearings shall be conducted in accordance with this section.

The chair shall call the hearing to order, announce the time the hearing is called to order, and state whether a quorum of the panel is present. The chair shall identify the complaint being considered by the panel.

Each of the following persons attending the hearing shall state his/her name and title for the record:

- EAC panel members.
- City Secretary's Office staff.
- City Attorney's Office staff.
- Inspector general and his/her representative.
- Respondent and his/her representative.

The city secretary's office shall administer an oath to everyone who is to provide testimony during the hearing.

The panel will then consider motions regarding preliminary matters by the respondent and inspector general.

The hearing will be conducted in two phases:

- (1) During **Phase I**, the panel will only determine whether one or more laws, ordinances, or rules were violated. The standard of evidence for this Phase is a preponderance of the evidence. A respondent may plead true to an allegation during this phase of the hearing.
- (2) If the panel finds that one or more laws, ordinances, or rules were violated, the hearing proceeds into **Phase II** to determine the recommended sanction. The panel shall hear arguments from the inspector general and respondent at this time as to the recommended sanction, if any. The panel should consider the following factors during Phase II deliberations:
 - The culpability of the person charged.
 - The harm to public or private interests resulting from the violation.
 - The necessity of preserving public trust in the city.
 - Whether there is evidence of a pattern of disregard for ethical standards.
 - Whether remedial action has been taken that will mitigate the adverse effects of the violation.

For current city employees, the panel may only recommend that the sanctioning person “take appropriate action in accordance with the personnel rules” plus any of the additional sanctions listed in Section 12A-59(b), if any. For all other respondents, the panel may recommend any of the sanctions listed in the applicable subsection of Section 12A-59.

In each phase, the parties have the opportunity to make opening statements, with the inspector general presenting first, the respondent presenting second, followed by a rebuttal by the inspector general. The inspector general shall then present the case of the prosecution, and the respondent may present the case of the defense. The parties may offer closing statements in the same order as the opening statements.

The panel chair shall make any rulings regarding evidence or procedure. The chair’s rulings may be overruled or modified by a majority vote of the other panel members. The chair may exclude:

- (1) redundant, irrelevant, or cumulative evidence;
- (2) evidence that is not competent or properly authenticated;
- (3) any exhibit not previously exchanged; and
- (4) the testimony of a witness not previously identified as a witness.

In each phase, once both the inspector general and respondent have presented their cases, the chair will ask the panel for a motion. The panel will then discuss the evidence presented and make a determination. In Phase I, a determination that a violation has occurred can be made only upon a concurring vote of at least four members of the panel. In Phase II, a recommendation on sanctions may be made by a concurring vote of a simple majority of the panel.

[See Dallas City Code, Section 12A-53(c)]

5.17 Written Decision. At the conclusion of the hearing, the panel shall issue a written decision on the evidentiary hearing decision form provided by the city secretary’s office. The panel shall make all reasonable efforts to issue that decision within 20 days after the conclusion of the evidentiary hearing.

[See Dallas City Code, Section [s] 12A-54(a)]

At the termination of the hearing, each panel member participating in the hearing shall sign the evidentiary hearing decision form.

5.18 Notification. Within 10 days after the written decision is issued, the panel shall forward copies of the written decision to the respondent, the inspector general, the city attorney's office, the city council, any EAC member not participating in the decision, and any person or body to whom a complaint is being referred for sanctions under Section 12A-54.

The city secretary shall make the decision available to the public as authorized by law.

[See Dallas City Code, Section 12A54(b)]

5.19 Sanctions. When a panel refers a matter to the city council as prescribed in Sections 12A-59(d), (e), and (f) of the code of ethics, the city secretary's office shall prepare a resolution that states the findings of the panel and any recommended sanctions. The city secretary's office shall place the resolution for council action on the first available city council voting agenda meeting occurring after the date of the panel decision.

[See Dallas City Code, Sections 12A-59(d)-(f)]

5.20 Conduct and Decorum. Parties, representatives, witnesses, other participants, and members of the public shall conduct themselves with dignity, show courtesy and respect for one another and for the panel members, and follow any additional guidelines of decorum prescribed by the panel. Attorneys shall adhere to the standards of conduct in the Texas Lawyers' Creed promulgated by the Texas Supreme Court. To maintain and enforce proper conduct and decorum, the chair may direct the sergeant-at-arms to remove violators from the hearing room.

Section 6. VEXATIOUS COMPLAINANTS.

6.1 Inspector General's Report. If the inspector general credibly suspects a person to be a vexatious complainant, the inspector general shall submit a report to the commission chair detailing the facts supporting the inspector general's position and requesting a hearing on the matter. The inspector general shall also forward the report to the complainant with instructions detailing the response and hearing procedures.

[See Dallas City Code, Section 12A-63(b)]

6.2 Response. The complainant sworn response must be submitted to the inspector general within 10 days after the date that the complainant was sent the inspector general's report. Copies of all information provided to the inspector general by the complainant must be distributed by the city secretary to the ethics advisory commission within 10 days after the inspector general receives the information.

[See Dallas City Code, Section 12A-63(e)]

6.3 Scheduling Vexatious Complainant Hearing. Once the commission receives the report from the inspector general requesting a vexatious complainant hearing, the chair shall place the hearing on either:

(1) the commission's next regular meeting agenda that occurs at least 10 days after the report is received by the commission; or

(2) an agenda for a special meeting of the full commission that occurs at least 10 days after the report is received by the commission.

[See Dallas City Code, Section 12A-63(g)]

6.4 Notice of Hearing Date. At least 10 days prior to the hearing, written notice of the hearing must be sent to the complainant by certified mail or personal service and to the EAC, the inspector general, and the city attorney's office by electronic mail. Courier service may be used to provide notice by personal service. If consent is given in writing, a person entitled to notice may agree to accept notice by facsimile, email, or first class mail.

[See Dallas City Code, Section 12A-63(g)]

6.5 Hearing Procedures. Vexatious complainant hearings shall be conducted in accordance with this section.

The chair shall call the hearing to order, announce the time the hearing is called to order, and state whether a quorum of the commission is present.

The chair shall identify the matter being considered by the commission.

Each of the following persons attending the hearing shall state his/her name and title for the record:

- Commission members.
- City Secretary's Office staff.
- City Attorney's Office staff.
- Inspector general and his/her representative.
- Complainant and legal counsel and his/her representative.

The city secretary's office shall administer an oath to everyone who is to provide testimony during the hearing.

The inspector general shall be given an opportunity to present a case, which may include:

- Presenting evidence.
- Calling and questioning witnesses.
- Playing audio or video recordings.
- Giving direct testimony.

The complainant, or his/her legal counsel, shall then be given an opportunity to present a case, which may include:

- Presenting evidence.
- Calling and questioning witnesses.
- Playing audio or video recordings.
- Giving direct testimony.

Once both parties rest, the commission members may ask questions of either party, unless otherwise directed by the chair.

After the inspector general and complainant have presented their cases, the commission will discuss the evidence presented and make a determination on whether the complainant is designated a vexatious complainant.

[See Dallas City Code, Section 12A63(l)]

6.6 Continuance for Additional Information. The commission may, in the course of deliberations, decide that additional information is needed to make a finding. The commission may, on its own motion, continue the hearing in order to receive and review information from sources not available during the hearing. Any member of the commission who is not present at a hearing where testimony is given may not participate in any discussion, voting, or disposition regarding the matter.

The commission may request that the inspector general or the complainant provide additional information to support his/her case. Information requested must be submitted to the city secretary's office no later than three business days prior to the date the hearing is to reconvene.

6.7 Written Decision. At the conclusion of a vexatious complainant hearing, the commission shall issue a written decision. A decision on whether a complainant is declared a vexatious complainant must be by three-fifths of the commission members present and voting. If the commission votes to declare the complainant a vexatious complainant, a decision on sanction must be made by a majority vote of the commission members present and voting.

[See Dallas City Code, Section 12A-63(l)]

6.8 Notification. Within 10 days after a written decision is issued, the city secretary's office, on behalf of the EAC, shall forward copies of the written decision to the complainant, the inspector general, the city attorney's office, the city council, and any commission member not participating in the decision.

The city secretary shall make the findings and decision of the commission available to the public as authorized by law.

[See Dallas City Code, Section 12A-63(o)]

Section 7. CITY STAFF PARTICIPATION.

7.1 City Secretary. The city secretary's office provides administrative support to the commission as is necessary to carry out the duties of the commission. The city secretary shall be represented at all meetings and hearings of the commission to provide support, clarify issues and concerns, swear in witnesses at hearings, and maintain records of the meetings and hearings.

7.2 City Attorney. The city attorney's office acts as the legal counsel to the commission. The city attorney shall be represented at all meetings and hearings of the commission as needed to provide legal advice when appropriate and to clarify issues and concerns.

[See Dallas City Code, Section 12A-46(a)]

7.3 Inspector General. The inspector general prosecutes suspected ethics violations before the commission and provides reports to the commission. The inspector general shall be represented at all hearings of the commission and may attend regular and special meetings of the EAC to provide division updates as needed.

[See Dallas City Code, Section 12A-47(a)]

**ETHICS ADVISORY COMMISSION (EAC)
RULES OF PROCEDURE COMPARATIVE TABLE**

NOTE – The following is a list of amendments to the EAC Rules of Procedure and the disposition of those amendments, beginning with the amendment of March 30, 2007.

DATE OF AMENDMENT	SECTION/FORM	DISPOSITION BY SECTION/FORM
03/30/07	Added: Amended Complaint Form	3.2 Exhibit B
	Added: Preliminary Panel Checklist	4.3 Exhibit E
	Added: Respondent Form	3.3 Exhibit C
04/13/07	Added: Withdrawal Form	3.5 Exhibit D
	Added: Complaint Form	3.1 Exhibit A
08/28/08	Added: Evidentiary Hearing Decision Form	5 Exhibit G
02/20/09	Added: Ethics Advisory Commission Evidentiary Hearings	5 Section
03/27/09	Added: Petition For Declaratory Ruling	6 Section
04/17/09	Added: Declaratory Ruling Written Decision Form	6.10 Exhibit I
08/27/15	Revised: All Sections; Removed Exhibits	1-7 Sections
10/1/15	Revised Rule on Supplementing Complaints	3.2 Section
10/16/15	Added Method of Delivery of Amended Rules1 to Council	Section
06/20/17	Revised Jurisdiction	1.1 Section
	Revised Powers	1.2 Section
	Revised Regular Meetings	2.1 Section
	Revised Quorum	2.3 Section
	Revised Complaint Form	3.1 Section
	Revised Responsibilities of Preliminary Panel	4.2 Section
	Added Subpoenas	5.5 Section
	Revised Notification	5.9 Section
	Revised Sanctions	5.10 Section
	Revised Independent Counsel	7.3 Section
10/17/23	Revised All Sections	Section