



Proposed Amendments to the Ethics Ordinance & Rules of Procedure

Board of Ethics

March 21, 2023



Proposal 1: Clarification of Gifts Prohibition

- Clarifies the requirement for a City Official to formally disclose accepted gifts including those received by a relative (i.e. family member to 3rd degree).

(b) Gifts.

(1) *General.* It shall be a violation of this Article for a City Official or a City Official's Relative to accept any gift that might reasonably tend to influence such Officer in the discharge of official duties.

(2) *Specific.* It shall be a violation of this Article for a City Official to accept any gift for which the fair market value is greater than fifty dollars (\$50.00). It shall be a violation of this Article for a City Official to accept multiple gifts for which the cumulative fair market value exceeds two hundred dollars (\$200.00) in a single fiscal year.

~~(2)~~(3) It shall be a violation of this Article for a City Official or a City Official's Relative to accept any gift of cash, prepaid debit cards, or gift cards regardless of the value.

~~(2)~~(4) It shall be a violation of this Article for a Vendor to offer or give a Gift to a City Official or a City Official's Relative exceeding fifty dollars (\$50.00) per gift, or multiple gifts cumulatively valued at more than two hundred dollars (\$200.00) per a single fiscal year.

~~(7)~~(8) Disclosure Required. If a City Official chooses to accept a gift the City Official shall disclose the value of the gift and the nature of the gift's acceptance by filing an affidavit with the City Auditor.



ID 23-147

Proposal 4: Add a Recusal Requirement for Certain Aggregate Campaign Contributions

- Creates a requirement for City Officials to recuse themselves from deliberations if a Pending Matter is brought forward by an individual, Business Entity, or other organization that contributed at least \$500 to their campaign.

(E) receipt of more than a five-hundred dollars (\$500.00) Campaign Contribution from an individual, Business Entity, or other organization during the most recent Election Cycle, as evidenced by campaign finance reports required by the Texas Ethics Commission and filed with the City Secretary;

Campaign Contribution: a contribution to a candidate for mayor or city council in any of the following forms: a monetary contribution or a non-monetary contribution (in-kind contribution).

Election Cycle: the period of time beginning on the day after the last regular election for the office of mayor or council member of a particular council place and ending on the day the results of the next regular election for that position are declared as provided for by Section 3.04 of the City Charter.



Proposal 5: Add Recusal Requirement for Recent Offers of Employment

- Adds recusal requirement for recent offers of employment by the City Official or their Relative (i.e. family member to 3rd degree).

(H) direct or indirect solicitation of an offer of employment for which the application is still pending, receipt of an offer of employment which has not been rejected, or acceptance of an offer of employment from a person or Business Entity within the past twelve (12) months; _ _ _ _ _

Proposal 6: Add Recusal Requirement for Recent Business Opportunity Negotiations

- Adds recusal requirement for recent business opportunity negotiations engaged in by the City Official or their Relative (i.e. family member to 3rd degree).

(I) direct or indirect engagement in negotiations pertaining to business opportunities, where such negotiations are pending or not terminated with a person or Business Entity within the past twelve (12) months;

Proposal 7: Add Recusal Requirement for Client Relationships

- Creates a requirement for City Officials to recuse if they have a client relationship with a person or Business Entity.

(J) existence of a client relationship with a person or Business Entity including any business, financial, or professional relationship to which a duty of care, confidence, trust, or privilege applies to the City Official; and/or _____

Proposal 8: Add Recusal Requirement for Substantial Debtor or Creditor Relationships

- Adds recusal requirement if a City Official or their Relative (i.e. family member to 3rd degree) has a substantial debtor or creditor relationship.

~~(F)~~(L) existence of more than a five-thousand dollars (\$5,000.00) debt with a person or Business Entity whereby the City Official is either the debtor or creditor. -----

Proposal 9: Adjust Requirement for Business Partner Relationships from Disclosure to Recusal

- Change the requirement for City Officials to disclose a business partner relationship to a recusal requirement.

~~knowledge of an individual or Business Entity being an Affiliated or Partner of a Business Entity that the City Official or their Relative has a conflict of interest as defined in subsections (a)(3)(A), (a)(3)(B), (a)(3)(C), or (a)(3)(D);~~

~~Affiliated: Business Entities are "affiliated" if one is the parent or subsidiary of the other or if they are subsidiaries of the same parent Business Entity.~~

~~-Business Disclosures. When a Pending Matter is before the City Official, and the City Official has knowledge of being a partner with one of the owners of the Business Interest with the Pending Matter, all City Officials shall file with the City Auditor a report listing the known names of human individuals with whom the City Official or the City Official's spouse is named partner in the following types of businesses: General Partnership, Limited Partnership, Limited Liability Partnership, or Limited Liability Corporation, or Professional Corporation. Annual reports shall be submitted within ninety (90) days of taking office. Failure to submit a report shall not serve as a basis for a Complaint unless the City Official fails to submit a report within thirty (30) days of being provided written notification of the omission. Neither the existence of a business relationship as described in this Section, nor the submission of a report required by this Section shall prevent a City Official from participating in Deliberations on matters pending before the City absent a Conflicting Interest.~~

~~Partner: a person who engages in an activity or undertaking with another; "partner" includes someone named as a partner in the following types of businesses: General Partnership, Limited Partnership, Limited Liability Partnership, or Limited Liability Corporation, or Professional Corporation.~~



Proposal 10: Create Specific Sanctions for Frivolous Complaints

(5) *Super-Majority Vote.* If the Board of Ethics determines at the conclusion of a frivolity hearing by a vote of two-thirds (2/3) of ~~its~~ the Members present that a Complaint was Frivolous, the Board may within ten (10) business days ~~impose a sanction as provided by Section 2-282(b)~~ prohibit the Complainant from filing another complaint alleging one or more violations of this Article for up to:

(A) Two (2) years after the date of the Board's determination that the eComplaint is Ffrivolous if the Board had not determined within the preceding five years that another Ceomplaint filed by the Ceomplainant was fFrivolous; or

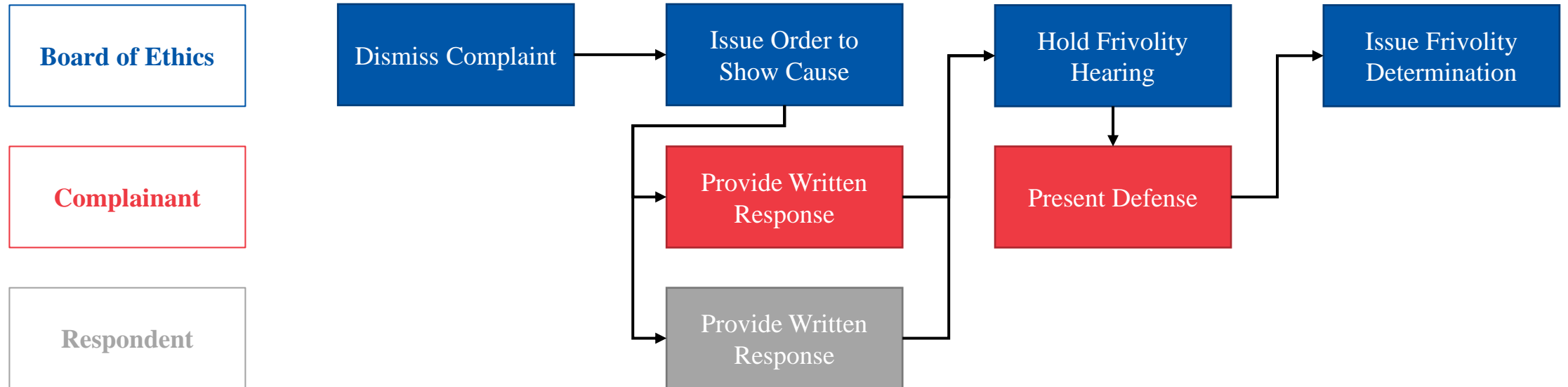
~~(A)~~(B) Four (4) years after the date of the Board's determination that the Ceomplaint is Frivolous, if the Board had determined within the preceding five years that another Ceomplaint filed by the Ceomplainant was Ffrivolous.

Notice of all complaint filing prohibitions imposed by the Board of Ethics shall be transmitted to the Complainant, City Auditor, City Attorney, and City Council.

~~Upon finding that a Complaint is Frivolous, the Complaint is dismissed.~~

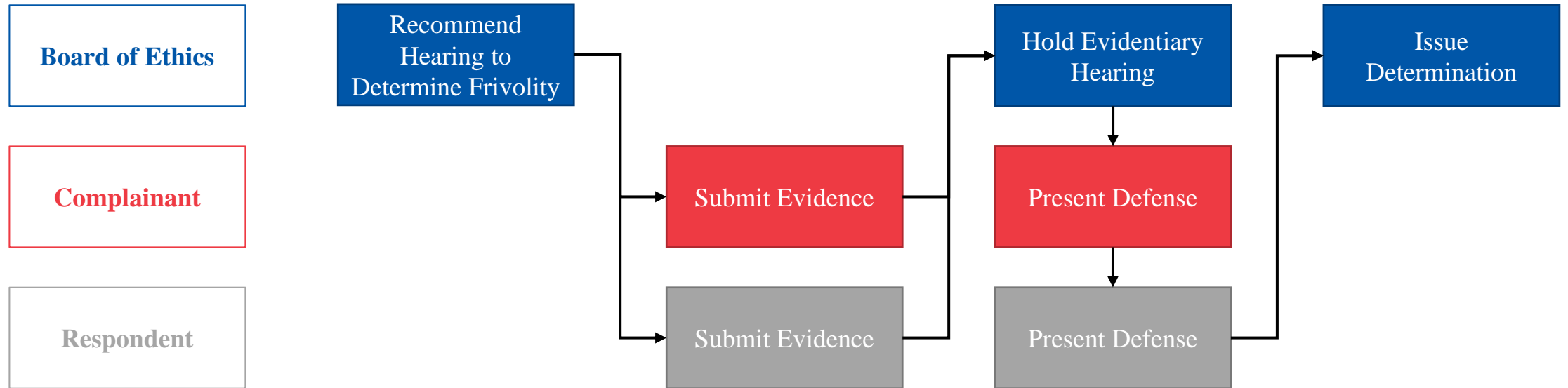
Proposal 11: Clarify Process by which the Board May Determine a Complaint is Frivolous

- Creates a process by which a Complainant may be ordered to show cause why their Complaint is not frivolous; requires Complaint to be dismissed before issuance.



Proposal 11: Clarify Process by which the Board May Determine a Complaint is Frivolous

- Current Process does not distinguish between Evidentiary and Frivolity Hearing; does not provide Complaint resolution until Frivolity is decided.



Proposal 11: Clarify Process by which the Board May Determine a Complaint is Frivolous

(2) Order to Show Cause. If the Board or a Panel dismisses an Ethics Complaint the Board or Panel may, by simple majority, order a Complainant to show cause why the Board should not determine that the Complaint is a Frivolous Complaint. Once an Order to Show Cause has been issued to a Complainant, the City Auditor shall not accept or process another Complaint from the Complainant until the Board has determined whether the complaint is Frivolous. An Order to Sow Cause must be issued in order to determine if a Complaint is Frivolous.

Written notification of the Order to Show Cause shall be filed with the City Auditor and sent to the Chairperson, the Complainant, the Respondent, and the City Attorney within two (2) business days. Once an Order to Show Cause has been issued, Panel has recommended that a Hearing be held to determine frivolity, the Complainant may not withdraw their Complaint.

(4) Frivolity Hearing. Hearings to determine frivolity shall be held within thirty (30) calendar days the issuance of an Order to Show Cause by the Preliminary Panel or Board. A hearing shall be scheduled on frivolity if the Preliminary Panel recommends an Accepted Complaint first be considered for frivolity. The Complainant shall have a right to present a defense and a right to be represented by legal counsel, but The Complainant is not required to testify appear at a frivolity hearing to determine if their submitted Complaint is frivolous. The Respondent is prohibited from presenting a defense at a hearing scheduled due to an issued Order to Show Cause.

(3) Order to Show Cause Response. The Complainant and the Respondent shall each have the opportunity to submit a written a sworn response, together with such other information they believe is relevant. The response must be submitted to the City Auditor within ten (10) calendar days after the date that the Complainant was given written notice of the Order to Show Cause. Copies of all information provided to the Ethics Board by the Complainant or the Respondent must be distributed to all parties to the Complaint within ten (10) calendar days after the Board receives the information.

(d) Recommendation to Determine Frivolity Order to Show Cause. If the Panel dismisses a Complaint by determining it to be Baseless, it may, by simple majority, order a Complainant to show cause why the Board should not determine that the Complaint is a Frivolous Complaint as provided by Section 2-282(c). Before filing notification of its determination, the Panel may consider recommending a hearing first be held to determine if an Accepted Complaint is frivolous. Written notification of the Panel's recommendation to hold a hearing to determine frivolity shall be filed with the City Auditor and sent to the Chairperson, the Complainant, the Respondent, and the City Attorney within two (2) business days. Hearings to determine frivolity shall be held within thirty (30) calendar days of a Panel's recommendation. Once a Panel has recommended that a Hearing be held to determine frivolity, the Complainant may not withdraw their Complaint.

The Complainant or Respondent may request the Board of Ethics to reconsider its decision unless a Complaint has been determined to be Frivolous. The request must be filed with the City Auditor

Proposal 11: Clarify Process by which the Board May Determine a Complaint is Frivolous

~~ED. ORDER TO SHOW CAUSE~~~~PRELIMINARY ASSESSMENTS~~

1. Issuance. If the Board or a Panel dismisses an Ethics Complaint, the Board or Panel may, by simple majority, order a Complainant to show cause why the Board should not determine that the Complaint is a Frivolous Complaint. An Order to Show Cause must be issued in order to determine if a Complaint is Frivolous.
2. Notice. The City Auditor shall send a written notification of the Order to Show Cause to the Chairperson, Complainant, the Respondent, and the City Attorney within two (2) business days.
3. Response. The Complainant and the Respondent shall each have the opportunity to submit a written sworn response, together with such other information they believe is relevant, to the Order to Show Cause. Such responses must be submitted to the City Auditor within ten (10) calendar days after the date that the Complainant was given written notice of the Order to Show Cause. Copies of all information provided to the Ethics Board by the Complainant or the Respondent must be distributed to all parties to the Complaint within ten (10) calendar days after the Board receives the information.
4. Hearing. Hearings to determine frivolity shall be held within thirty (30) calendar days of the issuance of an Order to Show Cause. Frivolity Hearings shall follow procedures for Hearings laid out in Section F. Hearings



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Code of Ethics 52-282(c).

Additional Minor Verbiage Changes

- Adjust Sec. 2-273 subsection (d) Representation of Others to change the word affiliated to related due to the term affiliated now being defined.
- Clarify in Sec. 2-279 subsection (i) Notification of Acceptance that the Complainant should receive a copy of their Accepted Complaint along with the notification of acceptance.

Questions?

Lara Tomlin

Chair

Board of Ethics

Madison Rorschach

Board of Ethics Staff Liaison

