

INTERNAL CONTROL PROCEDURES

COMPLAINT INTAKE AND MANAGEMENT FOR INVESTIGATIONS

Objective: To ensure that all complaints received by the Commission regarding possible violations of the Public Officers Law, the Legislative Law, and the "Little Hatch Act" are appropriately documented, managed, and tracked and that the appropriate procedures and actions are taken.

Complaints:

A. Sources

The Commission receives complaints in the following formats: mail, phone, tip line/hotline, email, referrals from government entities, media reports, walk-ins, and JCOPE initiated, including referrals from a designated JCOPE Lobby Unit Liaison for Late Fee matters. Telephone and walk-ins will immediately be reduced to writing utilizing the "intake complaint form."

B. Complaints Intake and Case Adoption

1. Entering Matters into the Case Management System
 - i. The Investigative Unit will immediately log in and assign a sequential case number to each complaint in the Case Management System ("CMS"), with the exception of JCOPE initiated matters.
 - ii. Matters that are JCOPE initiated are logged in at the discretion of the Director of Investigation and Enforcement ("Director").
 - iii. JCOPE Lobby Unit Late Fee Referrals will initially be logged into a spread sheet managed by the Deputy Director of Investigations and Enforcement ("Deputy Director"). The spread sheet shall contain the name of the matter, the date of referral, and shall note when the matter was accepted or returned to the Lobby Unit Liaison. The Deputy Director will review each referral for compliance with the criteria outlined in the Investigation Unit memorandum "Requirements for Referring Late Fee Matters to Investigations." If the matter meets the criteria, the Deputy Director will notify the Director who will make the determination to enter the matter into CMS. If the matter does not meet the criteria, it will be returned to the Lobby Unit Liaison. The date a matter is entered into CMS or returned to the Lobby Unit Liaison shall be noted on the spread sheet managed by the Deputy Director.
2. CMS records the following information:
 - i. complaint number, date of complaint, name of complainant, name of subject, nature of subject, summary of the allegations, defense counsel information, status of the case, law (POL/Lobby), notes, case assignment (counsel and investigator names), firewall attorney, and all recusals;

- ii. date of significant events including, but not limited, to: 15 day, presentation of SBI, SBI voted, Notice of Hearing and SBI notice, SBIR, or any presentation to the Commission; and if closed, reason for closure.
3. Generally, an acknowledgement letter will be generated and mailed to the complainant. For the complaints received by email, an auto-reply message has been formulated acknowledging the receipt of the complaint. The following exceptions would exist: anonymous tips and DOCCS complaints. The DOCCS complaints will be compiled together and forwarded to the DOCCS IG on a monthly basis. When a Lobby Unit Late Fee matter is entered into CMS, the Deputy Director shall notify the Lobby Unit Liaison.
4. There are three categories to identify the status of a case in CMS:
 - i. “open”: matters where the Commission or CPI commenced an investigation
 - ii. “pending”: matters that are under review or those where a 15 day notice has been sent
 - iii. “closed”: those matters that were referred, were settled, in which a guidance letter was sent, or were closed by staff or the Commission
5. With the exception of JCOPE initiated matters, upon receipt of a complaint, the investigative staff will immediately “triage” the complaint and determine the following:
 - i. whether it meets the criteria of a sworn complaint alleging a violation of law under the Commission’s jurisdiction and contain evidence based on firsthand knowledge
 - ii. whether it constitutes a formal agency referral
 - i. a formal agency referral is one where the agency has conducted a full investigation, made written findings (i.e. issued a report), and explicitly “referred” the matter to JCOPE
 - ii. the statutory time period is triggered for a formal agency referral, therefore, Commission staff shall present the matter to the Commission within sixty (60) days of the receipt of the formal referral for a Commission vote on whether to open an investigation or allow Commission staff leave to re-present the matter upon obtaining more evidence
 - iii. the statutory time period is not triggered when an agency reports or forwards information to JCOPE for consideration
 - iii. whether it relates to elected officials or other high profile matters

Matters that meet any of the above criteria are elevated and must be brought to the attention of the Director and the Executive Director. Matters that meet the criteria for a “sworn complaint” and/or formal referral are identified as such in CMS.

6. Matters that do not meet the criteria as described in the “triage” process will be reviewed on a weekly basis by the investigative staff with the Director. This review process will

determine if the complaint identifies a potential violation of law under the Commission's jurisdiction and/or if it warrants further inquiry.

- i. Matters that warrant further inquiry and/or investigation are brought to the attention of the Executive Director to discuss next steps.
 - ii. Matters that do not fall under the Commission's jurisdiction but fall under the jurisdiction of a different agency are brought to the attention of the Commission for authorization to refer to that agency, with the exception of a standing authorization to refer matter to DOCCS.
 - iii. In certain instances, the matter may be closed on its face after the "routine review." The investigative staff shall have the authority to close those complaints on their face that do not allege a violation of law under the Commission's jurisdiction (ie: election law violations, ethics complaints about local officials, wrongful termination, etc.), or where the Commission has no jurisdiction over the subject. In this instance, a closing memorandum will be prepared on a case by case basis and noted in CMS.
7. A hardcopy complaint/case folder will be prepared for each complaint and labeled with the name of the subject of the complaint and the corresponding complaint log number.
 8. An electronic case folder will also be created for each viable complaint and placed on the "G" drive within the "Investigations" folder. The electronic folder will be identified by the name of the person or entity targeted in the complaint and case number. Only select documents are placed on the "G" drive.

C. Investigation Process

1. Once a determination has been made that there may be a violation of law under the Commission's jurisdiction, the file will be assigned to an investigator. For all matters other than Lobby Unit Late Fee matters, the investigator assigned is responsible to fill out and maintain the "case status sheet." The case status sheet includes basic background information on the allegations and parties, procedural background, and any other relevant information. The investigator assigned is also responsible for tracking all timelines such as the issuance of the 15-day letter, Notice of Hearing and SBI, SBIR, and any presentations to the Commission.
2. Prior to the Commission authorizing a formal investigation, the investigative activity is generally limited to open source research and follow-up communications with the complainant. However, the Commission may consider additional action, including issuing a subpoena pursuant to Executive Law § 94(17)(c).
3. In accordance with Executive Law § 94(13(a)), if the commission receives a sworn complaint alleging a violation of Public Officers Law §§ 73, 73-a, 74, Civil Service Law

§ 107, or Article one-A of the Legislative Law by a person or entity subject to the jurisdiction of the commission including members of the legislature and legislative employees and candidates for member of the legislature, or if a reporting individual has filed a statement which reveals a possible violation of these provisions, or if the commission determines on its own initiative to investigate a possible violation, the commission shall notify the individual in writing, describe the evidence and possible or alleged violation of such laws and provide the person with a fifteen day period in which to submit a written response setting forth information relating to the activities cited as a possible or alleged violation of law.

4. The commission shall, within sixty calendar days after a sworn complaint or a referral is received or an investigation is initiated on the Commission's own initiative, vote on whether to commence a full investigation of the matter under consideration to determine whether a substantial basis exists to conclude that a violation of law has occurred. The staff of the joint commission shall provide to the members prior to such vote information regarding the likely scope and content of the investigation, and a subpoena plan, to the extent such information is available. Such investigation shall be conducted if at least eight members of the commission vote to authorize it.
5. If the commission votes to commence a full investigation, the commission shall provide the respondent with a Notice of Substantial Investigation and Hearing within the statutory time limits.
6. On a bi-monthly basis, the Chief Investigator and the Director will conduct a case review of all complaints that are deemed "open" or "pending." It will be the responsibility of the individual investigator assigned to individual complaints to ensure that the Chief Investigator and the Director are apprised of any new developments.
7. When a case is closed, the investigator/attorney assigned to the case will note the reason for the closure in CMS. The Director will then confirm the closing of the case in CMS. A copy of the case management summary sheet shall be printed to be placed in the hard copy file.

D. Retention and Purging of Records

1. All complaints/cases will be maintained in a room that is locked and provides limited access to specific staff members. The files will be organized in sequential order, segregated by calendar year and by the three categories of open, pending, or closed.
2. The record of each case shall be in hard copy form. Only select documents from a case are in the "G" drive.
3. After ten years from the year the matter was adopted as a case, the case files are handed over to the Administrative Officer for secure disposal, except that the master copy of the report of investigation with attachments, together with the

Substantial Basis Investigation Report, if issued, and hearing or settlement documents, shall be retained for reference purposes in the archives shelves in the investigations file room.

Attachments of Sample Forms: Case Status Sheet, Intake Complaint Form, Complainant Acknowledgement Letter, Email Auto-Reply to Complainant, Closing Memorandum, Determination Letter (to complainant), Scope, Notice of Substantial Basis Investigation and Notice of Hearing, Substantial Basis Investigation Report, and Settlement Agreement.

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