



# Marion-Crittenden County Code of Ethics Board

## Ethics Complaint Procedures

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### Complaint procedure / Preliminary inquiries / Penalty for false complaint of misconduct.

1. Complaint procedure dictates:
  - a. The Marion-Crittenden County Code of Ethics Board (Commission) shall have jurisdiction to investigate and proceed as to any violation of the Marion-Crittenden County Code of Ethics upon the filing of a complaint. The complaint shall be a written statement on the prescribed Marion-Crittenden County Code of Ethics Complaint Form alleging a violation against one (1) or more named persons and stating the essential facts constituting the violation charged. The complaint shall be made under oath and signed by the complaining party before a person who is legally empowered to administer oaths, such as a notary public. The Commission shall have no jurisdiction in the absence of a complaint. A member of the Commission may file a complaint.
  - b. The Complaint Form is available upon request in the Designated Administrative Office for the Commission, which is the Office of Crittenden County Clerk, 200 Industrial Dr., Ste. B, Marion, Ky. The completed Complaint Form must be returned to the same office.
  - c. Within ten (10) days of the filing of a complaint, the Commission shall cause a copy of the complaint to be served by Certified Mail upon the person alleged to have committed the violation.
  - d. Within twenty (20) days of service of the complaint the person alleged to have committed the violation may file an answer with the Commission. The filing of an answer is wholly permissive, and no inferences shall be drawn from the failure to file an answer.
  - e. Commission determination.
    - i. After the Commission receives the answer, or the time expires for the filing of an answer, the Commission may dismiss the matter for failure to state a claim of an ethics violation, or otherwise shall determine upon the affirmative vote of at least two (2) members, at the next regularly scheduled or special meeting called upon the chair's notice to all members of the Commission, whether there is reason to believe the person named in the complaint has committed or is about to commit an ethics violation.
    - ii. If the Commission determines that there is reason to believe the person named in the complaint has committed or is about to commit a violation of this code, upon an affirmative vote of at least two (2) members, the Commission shall initiate a preliminary inquiry into the alleged violations pursuant to subsections (3) to (5) of this section. A determination by the Commission under this subparagraph:
      1. Means that the Commission believes that the alleged violation merits further inquiry, and the Commission shall proceed with its inquiry and investigation; and
      2. Is not a finding that a person named in a complaint has violated this code.

- iii. If the Commission fails to determine by an affirmative vote of at least two (2) members that there is reason to believe the respondent has committed or is about to commit a violation of this code, the complaint shall be dismissed.
  - f. Within thirty (30) days of the commencement of the inquiry, the Commission shall give notice of the status of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.
  - g. A complaint may be filed against a former official within one (1) year of the date he or she left office.
2. All Commission proceedings, including the complaint and answer and other records relating to a preliminary inquiry, shall be confidential until a final determination is made by the Commission, except:
  - a. The Commission may turn over to the Attorney General, the United States Attorney, Commonwealth's attorney, or county attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings; and
  - b. If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the Commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party.
3. The Commission shall afford a person who is the subject of a preliminary inquiry an opportunity to appear in response to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations in the complaint.
4. If the Commission determines by the answer or in the preliminary inquiry that the complaint does not allege facts sufficient to constitute a violation of this code, the Commission shall immediately terminate the matter and notify in writing the complainant and the person alleged to have committed a violation. The Commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the Commission, the Commission may confirm the existence of the action and, in its discretion, make public any documents that were issued to the alleged violator.
5. If the Commission, during the course of the preliminary inquiry, finds probable cause to believe that a violation of this code has occurred, the Commission shall notify the alleged violator of the finding, and the Commission may, upon majority vote:
  - a. Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the city or county, or lack of significant impact on public confidence in government, confidentially reprimand, in writing, the alleged violator for potential violations of the law and provide a copy of the reprimand to the presiding officer of respective (city or county) government for which the alleged violator serves. The proceedings leading to a confidential reprimand and the reprimand itself shall remain confidential except that, if the alleged violator publicly discloses the existence of such an action, the Commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or
  - b. Initiate an adjudicatory proceeding to determine whether there has been a violation.
6. Any person who knowingly files with the Commission a false complaint of misconduct on the part of any legislator or other person shall be guilty of a Class A misdemeanor.