



ETHICS ADVISORY COMMISSION

RULES OF PROCEDURE

CITY OF DALLAS, TEXAS

Adopted: 10/27/06

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TABLE OF CONTENTS

		<u>Page</u>
Section 1	JURISDICTION AND POWERS	
1.1	Jurisdiction	1
1.2	Powers	1
1.3	Amendments to the Rules	1
Section 2	MEETINGS OTHER THAN PANEL MEETINGS AND HEARINGS	
2.1	Regular Meetings	1
2.2	Special Meetings	1
2.3	Quorum	2
2.4	Notice of Meetings	2
2.5	Citizen Speakers	2
2.6	Public Character of Meetings and Actions	2
2.7	Executive Session	2
Section 3	FILING OF COMPLAINTS	
3.1	Complaint Form	2
3.2	Supplementing Complaints	3
3.3	Responses and Procedural Requests	3
3.4	Withdrawal of Complaints	3
3.5	Multiple Complaints	3
3.6	Frivolous Complaints	4
Section 4	PRELIMINARY PANEL MEETINGS	
4.1	Preliminary Panel Selection	4
4.2	Responsibilities of Preliminary Panel	4
4.3	Preliminary Panel Meetings	5
Section 5	EVIDENTIARY HEARINGS	
5.1	Scheduling Evidentiary Hearing	5
5.2	Notice of Hearing Date	5
5.3	Responses	5
5.4	Procedural Requests	6
5.5	Subpoenas	6
5.6	Quorum Requirement	6
5.7	Executive Session	6
5.8	Hearing Procedures	6
5.9	Written Decision	8
5.10	Notification	8
5.11	Sanctions	8
Section 6	PETITIONS FOR DECLARATORY RULING	
6.1	Declaratory Ruling	8
6.2	Withdrawal of Request for Declaratory Ruling	9
6.3	Scheduling Hearing for Declaratory Ruling	9
6.4	Notice of Hearing Date	9
6.5	Quorum Requirement	9
6.6	Executive Session	9
6.7	Hearing Procedures	9
6.8	Continuance for Additional Information	10
6.9	Written Decision	10
6.10	Notification	10
Section 7	CITY STAFF PARTICIPATION	
7.1	City Secretary	10
7.2	City Attorney	11
7.3	Independent Counsel	11
Rules of Procedure Comparative Table		12

Section 1 JURISDICTION AND POWERS

1.1 Jurisdiction. The ethics advisory 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 a complaint is filed within one year after the date of the alleged violation.

[See Dallas City Code, Section 12A-25]

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 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, index, maintain on file, and dispose of sworn complaints;
- (5) To make findings of fact as necessary for the disposition of a complaint;
- (6) To make notifications, extend deadlines, and conduct investigations of violations;
- (7) To advise and make recommendations to the city council concerning the city's ethics code and ethics policies;
- (8) To make determinations that complaints are frivolous, make findings of facts, and sanction persons who file frivolous complaints;
- (9) Such other powers as are specifically granted in 12A or by the city council.
- (10) To issue subpoenas for the attendance of witness or for the production of documents or other evidence.

[See Dallas City Code, Section 12A-25]

1.3 Amendments to the Rules. 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 PANEL MEETINGS AND 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 chair cancels the meeting or establishes another meeting time.

[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. 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 Citizen Speakers. At the discretion of the commission, citizens may speak at regular and special meetings of the commission. 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.

Citizen 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.

2.6 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)]

2.7 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 FILING OF COMPLAINTS

3.1 Complaint Form. Except for those complaints received by the City Auditor through its Fraud, Waste and Abuse hotline, all complaints must be submitted to the commission through the city secretary's office, on the complaint form provided by the city secretary's office and available on the city's website. The complaint must contain the information and items required by 12A-26(a), and any evidence submitted must be in the format required by 12A-26(b). The commission shall not consider a complaint until it is accepted by the city secretary's office.

[See Dallas City Code, Sections 12A-26(a)-(b) and 12A-26(g)]

3.2 Supplementing Complaints. A complete complaint, as defined by 12A-26(c), may be supplemented as provided in this rule. Supplements to a complete complaint must be submitted to the commission through the city secretary's office with the complaint supplement form provided by the city secretary's office and available on the city's website. A complainant may supplement a complete complaint in accordance with this section for the following reasons only:

- (1) to correct incorrect statements in the complete complaint;
- (2) to allege a new or additional violation of Chapter 12A of the code;
- (3) to provide names, addresses, email addresses, and telephone numbers of witnesses, if any, that can offer testimony in support of the complaint; or
- (4) to provide other sources of evidence that the complainant recommends should be considered by the ethics advisory commission.

Supplements to a complaint may only be filed within seven days after the city secretary's acceptance of the original completed complaint.

3.3 Responses and Procedural Requests. The person charged in the complaint shall have the opportunity to submit a sworn statement, together with such other information he or she feels is relevant.

This response shall be submitted on the respondent form provided by the city secretary's office and available on the city's website.

The response must be received in the city secretary's office at least four days before the date of the preliminary panel hearing so that the panel may have sufficient time to review the response.

Failure to file the response in a timely manner may result in a continuance or reset of the preliminary panel hearing.

Procedural motions by the respondent to the complaint must be filed with the city secretary's office four days before the preliminary panel hearing. The preliminary panel will consider procedural motions before making a finding on the complaint.

[See Dallas City Code, Chapter 12A-26(e)]

3.4 Withdrawal of Complaints. After being filed with the city secretary's office, a completed complaint may not be withdrawn, unless the respondent agrees to the withdrawal in writing. A request to withdraw a complaint must be made on the form provided by the city secretary's office and available on the city's website, and must contain the notarized signatures of both the complainant and the respondent. The request 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 preliminary panel meeting at which the complaint will be reviewed.

3.5 Multiple Complaints. Multiple complete complaints that are filed with the city secretary's office within seven days of each other may be combined and processed together if:

- (1) The same complainant files the same or substantially similar complaints against multiple respondents; or
- (2) Different complainants file the same or substantially similar complaints against the same respondent.

The determination to combine multiple complaints will be made by the chair or vice-chair, whoever is serving on the preliminary panel, after consultation with the city secretary's office. If combined, one preliminary panel would review all the complaints at one meeting. The preliminary panel, however, would make a finding on each complaint individually as to whether a claim is stated and is supported by just cause.

3.6 Frivolous Complaints. If the ethics advisory commission or a preliminary panel has unanimously dismissed a complaint, the commission or panel may, by affirmative vote of at least two-thirds present, order complainant to show cause as to why the commission should not determine that the complaint is frivolous. A frivolous complaint is one that is groundless and is brought either in bad faith or for the purpose of harassment. GROUNDLESS means there is no basis in law or fact.

The complainant and the person charged in the complaint shall have an opportunity to submit a sworn response within 10 days after the date notice of the show cause order was provided by the city secretary. This response must be submitted on the frivolous complaint response form provided by the city secretary's office and available on the city's website. As an alternative to a response, the person charged in a complaint may, within 10 days after the date the complainant was given notice of the show cause order, file with the city secretary a notice to terminate the hearing on the frivolous complaint on a form provided by the city secretary's office.

The complainant and the person charged in the complaint shall be entitled to:

- (1) The right to attend the show cause hearing.
- (2) The right to make a statement.
- (3) The right to present and cross-examine witnesses.
- (4) The right to be represented by legal counsel or another advisor.

A complaint may only be deemed frivolous upon an affirmative vote of three-fifths of all commission members present and voting. An affirmative finding must be supported by "clear and convincing" evidence, as defined in 12A-28(b).

[See Dallas City Code, Section 12A-40.1]

Section 4 PRELIMINARY PANEL MEETINGS

4.1 Preliminary Panel Selection. A commission member (including the chair and vice-chair) selected for a preliminary panel shall serve on that panel, unless excused in writing by the chair for a valid medical, business, or personal reasons, or if other such conflict of interest exists as determined by the city attorney.

4.2 Responsibilities of Preliminary Panel. Within 45 days after receipt of a complete complaint, the preliminary panel must meet and make a preliminary finding as to whether or not the complaint states a claim under Chapter 12A and is supported by just cause. "Just cause" means such cause as is found to exist upon a reasonable inquiry that would induce a reasonably intelligent and prudent person to believe that a person has committed an act or acts constituting an ethical violation under Chapter 12A.

[See Dallas City Code, Section 12A-26(h)(1)]

4.3 Preliminary Panel Meetings. At a preliminary panel meeting, the panel will not take any testimony and will consider only the complete complaint(s), supplements to the complaint(s) submitted under Section 3.2 of these rules, response(s), and procedural motion(s) as submitted to the city secretary's office. At the preliminary panel meeting, the response shall only be considered to the extent that it addresses whether or not the complaint states a claim under 12A and is supported by just cause.

In determining whether the complaint states a claim and is supported by just cause, the panel will consider each section of Chapter 12A that the complainant alleges has been violated. The panel should also consider whether other sections of Chapter 12A not alleged by the complainant may have been violated based on the facts presented in the complaint.

If the preliminary finding is that the complaint does not state a claim under Chapter 12A or is not supported by just cause based upon the statements and evidence submitted the complaint must be dismissed. A determination that a complaint be dismissed can only be made upon the affirmative vote of at least two of the three preliminary panel members. Written notice of the dismissal must be sent to both the person who made the complaint and the person about whom the complaint was made, identifying the reason or reasons for dismissal.

[See Dallas City Code, Section 12A-26(h)(2)]

If a complaint is not summarily dismissed, the panel will forward the complaint to the full commission for an evidentiary hearing.

[See Dallas City Code, Section 12A-27(a)]

Section 5 EVIDENTIARY HEARING

5.1 Scheduling Evidentiary Hearing. Within seven days after the preliminary panel issues a decision to forward a complaint to the full EAC for an evidentiary hearing, the city secretary's office, in consultation with the chair and after polling members of the EAC, shall select the date for the evidentiary hearing.

5.2 Notice of Hearing Date. At least 10 days prior to the hearing, written notice of the hearing will be sent to the complainant, the person charged in the complaint, the EAC, and the city attorney's office by certified mail or personal service. 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-27(a)]

5.3 Responses. The person charged in the complaint 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 at least four days before the date of the evidentiary hearing so that the EAC may have sufficient time to review the responses.

Failure to file a response in a timely manner may result in the continuance or reset of the evidentiary hearing. If a response is not received by the city secretary's office before the four-day deadline, the EAC, at its discretion, may waive the requirement and the response may be considered at the hearing.

5.4 Procedural Requests. All procedural motions that the complainant or person charged in the complaint wishes the EAC to consider at the evidentiary hearing must be filed with the city secretary's office at least four days prior to the evidentiary hearing.

Within one business day after receipt, the city secretary's office will promptly forward the procedural motions to the EAC, the city attorney's office, the complainant, and the person charged in the complaint.

In addition to other procedural motions, the EAC may consider a request for a reset or continuance of a hearing. The EAC may also, on its own motion, reset or continue a hearing.

At the beginning of the hearing, the EAC will consider and rule upon procedural motions.

5.5 Subpoenas. Periodically, the need for additional information may be needed when considering an ethics complaint. In those circumstances, the ethics advisory commission shall have the power to issue subpoenas in accordance with Section 12A-25(d).

[See Dallas City Code, Section 12A-25(d)]

The subpoena shall be on a form provided by the city secretary's office. Service of subpoenas shall be as follows:

- (1) For employees, through the employee's department director.
- (2) For all others, through the Marshal's Office.

5.6 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, Section 12A-28(c) & Section 8-4]

5.7 Executive Session. The EAC 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 EAC shall be recorded as required by Section 8-6 of the Dallas City Code.

5.8 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 EAC is present. The chair shall identify the complaint being considered by the EAC.

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

- EAC members.
- City Secretary's Office staff.
- City Attorney's Office staff.
- Complainant and legal counsel.
- Person charged in the complaint and legal counsel.

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

The chair shall provide an overview of the complaint by summarizing the complaint form and the complaint supplement form, if any, submitted by the complainant.

The EAC will then consider procedural motions by the complainant and/or person charged in the complaint. Each procedural motion will be decided by a majority vote of the EAC members present.

The complainant or his/her legal counsel may, at the discretion of the EAC, 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 person charged in the complaint, 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.

[See Dallas City Code, Section 12A-28(d)-(e)]

EAC members may ask questions of the complainant and/or person charged in the complaint at any time during the hearing, unless otherwise directed by the chair.

If the complainant is not present, the person charged in the complaint will still be given an opportunity to present his/her case. Likewise, if the person charged in the complaint is not present, the complainant may, at the discretion of the EAC, still be given an opportunity to present his/her case.

Once both the complainant and person charged in the complaint have presented their cases, the EAC will discuss the evidence presented and make a determination on the complaint.

After a written decision is issued in accordance with Section 5.9 of these rules, the chair shall announce the hearing is adjourned and state the time of adjournment.

5.9 Written Decision. At the conclusion of the hearing, the EAC shall issue a written decision on the evidentiary hearing decision form provided by the city secretary's office and available on the city's website. The EAC shall make all reasonable efforts to issue that decision within 60 days after receipt of the complete complaint. A decision to find an ethics violation must be by an affirmative vote of at least three-fifths of the commission members present and voting.

[See Dallas City Code, Sections 12A-28(b) & 12A-29(a)]

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

5.10 Notification. Within ten days after the written decision is issued, the city secretary's office, on behalf of the EAC, shall forward copies of the findings and decision to the complainant, the person charged in the complaint, 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-37.1(a).

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

5.11 Sanctions. When the EAC refers a matter to the city council as prescribed in Subsections (d), (e), and (f) of Section 12A-37.1 of the code of ethics, the city secretary's office shall prepare a resolution that states the findings of the EAC 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 EAC decision.

[See Dallas City Code, Sections 12A-37.1(d)-(f)]

Section 6 PETITIONS FOR DECLARATORY RULING

6.1 Declaratory Ruling. Any city official or employee against whom public allegations of ethics violations have been made in the media or elsewhere may file a petition for a declaratory ruling with the city secretary's office to obtain from the EAC a determination of the compliance or lack of compliance of the petitioner's action(s) with the City's Code of Ethics.

[See Dallas City Code, Section 12A-31]

The city official or employee petitioning for a declaratory ruling should request the EAC to review the public allegations of ethics violations made against the city official or employee and make known its findings. The request shall include the city official's or employee's sworn statement affirming his/her innocence.

The petition for a declaratory ruling shall:

- (1) state the specific provision or provisions of the ethics code that the city official or employee has publicly been accused of violating;
- (2) present evidence that such allegations have been made public; and
- (3) provide sources of evidence that the city official or employee believes should be considered by the EAC in order to make a determination on the petition.

6.2 Withdrawal of Request for Declaratory Ruling. After being filed with the city secretary's office, a request for declaratory ruling may be withdrawn by written request of the petitioner. The written request 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 hearing on the request for declaratory ruling.

6.3 Scheduling Hearing for Declaratory Ruling. Within five business days after a petition for a declaratory ruling is received, the city secretary's office, in consultation with the chair, and after polling members of the EAC, shall select the date for the hearing to consider the petition.

6.4 Notice of Hearing Date. At least 10 days prior to the hearing, written notice of the hearing will be sent to the person requesting a declaratory ruling, the EAC, and the city attorney's office by certified mail or personal service. 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.

6.5 Quorum Requirement. A quorum of at least four commissioners must be present for a hearing to consider a petition for a declaratory ruling. 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 or personal service at least 10 days prior to the new hearing date. If consent is given in writing, persons entitled to notice may agree to accept notice by facsimile, email, or first class mail.

6.6 Executive Session. The EAC 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 EAC shall be recorded as required by Section 8-6 of the Dallas City Code.

6.7 Hearing Procedures. Hearings on petitions for declaratory rulings 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 EAC is present.

The chair shall identify the petition being considered by the EAC.

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

- EAC members.
- City Secretary's Office staff.
- City Attorney's Office staff.
- Petitioner and legal counsel.

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

The chair shall provide an overview of the petition to be considered by summarizing the materials submitted by the petitioner.

The petitioner, 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.

The EAC members may ask the petitioner questions at any time during the hearing, unless otherwise directed by the chair.

After the petitioner has presented his/her case, the EAC will discuss the evidence presented and make a determination on the petition for a declaratory ruling.

After a written decision is issued in accordance with Section 6.9 of these rules, the chair shall announce that the hearing is adjourned and state the time of adjournment.

6.8 Continuance for Additional Information. The EAC may, in the course of deliberations, decide that additional information is needed to make a finding. The EAC may, on its own motion, continue the hearing in order to receive and review information from sources not available during the hearing.

The EAC may request that the petitioner provide additional information to support his/her request for declaratory ruling. Information requested must be submitted to the city secretary's office no later than three days prior to the date the hearing is to reconvene.

6.9 Written Decision. At the conclusion of a hearing to consider a petition for a declaratory ruling, the EAC shall issue a written decision. A decision on a petition for a declaratory ruling must be by a majority vote of the commission members present and voting.

6.10 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 petitioner, the city attorney's office, the city council, and any EAC member not participating in the decision.

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

[See Dallas City Code, Section 12A-29]

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 review complaints for completeness, 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-32(a)]

7.3 Independent Counsel. An independent outside attorney, who does not otherwise represent the city, a city official, or an employee in his or her official capacity, may be appointed by the city council, at the recommendation of the city attorney, to serve as legal counsel to the EAC for a particular case when:

- (1) a complaint is filed relating to an alleged violation of Chapter 12A by a city council member or by a city employee who is a department director or of higher rank;
- (2) the ethics advisory commission requests such an appointment; or
- (3) the city attorney requests such an appointment for good cause shown.

[See Dallas City Code, Section 12A-32(b)]

**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 Rules to Council	1 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