



City of Denton

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

AGENDA INFORMATION SHEET

DEPARTMENT: City Auditor's Office

CITY AUDITOR: Madison Rorschach

DATE: October 7, 2024

SUBJECT

Receive a report, hold a discussion, and take necessary action regarding the ethics complaint process detailed in Code of Ordinances Chapter 2, Article XI (Ethics), Sec. 2-281 Meetings and Sec. 2-282 Disposition and the Board of Ethics' Rules of Procedure.

BACKGROUND

The Board of Ethics gave direction to discuss the Burden of Proof section of the Ethics Ordinance on August 5, 2024, and stated it that it was their highest priority to remove the Burden of Proof because they believe it deters potential Complainants from submitting Ethics Complaints.

The City Council previous considered and rejected a proposal from the Board of Ethics to:

1. Remove Sec. 2-2281(c)(4) from the Ethics Ordinance; and
2. Eliminate the requirement for a Complainant to appear at an Evidentiary Hearing for an Actionable Ethics Complaint.

In general, this proposal seemed to be rejected because the City Council was concerned that removing the requirement for the Complainant to appear at an Evidentiary Hearing would increase the number of frivolous complaints.

Previous research indicated that most other benchmark cities do not have a specific ordinance section stating where the "burden of proof" rests. However, many require that the Complainant appear at an evidentiary hearing of some kind, especially when the municipality does not have an independent investigatory function for ethics complaints, like the City of Denton.

OPTIONS

The following options are presented to help guide discussion based on Staff's understanding of the Board and the City Council's concerns but are not intended to limit the Board's direction in any way.

1. Bring the same proposal back to the City Council with additional information explaining why the change is needed.
2. Eliminate the Burden of Proof section in the Ethics Ordinance and leave the Rules of Procedure the same (i.e., still require the Complainant to appear or the complaint must be dismissed).

3. Eliminate the Burden of Proof section in the Ethics Ordinance and amend the Rules of Procedure to allow the Board of Ethics to proceed if the Complainant does not appear if there is sufficient evidence. Continuing without the Complainant could require a simple or two-thirds majority vote.¹
4. Do not propose an amendment.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

Jun. 4, 2024: City Council considered and rejected a proposal from the Board of Ethics to remove Sec. 2-2281(c)(4) from the Ethics Ordinance and eliminate the requirement for a Complainant to appear at an Evidentiary Hearing for an Actionable Ethics Complaint.

EXHIBITS

1. Agenda Information Sheet

Respectfully submitted:
Madison Rorschach, 940-349-7228
City Auditor

¹ This procedural change may help resolve a separate procedural issue regarding how to process Ethics Complaints submitted anonymously, as allowed by Sec. 2-272(a) of the Ethics Ordinance.