

**Louisville/Jefferson County
Metro Government
Ethics Commission**

Annual Report
July 2013-June 2014

To Mayor Greg Fischer and the Louisville Metro Council

The members of the Louisville Metro Ethics Commission respectfully present the fourth Annual Report on the activities of the Metro Ethics Commission in Fiscal Year 2014.

Respectfully submitted

Jonathan Ricketts, Chair
Louisville Metro Ethics Commission

Ms Thelma Clemons
Mr. Terry Conway
Mr. Skip Daleure

Ms. Susan Rhodes
Ms. Vickie Tabler
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Introduction

In Fiscal Year 2014-2015, following an amendment authorizing the review of ethics complaints prior to filing, the Commission implemented an administrative review process to eliminate complaints that do not conform to the requirements established in LMO sec 21.06. Commission staff, using a checklist drawn directly from the Ordinance, now review and return incomplete and non-compliant complaints for correction and completion, rather than submitting them to the Commission to be dismissed.

The first complaint to be rejected involved a Metro employee who the Complainant identified by name, but not by any job title or duty. She was informed that when she can state that the employee was indeed a Metro officer as defined in the Ordinance, the Complaint would be accepted, given a case number, filed in the record and submitted to the Commission. The second complaint rejected came from a Complainant aggrieved about a heated argument with a Metro officer. Staff rejected the complaint because it failed to identify the section of the Ethics Ordinance allegedly violated by rudeness. When the rejection was explained, Complainant agreed that nothing in the Ordinance prohibited the alleged statements.

While the Commission does not retain any of the rejected complaints in its records, this and future annual reports will track the number of and reason for rejections.

In the past fiscal year the Commission also re-examined its interpretation of the confidentiality requirements regarding complaints. In the past, the confidentiality requirement was interpreted to mean that a response to a complaint should not be served on the party complaining. But this year the Commission received a complaint that contained an error of fact that was brought to light in the response. Because the response was not given to the complainant, and because the Commission wanted to know if the complainant could correct the error and amend the complaint, it served the response on the complainant and asked her to return to a special meeting of the Commission to reply, if she could, and correct the error.

Rather than deprive complainants of the opportunity to rebut facts in the response or correct errors by amendment and risk dismissal of valid complaints for errors that can be corrected by amendment, the Commission reviewed its interpretation of the confidentiality requirement to determine its application to a party to the complaint. It determined that confidentiality was not applicable to the initiating complainant until the Commission determines probable cause and issues its notice of hearing.

TRAINING OF METRO OFFICERS AND FINANCIAL DISCLOSURES

The Commission's administrative staff keeps records of all participation in training sessions, but Metro Government Human Resources Training Division, on behalf of the Commission, conducts the training. In addition to tracking compliance with training requirements, the Commission staff also monitors the filing of financial disclosure statements.

An Open Records Request to the Commission this year revealed that some disclosure statements for the previous year had not been received by the Commission. Staff learned that some disclosures had been sent to other offices with the understanding those offices would forward the disclosure to the Commission. Staff was able to retrieve all such misfiled disclosures, but disclosures from previous years may be outstanding.

Commission staff is currently working with Human Resources to obtain an accurate list of all metro officers subject to disclosure and provide access to requested disclosures on-line.

MEETINGS OF THE COMMISSION

The Commission established its regular meeting date as the third Thursday of each month. The Commission met in 6 regularly scheduled meetings, and 1 special meeting in FY 2013-2014. There was a quorum present for all Commission meetings, and no member has been absent without excuse from more than two meetings.

The meetings dates of the Commission during FY2012-2013 were as follows:

September 19, 2013
October 17, 2013
November 21, 2013
December 19, 2013
February 20, 2014
March 6, 2014 (Special Meeting)
March 20, 2014

OPINIONS

Advisory opinions are requested of the Commission in accordance LMO §21.05(B)(2). A form for requesting these opinions is available on the Commission's web site. Advisory opinions are issued based upon the information provided on the form by the requestor and can be tabled for a future meeting for further inquiry if all facts are not presented or known. Advisory opinions are addressed in open meetings, and the opinion is based upon a decision of a majority of Commission members present at the time the matter is heard.

The Commission responded to requests for advisory opinions, one from an Agency Director, 1 from a Metro Council Member and 2 from Metro Officers. The request, discussion and opinion are reflected in the minutes of the Commission for the month in which the matter is heard.

COMPLAINTS

The Commission received 10 complaints during FY 2014. Complaints 13-P-001, 13-P-002, 13-P-003, 13-P-004, 13-P-005, 14-P-001 and 14-P-003 were dismissed as untimely. Complaints 13-P-006, 13-P-007 and 14-P-002 were dismissed for lack of probable cause under the Ordinance. Further details of these dismissals can be found in the minutes of the Commission meetings.

Two complaints were rejected for failure to meet the requirements of LMO §21.06 following administrative review and were returned to the complainant for correction.

RECOMMENDATIONS

In the last Fiscal Year, a bill in the General Assembly to grant subpoena powers to the Commission failed despite the unanimous support of the Metro Council. The Commission recognizes the excellent work of the Metro Council, and the leadership of Council President Jim King and Intergovernmental Affairs Committee chair David Yates, for their work on Senate Bill 53 granting subpoena powers to Louisville Metro and Lexington Urban government Ethics Commissions.

The Commission urges the Council to continue to these efforts, and recommends that the Mayor, perhaps in coordination with Lexington's Mayor, add the subpoena power legislation to his priorities for the next General Assembly.