



Special Code of Ethics Revision Committee – Board of Representatives

Benjamin Lee, Chair

J.R. McMullen, Vice Chair

Committee Report

Date: Wednesday, October 27, 2020

Time: 7:00 p.m.

Place: This meeting was held remotely.

The Code of Ethics Revision Committee met as indicated above. In attendance were Chair Lee, Vice Chair McMullen and Committee Member Reps. Curtis, Miller, Morson, Sherwood, Stella and Zelinsky. Excused was Rep. Fedeli. Also present was Rep. de la Cruz.

Chair Lee called the meeting to order at 7:04 p.m.

Item No.	Description	Invitee(s) or Designees
1. COE30.005	ORDINANCE <u>for publication</u> ; Amending Chapter 19 of the Code of Ordinances, Code of Ethics. 08/05/20 – Submitted by Rep. Lee 09/01/20 – Held by Committee, as amended, 9-0-0 09/23/20 – Held by Committee, as amended, 9-0-0	Held, As Amended, 8-0-0

A motion to delete the last sentence in Section 19-14.D(1)(b) “The Investigating Board members may delete, defer or reject any part of a complaint that does not conform to its requirements.” was made and seconded.

The attendees discussed the motion. Items discussed included the following:

- The term “requirements” is not defined, but may refer to how the application form filed with the Board of Ethics is filled out or may refer to a legal standard as to whether the complaint alleges a violation of the Code of Ethics and needs to be clarified.
- Should the Investigatory Committee be able to amend or dismiss the complaint?
- The Investigatory Committee may help the complainant wordsmith the complaint
- Should the word amend be added, so it reads “delete, defer, reject or amend”?
- There is merit in having the complaint cleaned up prior to being sent to the respondent, claims which are not a violation of the Code are removed first
- The ordinance appears to read sequentially, so this takes place prior to the complaint being sent to the respondent
- The Investigatory Committee is to act without the involvement of the rest of the Board, so the Board can evaluate the complaint after the investigation is completed
- There is language that also suggests subsequent changes are made by the Investigatory Committee, including the addition of changes
- A respondent should see the entire complaint (this is provided in 1(c))
- This section should only relate to procedural matters and the next section should relate to the substance of what the Investigatory Committee does
- The Investigatory Committee does not determine probable cause at this stage. It has 60 days to make that determination

- Should the preceding sentence be modified as well to read something similar to “It shall be the Investigating Committee’s responsibility to make a determination of whether or not the complaint contains allegations to support a finding of probable cause exists to support the complaint. The Investigating ~~Board members~~ Committee may delete, defer, amend, or reject any part of a complaint as necessary ~~that does not conform to its requirements.~~

The motion to delete the sentence failed by a vote of 4-4-0 (Reps. Curtis, Sherwood, Stella and Zelinsky in favor; Reps. Lee, McMullen, Miller and Morson opposed).

The committee noted that the term “requirements” will need to be clarified at a future meeting.

A motion to amend the last sentence in Section 19-14.D(1)(b) as follows: “The Investigating Board members may delete, defer, amend, or reject any part of a complaint that does not conform to its requirements.” was made, seconded and approved by a vote of 8-0-0 (Reps. Lee, McMullen, Curtis, Miller, Morson, Sherwood, Stella and Zelinsky in favor).

A motion was made to amend the first sentence of Section 19-14.D(1)(d) by moving the last sentence in Section 19-14.D(1)(b), as amended, and making further changes, as follows:

Subsequent to the filing of the original complaint, the Investigating ~~Board members~~ Committee may, at ~~their~~ its discretion, ~~delete, defer, amend,~~ or reject ~~amend~~ any complaint filed with the Board to include other alleged violations supported by materials uncovered during the investigation which ~~they~~ it reasonably suspects to have occurred, based on allegations in the original complaint.

The motion was seconded and approved by a vote of 6-2-0 (Reps. Lee, McMullen, Curtis, Sherwood, Stella and Zelinsky in favor; Reps. Miller and Morson opposed).

A motion to delete the phrase “and any subsequent changes” from Section 19-14.D(1)(c) both times it appears was made, seconded and approved by a vote of 5-3-0 (Reps. McMullen, Curtis, Sherwood, Stella and Zelinsky in favor; Reps. Lee, Miller and Morson opposed).

Committee members discussed the timing for the respondent to receive the complaint and whether or not 7 days is appropriate and whether claims that would not be violations if true should be deleted before the complaint is sent to the respondent.

A motion to hold Item No. 1, as amended, was made, seconded and approved by a vote of 8-0-0 (Reps. Lee, McMullen, Curtis, Miller, Morson, Sherwood, Stella and Zelinsky in favor).

Chair Lee adjourned the meeting at 9:41 p.m.

Respectfully submitted,
Ben Lee, Chair

This meeting is on [video](#).