



TOWN OF EMMITSBURG

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TOWN OF EMMITSBURG ETHICS COMMISSION RULES OF PROCEDURE FOR COMPLAINTS AND ADVISORY OPINIONS

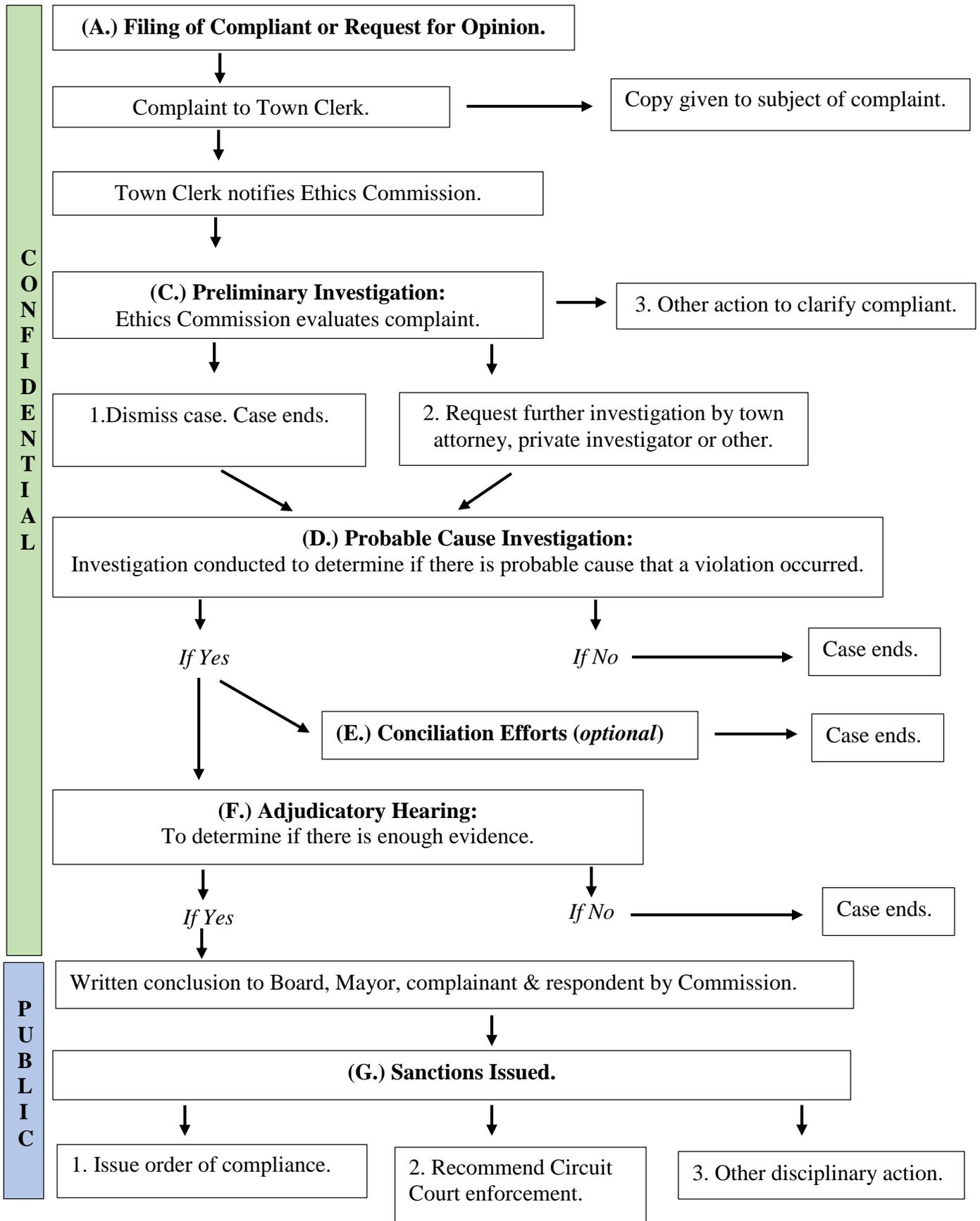
I. The procedure for Complaints and Advisory Opinions:

- A. Filing of Complaint or Request for Opinion. All complaints of ethics violations and all requests for advisory opinions shall be addressed to the Ethics Commission and shall be in writing, dated and signed by any persons making the complaint or requesting the opinion. A complaint of a violation shall identify the act or acts which constitute the alleged violation, the section of the code alleged to have been violated, the name of the person who is alleged to have committed the violation and any other information which substantiates the alleged violation. A request for an advisory opinion shall set forth the factual situation which gives rise to the inquiry and shall identify the question presented. Upon receipt by the Ethics Commission of a complaint or request for advisory opinion, a copy of the complaint or request shall be promptly provided to any respondent who is the subject of the complaint or request.
- B. Confidentiality. Any correspondence which is delivered to the Town Office and which is addressed to or designated for the Ethics Commission or any of its members shall be deemed and handled confidentially and shall be delivered unopened to the Chairperson of the Ethics Commission. The members of the Ethics Commission shall treat as confidential all complaints and requests for advisory opinions made to the Commission, and they shall not disclose to anyone other than other members of the Ethics Commission or the respondent any information pertaining to the complaint or the request for opinion, including the fact that a complaint or request has been made, unless agreed to, in writing, by the respondent.
- C. Preliminary Investigation. Upon receipt of a complaint of a violation or a request for an advisory opinion, the Ethics Commission may:
1. *Dismiss case* - make a determination, based on the information submitted, that the complaint or request does not merit further proceedings and dismiss the matter, in which case, the Ethics Commission shall advise the person making the complaint or the request, in writing, of its decision and the reason for the decision;
 2. *Further investigation* - make an initial determination that the complaint may be meritorious and request that the matter be investigated further by the Town attorney, a private investigator or other appropriate person.
 3. *Other action* - take any other action required to further augment or clarify the information pertaining to the complaint or request and which may be required to make a determination in the matter.

- D. Probable Cause Investigation. The person or persons charged with undertaking the investigation of the complaint may conduct the investigation by reviewing documents or other material and interviewing witnesses, including the person submitting the complaint and the person who is the subject of the complaint. The respondent may submit to the Commission any information deemed relevant to the complaint, including proposed action which may be taken to cure the alleged violation. The respondent may be present when the Ethics Commission meets to review that information. At the conclusion of the investigation, the investigator shall report to the Ethics Commission, and the Commission, by majority vote, shall make a determination as to whether there is probable cause that a violation has occurred.
- E. Conciliation Efforts. If the Commission finds that there is probable cause that a violation has occurred, the Commission may, but shall not be required to, attempt to resolve any complaint informally through conciliation efforts between the complainant and the respondent. In the event that such efforts are unsuccessful, then the Ethics Commission may schedule the matter for an adjudicatory hearing.
- F. Adjudicatory Hearing. If the Ethics Commission finds probable cause that a violation occurred, it may conduct an adjudicatory hearing. If the Ethics Commission finds probable cause that a violation occurred, and the respondent requests an adjudicatory hearing, it shall conduct an adjudicatory hearing. An adjudicatory hearing shall not be required in response to or to address a request for an advisory opinion or if the Ethics Commission finds that there is no probable cause that a violation occurred or if the complaint was dismissed in the course of the investigation.
1. If the Commission conducts an adjudicatory hearing:
 - a) The Commission shall provide a copy of the written complaint to the respondent which shall include the identity of the complainant and shall provide the respondent with a copy of those portions of approved minutes of the Ethics Commission relating to the complaint;
 - b) The Commission may issue summonses and subpoenas to compel attendance at a hearing, may require any person to produce records or other documents at a hearing, and may administer oaths or affirmations to witnesses.
 2. A hearing is closed to the public. The parties to the hearing are the respondent and the Town. The prosecuting attorney may be the Town's attorney, special counsel, or the investigator. Each party may be represented by counsel.
 3. Each party may present testimonial and documentary evidence, may cross-examine witnesses, and may present opening statements and closing arguments. The rules of evidence used in judicial proceedings are not applicable in the hearing. The Commission may admit and give appropriate weight to evidence, including hearsay, if that evidence possesses probative value commonly accepted by reasonable and prudent persons. The Commission may apply additional rules of procedure to govern the adjudicatory hearing. The burden of proof shall be upon the Town to show that the alleged violation occurred, and the standard of proof shall be by the standard of clear and convincing evidence.

1. At the conclusion of the presentation of evidence and argument, the Commission may take the matter under advisement or may issue its decision immediately. The decision of the Commission shall be in writing and shall include findings of fact and conclusions of law based on the evidentiary record made at a hearing. The Ethics Commission shall provide a copy of its final written decision to the complainant, to the respondent, and to the Mayor and Board of Commissioners. The written decision shall be a public document.
 2. If the Commission finds that there has been no violation as alleged or that the violation has not been shown by clear and convincing evidence to have occurred, the Commission shall dismiss the complaint.
- G. Sanctions. Upon a finding or determination that there has been a violation as alleged in the complaint, then the Ethics Commission may:
1. issue an order of compliance directing the respondent to cease and desist from the violation;
 2. recommend to the Mayor and Board of Commissioners that it seek enforcement of the cease and desist order in the Circuit Court for Frederick County through injunctive or other appropriate relief, which the Mayor and Board of Commissioners are hereby authorized to do;
 3. recommend to the Mayor and Board of Commissioners, or other appropriate authority, appropriate disciplinary action of the respondent including suspension of salary, censure, or removal from employment; and/or refer the matter to the appropriate law enforcement authorities.

Overview of the Complaint Process:



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