

**BYLAWS OF THE  
CITY OF TALLAHASSEE  
INDEPENDENT ETHICS BOARD**

**ARTICLE I – NAME AND AUTHORIZATION**

**A. NAME**

The name of the Board shall be the Independent Ethics Board, hereinafter referred to as the “Board.”

**B. AUTHORIZATION**

The Board exists by authority of the City Charter.

**ARTICLE II – MISSION STATEMENT**

To promote the actual and perceived integrity of our city government and to prevent unethical conduct before it occurs.

**ARTICLE III – INDEPENDENT ETHICS BOARD**

**A. NUMBER, APPOINTING AUTHORITY AND QUALIFICATIONS**

1. The regular members of the Board shall be comprised of the following:
  - a. One member selected by the City Commission;
  - b. One member selected by the Public Defender of the Second Judicial Circuit;
  - c. One member selected by the State Attorney for the Second Judicial Circuit;
  - d. One member selected by the President of Florida State University;
  - e. One member selected by the President of Florida A & M University; and
  - f. Two members appointed by the Board;
2. Members will be selected without regard to race, religion, national origin, age, sex, sexual orientation or disability.
3. All members of the Board shall be City residents and electors.

**B. TERM OF APPOINTMENT**

Terms of members shall occur as set forth in City Ordinance 15-0-15.

**C. VACANCY AND REMOVALS**

1. A member's position shall become vacant when:
  - a. Member fails to attend two out of three successive regular meetings of the Board without cause and without prior approval of the chair; for cause, absence includes, but is not limited to, medical or health issues, family or job emergencies or travel outside of Leon County.
  - b. Member is removed by the Board after notice and with cause;
  - c. Member term expires;
  - d. Member resigns in writing to the Chair with a copy to the Ethics Officer, and the Board votes to accept the resignation.
  - e. Member is no longer a registered City elector or resident.
  - f. The appointing authority removes or appoints a new Board Member.
2. For Board appointed members, 90 days prior to the expiration of a member's term, the Ethics Officer shall inquire if that member wishes to be re-appointed and will remain eligible for re-appointment.
3.
  - A. If the member is eligible to serve another term and wishes to be re-appointed, that member may be re-appointed by a majority vote of the remaining members of the Board; alternatively
  - B. If a majority of the Board vote not to re-appoint, the Ethics Officer would then take applications to fill the vacancy. The Ethics Officer would take applications and ask the sitting member if they are interested in being reappointed. If that member wishes to be reappointed, he/she would be considered without a formal application, when the Board reviews the applicant pool and makes a decision.

**D. DUTIES AND RESPONSIBILITIES**

1. The duties and responsibilities of the Board shall be:
  - a. To assist the City Commission in development or amendment of the Ethics Code;

- b. To manage a citywide ethics and fraud hotline for receipt of allegations of local corruption, fraud, waste, mismanagement, campaign finance and ethics violations;
  - c. To manage and coordinate the mandatory education of local officials, officers, employees, and Board members in state and local ethics laws and code;
  - d. To refer ethics and corruption matters to appropriate law enforcement agencies when violation of criminal law is indicated or other appropriate referrals for non-criminal matters;
  - e. To recommend proposed ordinances, resolutions or Charter amendments to the City Commission in all areas of ethics and corruption, including but not limited to: conflicts of interest, financial disclosure, voting conflicts, hotline policies, ethics education, ethics in procurement, campaign ethics and financing, and lobbying; and to recommend proposals for consideration by the City Commission;
  - f. To investigate Complaints, adjudicate violations and to levy those civil penalties as may be authorized by the City Commission for violations of the City's Ethics Code;
  - g. To employ staff to serve in the Ethics Office;
  - h. To supervise the Ethics Officer;
  - i. To adopt due process procedures to administer the Ethics Code and Complaint process;
  - j. To establish a structure to ensure the Board's independence and impartiality and to provide for the maximum practicable input from citizens and community organizations.
2. As to the campaign refund process, the Board shall have the following responsibilities:
- a. To receive refund forms from registered City of Tallahassee electors;
  - b. To establish time limits and procedures for receipt of refund by City of Tallahassee electors;

- c. To determine the amount necessary to pay refunds and report that amount to the City Commission for budgetary consideration; and
  - d. To hear Complaints, initiate proceedings and levy civil penalties relating to campaign contributions and refunds of campaign donations.
3. Any Board member receiving any written communication from any source involving matters pertaining to the Board shall have the responsibility to provide the Ethics Office with a copy of that communication as soon as practical but not to exceed five (5) business days of receipt. Receipt shall mean when the communication is first read by the Member. Any emails or public record requests received by Board members should be forwarded upon receipt to [Ethics@Talgov.com](mailto:Ethics@Talgov.com) as well as any response given.

## **ARTICLE IV-MEMBERS AND OFFICERS**

### **A. MEMBERS**

1. Board members shall not use their position in any manner that decreases public trust or gives the appearance of impropriety.
2. Any Board member who files to be a candidate for public office shall immediately resign from the Board.
3. The Board shall elect from their members a Chair and Vice-Chair.

### **B. CHAIR**

1. It is the Chair's responsibility to ensure compliance with the bylaws. The Chair will notify members of removal from the Board for noncompliance. Specific questions of conflict of interest will be addressed by the Board's counsel.
2. The Chair shall immediately upon receipt of a written resignation of a Board member, or when advised of a vacancy, notify the City Treasurer-Clerk to begin the appointment process.
3. The Chair may approve special exceptions on the removal of members for absences at regularly scheduled meetings when the absences are due to health or time-limited extenuating circumstances and the absences do not affect the ability of the Board to maintain a quorum.
4. The Chair sets the final agenda for each meeting.

**C. VICE CHAIR**

The Vice Chair shall perform the Chair's duties in the absence of the Chair.

**D. TERMS**

Officers shall be elected for a term of one (1) year at the last meeting of the Board in each calendar year, and shall assume office beginning the month immediately following the meeting.

**ARTICLE V-BOARD STAFF**

**A. ETHICS OFFICER**

1. The duties and responsibilities of the Ethics Officer are to:
  - a. Be the liaison for the Board with the City Commission and City appointed officials, employees and citizens;
  - b. Ensure the City Treasurer-Clerk is informed of all vacancies, expired terms, changes in officers, or any other changes to the Board and that all requests for review of applications by the Board, and any subsequent recommendations by the Board or staff, are returned in a timely manner to the City Treasurer-Clerk to facilitate the appointment process;
  - c. Provide information to the appropriate city appointed officials including providing reports, actions, and recommendations of the Board and notification of noncompliance by the Board or Chair with the bylaws or statutes to the selecting or appointing authority to the selecting or appointing authority;
  - d. Ensure information provided by the Board for City Commission review is provided to the City Manager for placement on the Commission agenda;
  - e. Provide a report and recommendation on each ethics Complaint to the Board;
  - f. Provide ethics education to new Board members and to City elected or appointed officials, officers and staff that will address, but not be limited to the bylaws, conflicts of interest, the State of Florida Sunshine Law and ethics violations.

- g. Ensure responses are provided to any concerns the new members may have regarding the duties and responsibilities of the Board and the members.
  - h. Provide staff services to the Board on administrative matters to include among other things:
    - i). A schedule of meetings to the Public Information Office and Board members, arranging meeting locations, maintaining summary minutes of the meetings, preparing and distributing appropriate information related to the meeting agenda; preparing a meeting attendance report and submitting it to the City Treasurer-Clerk;
    - ii). Information to the Board of events, activities, policies, and programs occurring within the scope of the Board's function and informing the Board of all City Commission or City requests for information or assistance;
    - iii). Keeping all records of the Board with the timely filing of all records in the City's document management system; and
    - iv). Responding on behalf of the Board to public records requests pursuant to City Records Management and Public Records Policy.
  - i. Investigate all Complaints of Ethics Code violations.
  - j. Create and maintain an ethics web page.
  - k. Create an ethics guide for distribution to the public.
2. The Ethics Officer may be removed without cause from her or his position by a 2/3 vote of the Board members present.

The Ethics Officer may be placed on administrative leave without pay at the discretion of the Board Chair, upon receipt of reasonable allegations that would, if substantiated, constitute cause for dismissal. The Ethics Officer will remain on leave without pay until the next meeting of the full Board. The Ethics Officer may then be removed from her or his position by a 2/3 vote of the Board members present.

3. If a vacancy occurs for the Ethics Officer position, the Board will advertise the vacancy on talgov.com and through any additional means directed by the Board.

- a. The Chair, or a designated member of the Board, will pre-screen applicants for eligibility based on minimum requirements and those applicants remaining shall have their applications considered by the Board.
- b. Finalists will be determined by a 2/3 vote of the Board members present and may, at the discretion of the Board, be requested to submit further information or scheduled for interviews.
- c. The successful applicant will be selected by a 2/3 vote of the Board members present.

## **B. COUNSEL TO THE BOARD**

1. Independent legal counsel will be provided through contract counsel selected by the Board to advise the Board as to matters of law under its jurisdiction.
2. Assist in the preparation of orders for the Board;
3. Advice of counsel may be received and entered in the minutes before disposition of any question of law or matter requiring legal interpretation or advice at Board meetings;
4. Attend all Board meetings or portions of Board meetings as needed;
5. Provide written advisory legal opinions upon request of the Chair.

## **ARTICLE VI – COMMITTEES**

The Chair may establish committees or designate member(s) to perform certain tasks as deemed necessary. Committees may include probable cause committees not to exceed two (2) Board members.

## **ARTICLE VII – MEETINGS**

### **A. AGENDA**

1. There shall be a written agenda for each regular meeting of the Board.
2. The agenda shall be provided to the Board members and public at least 48 hours prior to the meeting.

3. Consistent with Article IV(B)(4), the Chair will establish the final Agenda for each meeting.
4. Members may add items in new business during the meeting for discussion and voting at the discretion of the Chair.

**B. QUORUM**

Four or more members of the Board shall constitute a quorum to hold a meeting or take any action.

**C. ATTENDANCE BY ELECTRONIC MEANS**

Attendance telephonically or electronically shall be allowed if approved by the Chair on a case-by-case basis; however, for purposes of determining a quorum, telephonic or electronic participation is not included.

**D. PUBLIC NOTICE, PUBLIC INPUT, AND PUBLIC COMMENT**

1. All meetings will be open to the public except as otherwise noted below.
2. For noticing purposes, the Board will provide to the Department of Communications' Public Information Office (Public Information Office) a schedule of its meetings and will ensure agendas and minutes are available to the public in accordance with the State of Florida Sunshine Laws as found in Section (s.) 286.011, Florida Statutes (F.S.).
3. Public comments shall be taken at all meetings to the maximum extent practicable.

**E. MINUTES**

Written minutes of the proceedings shall be maintained by the Board and provided to the Department of Communications' Public Information Office. All actions taken at the meetings of the Board shall be properly and promptly recorded.

**F. REGULAR AND SPECIAL MEETINGS**

The Board will meet routinely based upon an adopted meeting schedule, which will be provided to the City Treasurer-Clerk, but shall convene at least once every two months. The Board may meet more often if required. The meeting date may be changed by the Chair with notification in advance by US mail or email to Board members, or by hand delivery. Special meetings may be called by the Chair.

All meetings shall be conducted in accordance with Robert's Rules of Order, unless waived by the Chair, or upon a majority of the Board members.



**G. NOTICE OF MEETINGS**

Notice of meetings shall be posted on the City of Tallahassee’s calendar, available on the Ethics Board website at Talgov.com

**H. CLOSED SESSIONS**

1. Any portion of a proceeding conducted by the Board under its authority as a local investigatory body, pursuant to a Complaint or preliminary investigation, is exempt from s. 286.011, F.S.; Section 24(b), Art. I of the State Constitution; and s. 120.525, F.S.
2. Any portion of a proceeding of the Board in which a determination regarding a referral is discussed or acted upon is exempt from s. 286.011, F.S.; and Section 24(b), Art. I of the State Constitution and s. 120.525, F.S.
3. The exemptions in paragraphs (1) - (2) above apply until:
  - a. The Complaint is dismissed as legally insufficient;
  - b. The Subject requests in writing that such records and proceedings be made public;
  - c. The Board determines that it will not investigate the referral; or
  - d. The Board, under its authority as a local investigatory body determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.

**I. EX PARTE COMMUNICATION**

No ex parte communications will be permitted on any matter coming before the Board. An ex parte communication is generally defined as an oral or written contact with a public official by a party or interested person regarding a matter pending before the Board or a matter which may be reasonably foreseen to come before the Board, without giving notice to other interested parties. If a Board member receives such a communication, the Board member should file the City’s ex parte discussion form.

**ARTICLE VIII –VOTING**

**A. VOTING AND ABSTENTION**

1. Each member shall be entitled to one (1) vote and shall cast that vote on each item submitted.

2. Proxy votes and absentee ballots shall not be permitted.
3. Members shall only abstain from a vote when there is a valid conflict of interest pursuant to Florida law and the member complies with the disclosure procedure.
4. No Board member shall vote on any matter unless the member attended the public hearing on the matter and bases his or her determination on the facts presented at the hearing. In the event of multiple public hearings or appeal, the Board member shall have attended all such hearings or, if not at the public hearings, he/she has reviewed the materials presented to the Board and a written transcript, video recording, or audio recording of the proceedings he/she missed.

#### **B. RECUSAL AND DISQUALIFICATION**

1. In quasi-judicial hearings, members may be disqualified or recused for bias, prejudice or interest, by motion timely filed. Members must disqualify or recuse themselves if they are family members or business associates of the subject of the Complaint or of the complainant.
2. Motions to disqualify or recuse a Board member from a quasi-judicial hearing must be filed by the movant and decided by the Board member prior to the commencement of the Complaint hearing or other vote or proceeding.
3. The standard for disqualification or recusal of a Board member is whether the motion is legally sufficient. A motion is legally sufficient if the facts alleged would prompt a reasonably prudent person to fear that (s)he could not get a fair and impartial trial. A member, in deciding whether to disqualify or recuse himself or herself, must assume the truth of the facts alleged but the member is not bound by movant's conjecture or legal conclusions.

### **ARTICLE IX – COMPLAINT PROCEDURES**

#### **A. HOTLINE CALLS, E-MAILS, AND WRITTEN OR SELF-INITIATED COMPLAINTS**

1. The Ethics Officer will maintain a log of all calls received by the Ethics and Fraud hotline and any e-mail Complaints and any written Complaints received using the Board's form. The Ethics Officer will provide this log at every regularly scheduled meeting.
2. The Ethics Officer, or his/her designee, shall receive all hotline calls and Complaints to go before the Board and examine the material submitted

therewith to assure completeness and that required documents are in good order.

3. All hotline calls and Complaints within the jurisdiction of the Board, including, but not limited to, local corruption, fraud, waste, mismanagement, campaign finance, conflicts of interest, corruption, Ethics Code violations, and voting conflicts, shall be given a tracking number and reviewed by the Ethics Officer or referred as outlined below.
4. Complaints shall not be accepted regarding actions before the creation of the Independent Ethics Board on November 14, 2014, unless there is an allegation the violation is ongoing.
5. Complaints shall be brought within five years of the alleged violations. Complaints brought after that time will not be accepted, unless there is a showing that the violation could not have been discovered due to fraud, concealment, or intentional misrepresentation of fact. In no event shall the period of limitations exceed seven (7) years from the date the incident giving rise to the Complaint.
6. Any documents received by the Ethics Officer related to any complaints shall be provided to all Board Members via US mail before each Board meeting. Any materials provided less than ten (10) days before a Board meeting shall be placed on the following month's agenda. These materials remain confidential and exempt under s. 112.324(2)(a), F.S.; s. 119.07, F.S.; Section 24(b), Art. I of the State Constitution; and s. 120.525, F.S. The Chair may waive the ten-day requirement for matters deemed urgent.
7. The following classifications of hotline calls and Complaints shall be referred (within 10 days if legally sufficient) as follows by the Ethics Officer, noted on the Complaint log and tracked until resolution:
  - a. Employee conduct/misconduct shall be reported to the employee's supervisor, the appropriate appointed official, or Assistant City Manager and to Human Resources director. If the hotline call or Complaint contains allegations that the Board determines cannot be adequately investigated, for any reason, by the city staff referenced above, the Board may direct the Ethics Officer to investigate the hotline call or Complaint, to have an investigation conducted by a third party, or to otherwise follow-up on the call or Complaint. The Ethics Officer shall report the status at the next Board meeting;
  - b. Fraud, waste or misuse of city resources shall be reported to the City Auditor's Office;

- c. Issues of retaliation or discrimination shall be referred to the Office of Workforce Development, the Florida Commission on Human Relations, or the US Equal Employment Opportunity Commission;
  - d. Issues relating to potential criminal actions shall be referred to law enforcement, as appropriate;
  - e. Issues relating to general citizen Complaints shall be referred to the Citizen Advocate;
  - f. Issues of workers' compensation fraud shall be referred to the Risk Management Division of the City Treasurer-Clerk's Office;
  - g. Issues relating to campaign finance violations shall be referred to the Florida Elections Commission, or the Department of State, Division of Elections;
  - h. Issues related to violations of the open meeting or public records law shall be referred to the state attorney's office or Attorney General's Office; and,
  - i. The Resolution of issues a-h of this section shall be reported to the Board at the next scheduled meeting following the resolution.
8. Inquiries consisting of a question or issue that can be readily answered or resolved by the Ethics Officer can be completed by the Ethics Officer, with the date, topic and resolution of issue noted on the Complaint log.
9. The Board may self-initiate investigations upon receipt by the Board of reliable and publicly disseminated information indicating a violation of the City Ethics Code and only when a majority of the Board agree to initiate such an investigation during a closed meeting as authorized in s. 112.324, F.S.
- If the investigation reveals legal sufficiency the Board may sign a sworn complaint, through the Chair, or any Board Member, in their capacity, with the Florida Commission on Ethics.
10. Any Complaint or hotline call determined to be outside the jurisdiction of this Board which may relate to a matter within the jurisdiction of another appropriate enforcement agency may be heard in an open meeting and, upon majority vote, the Board may refer the matter to the appropriate enforcement agency. Within two (2) business days following the vote, the Ethics Officer shall report, in writing, the result of vote to the Subject.

The Subject shall have ten (10) business days to file a Request for rehearing. Upon expiration of the tenth business days, the referral shall be made.

**B. PROCEDURES ON COMPLAINTS NOT REFERRED**

1. The Board by and through the Ethics Officer and independent investigators shall investigate any alleged violation of the City of Tallahassee Ethics Code and may investigate any other alleged breach of the public trust within the jurisdiction of the Board:
  - a. Upon a hotline phone call, e-mail Complaint or upon a written Complaint executed on a form prescribed by the Board and signed by any person; including anonymous Complaints;
  - b. Upon receipt of a written referral of a possible violation of this part or other possible breach of the public trust from the Governor, the Department of Law Enforcement, local law enforcement, a state attorney, or a United States Attorney a City Commissioner, the City Auditor, the City Attorney or the City Treasurer-Clerk.
2. Within five business days after receipt by the Board of a Complaint alleging a violation of the City's Ethics Code and an identifiable Subject, a Copy of the Complaint shall be transmitted to the Subject by the Independent Ethics Officer.
3. The Complaint, written referrals, records relating to the Complaint or referral or to any preliminary investigation held by the Board or its agents, proceedings conducted pursuant to a Complaint, or preliminary investigation are confidential and exempt from s. 119.07(1), F.S., s. 286.011, F.S., Section 24(b), Art I. and Section 24(a), Art. I of the State Constitution **until**:
  - a. The Complaint is dismissed as legally insufficient;
  - b. The Subject requests in writing that such records and proceedings be made public;
  - c. The Board determines that it will not investigate the referral; or
  - d. The Board determines, based on such investigation, whether probable cause exists to believe that a violation has occurred.
4. A Complaint or referral under this part against a candidate in any general, special, or primary election may not be filed nor may any intention of filing such a Complaint or referral be disclosed on the day of any such election or within the 30 days immediately preceding the date of the election, unless

the Complaint or referral is based upon personal information or information other than hearsay.

5. **FIRST STAGE.** A preliminary determination will be made whether the allegations of the Complaint are legally sufficient, that is, whether the Complaint if true would indicate a violation of any ethics law over which the Board has jurisdiction. If the Complaint is found by the Board to be legally insufficient, the Board will order that the complaint be dismissed without investigation and all records relating to the complaint will become public at that time.

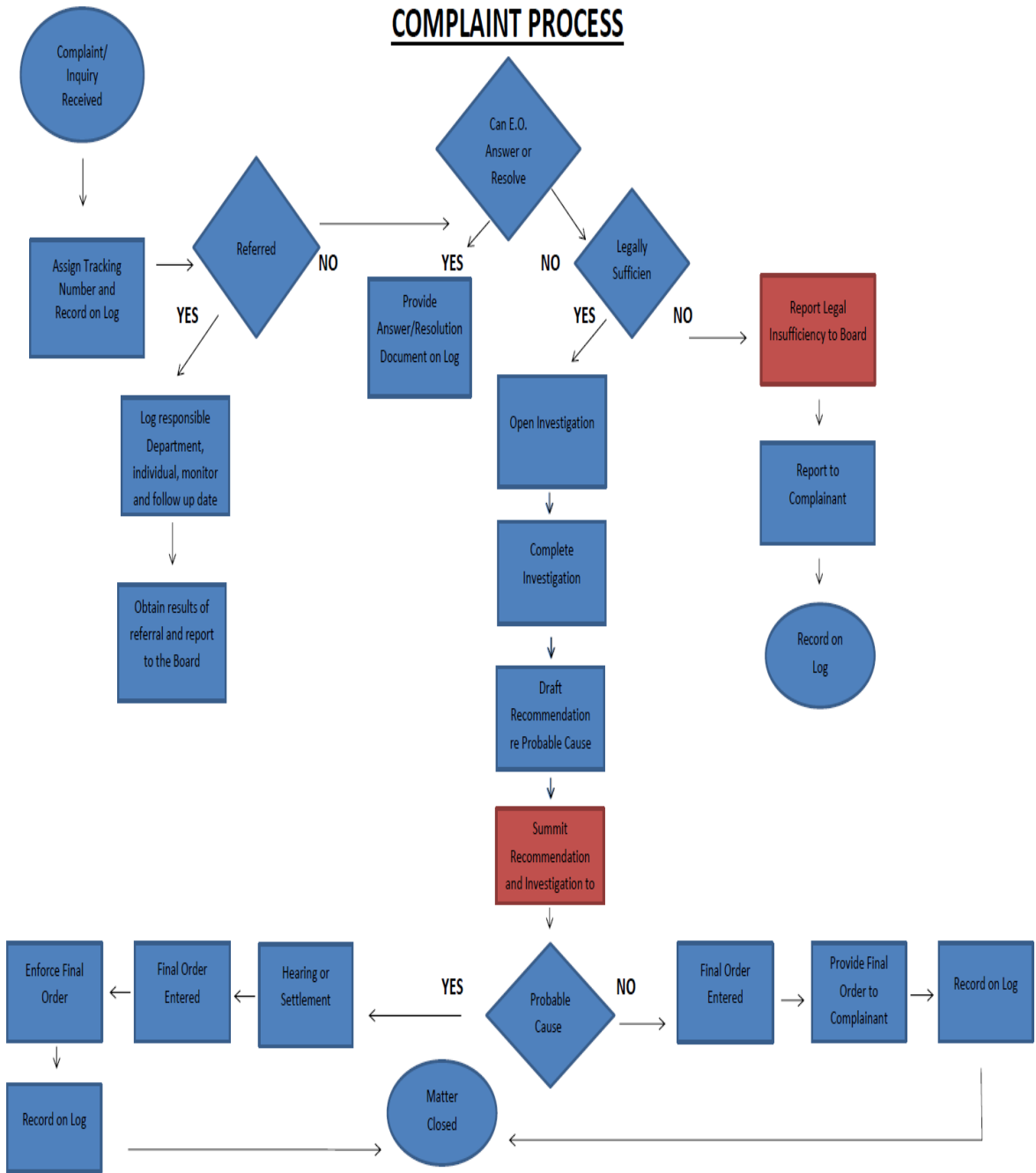
**SECOND STAGE.** If the Complaint is found to be legally sufficient, the investigator shall collect all evidence materially related to the allegations of the Complaint, whether such evidence tends to prove or disprove the allegation. The investigator, selected by the Board, shall prepare a report for Board review containing summaries of all witness interviews, evidence and including copies of documentary evidence. An advocate, selected by the Board, will then prepare a recommendation regarding whether probable cause exists to find an ethics violation. Further, investigation shall be undertaken at the direction of the Board to determine whether there is probable cause to believe that a violation has occurred. If, upon completion of the investigation(s), the Board finds no probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, the Board shall dismiss the Complaint or referral with the issuance of a public report to the complainant and the Subject, stating with particularity its reasons for dismissal. Any such dismissal may be reconsidered by the Board upon proper motion. At that time, the Complaint or referral and all materials relating to the Complaint or referral shall become a matter of public record.

**THIRD STAGE.** If the Board finds from the investigation(s) probable cause to believe that this part has been violated or that any other breach of the public trust has been committed, it shall so notify the complainant and the Subject in writing. Any such determination may be reconsidered by the Board upon proper motion. Such notification and all documents made or received in the disposition of the complaint or referral shall then become public records. Upon request submitted to the Board in writing, any person who the Board finds probable cause to believe has violated any provision of the City Ethics Code or has committed any other breach of the public trust shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 working days following the mailing of the probable cause notification required by this subsection. However, the Board may on its own motion, require a public hearing, may conduct such further investigation as it deems necessary, refer the matter to the Division of Administrative Hearings and

may enter into such stipulations and settlements as it finds to be just and in the best interest of the state.

6. In addition to reporting its findings to the proper disciplinary body or official, the Board shall report these findings to the state attorney or any other appropriate official or agency having authority to initiate prosecution when violation of criminal law is indicated.
7. The Board may dismiss any Complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the Board shall consider whether the interests of the public were protected despite the violation. For the purposes of this subsection, a de minimis violation is any violation that is unintentional and not material in nature.
8. Notwithstanding the provisions of subsections (1) - (4-6), the Board may, at its discretion, dismiss any Complaint or referral at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the Board shall issue a public report stating with particularity its reasons for the dismissal.
9. The Complaint process is summarized in Figure 1 attached hereto.

## COMPLAINT PROCESS





## **ARTICLE X – HEARING PROCEDURES AFTER THIRD STAGE PROBABLE CAUSE DETERMINATION**

Unless waived by all parties, all Board hearings shall be conducted as quasi-judicial proceedings. Such waivers must be approved by the Board.

- A. Public hearings before the Board shall be conducted as provided below, unless the parties agree otherwise; and the changes in hearing procedures are approved by the Board.
- B. Within 10 days of a determination for hearing, the chair shall issue an order on procedure establishing guidelines for all parties to follow.
- C. Following the conclusion of a hearing, the Board shall render a written decision to close the Complaint, to refer the Complaint to an appropriate law enforcement agency when violation of criminal law is indicated, or to adjudicate a violation and levy civil penalties, censure or sanction as may be authorized by the City Commission for violations of the City’s Ethics Code, or continue consideration to a date and time certain, and shall so notify the subject in writing.
- D. Any person may appear at a hearing, or be represented by authorized agents or attorneys.
- E. All parties may present witnesses and all witnesses shall testify under oath.
- F. The Board shall not be bound by strict rules of evidence, nor limited to consideration of such evidence as would be admissible in a court of law. The Board may exclude irrelevant, immaterial, incompetent, or unduly repetitious testimony or evidence. The Chair shall rule on all questions relating to the admissibility of evidence, but may be overruled by a majority of the Board members present.
- G. During the hearing, each side shall proceed without interruption by the other. All arguments and pleadings shall be addressed to the Chair.
- H. The Chair or Board members, upon recognition by the Chair; counsel to the Board; staff; any party; or counsel for any party may direct questions to the subject, witnesses, or any person speaking from the audience. “Party” includes staff, complainant, subject, or appellant. The Board members may make comments pertinent to the case.
- I. If written materials intended to be evidence are presented to staff or to the Board less than five working (5) days prior to the meeting, the Chair may reject the written materials. In lieu of rejecting the materials, the Board may continue the item to a subsequent meeting to allow time for review of the written materials. If all parties agree that they have had time to review the written materials, the Chair may allow the hearing to be held.

J. Order for Presenting Evidence.

1. The Chair, or such persons as the Chair may direct, shall call the case and describe the nature of the case. An attorney advocate selected by the Board shall present evidence, including investigative reports and documents and recommendations based on the evidence presented. The advocate may be the Ethics Officer, if the Ethics Officer is a member in good standing of the Florida Bar.
2. The subject, witnesses shall then present testimony, evidence, and argument on each matter.
3. The Board may hear testimony and receive evidence from persons appearing to address allegations.
4. Board members may examine all witnesses at any time during the hearing, upon recognition by the Chair.
5. Upon completion of testimony, the hearing shall be closed by the Chair, and the Board shall enter into deliberations on the evidence. Any adjudication of an ethics violation shall be based upon clear and convincing evidence.

K. Every decision of the Board shall become final. The Board's decision shall be in an order reduced to writing and shall indicate the vote. A copy shall be sent by mail or otherwise to the Subject, complainant, appellant, or authorized agent.

L. Appeals of the Board's final decision shall be by petition for writ of certiorari to the Circuit Court, which must be filed within 30 days of the date the Board's final order is rendered

## **ARTICLE XI - ISSUANCE OF ADVISORY OPINIONS**

A. The Board has the authority and discretion to render non-binding advisory opinions to any city official, employee, member of a citizen board or committee regarding the applicability or interpretation of the City Ethics Code.

B. Any city official, employee, member of a citizen board or committee, when in doubt about the applicability and interpretation of the City Ethics Code to themselves in a particular context may submit in writing the facts of the situation to the Independent Ethics Officer with a request for an advisory opinion from the Board to establish the standard of public duty.

C. An advisory opinion may be rendered by the Board, and each such opinion shall be numbered, dated and published on the Board's website.

- D. The Ethics Officer shall review each request for an advisory opinion. If the Ethics Officer determines that the person making the request is not a person who may receive an advisory opinion, the Ethics Officer shall, within ten business (10) days notify the person making the request that an advisory opinion cannot be rendered and the reason(s) it cannot be rendered. The Ethics Officer will report on declined requests for advisory opinions at the next scheduled Board meeting.
- E. If the Ethics Officer determines that the person seeking the advisory opinion has standing to receive an advisory opinion, the Ethics Officer shall promptly acknowledge receipt of the request. If the Ethics Officer believes additional information is necessary to assist in preparing the opinion, the requestor shall be notified by the Ethics Officer and asked to furnish any such additional information within the next ten business (10) days. The Ethics Officer will report on the status of new advisory opinion requests at the next scheduled Board meeting.
- F. The Ethics Officer shall prepare a draft of the Advisory Opinion within thirty (30) calendar days of the initial request or the submission of all additional necessary information and provide the draft to Board Counsel for review. Board counsel shall complete review within ten business (10) days.
- G. When the draft is complete, the Ethics Officer will mail a copy of the draft Advisory Opinion to the requestor, together with the date, time and location of the meeting at which the opinion will be considered by the Board.
- H. The advisory opinion shall be considered as an agenda item by the Board and adopted in full, amended, or rejected by a majority vote. Any numbered final advisory opinion shall be signed by the chair. The Board may determine that it will not issue an advisory opinion. The Board may take any other action necessary for the rendition of a full and accurate opinion, including, but not limited to, directions that further information be provided or that further research be undertaken. Any revised opinion will be reconsidered at the next scheduled Board meeting.

## **ARTICLE XII - AMENDING, WAIVING OR SUSPENDING BOARD BYLAWS**

- A. These bylaws may be amended by a majority of the Board. An amendment may be proposed at any regular meeting of the Board, and shall not be acted upon until the following regular meeting. Not less than seven (7) days prior to the meeting at which the amendment is to be voted upon, members shall be sent a copy of such proposed change.
- B. A rule of procedure or bylaw may be suspended or waived at any meeting by two-thirds (2/3) vote of Board members present, with agreement of the parties, unless such rule is established by statute or applicable code.

### **ARTICLE XIII - SEVERABILITY**

If any section, subsection, sentence, clause or phrase of these Bylaws is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the Bylaws.

### **ARTICLE XIV - BYLAWS AND EFFECTIVE DATE**

These Bylaws shall become effective upon adoption by the Board.

**These Bylaws were approved by the Independent Ethics Board on December 18, 2018.**



**By:** \_\_\_\_\_  
**Richard Herring**  
**Chair, Independent Ethics Board**

**Date:** \_\_\_\_\_  
**12/18/18**

#### Revision History:

December 18, 2018 (Art. III. A. 1. b.)  
May 15, 2018 (Art. III. D. 1. b., Art. V. A. 2 & 3, and Article IX. A. 7. a.)  
October 17, 2017 (Article IX)  
March 21, 2017 (Art.III.C.d. and Art.IV.D)  
January 17, 2017 (replace training w/education (Art. III.D.c. & Art.V.A.6.)  
October 18, 2016 (Article V.B.(4))  
September 20, 2016 (Article VI)  
July 19, 2016 (Article IX.4.Third Stage Art V.B.4.)  
April 19, 2016 (Art XI)  
February 16, 2016 (Art IX, V.A.8, Art III.A.3.)  
January 19, 2016 (Art. IX)  
December 15, 2015 (Art V.C, Art IX)  
November 12, 2015 (Art III)  
June 4, 2015  
November 4, 2014