



Special Code of Ethics Revision Committee – Board of Representatives

Benjamin Lee, Chair

J.R. McMullen, Vice Chair

Committee Report

Date: Tuesday, December 1, 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, Fedeli, Miller, Morson, Sherwood, Stella and Zelinsky. Also present were Reps. de la Cruz and Matherne.

Item No.	Description	Committee Action
1. COE30.005	ORDINANCE for publication; 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 10/27/20 – Held by Committee, as amended, 8-0-0	Held, as amended, 9-0-0

Committee members reviewed the proposed changes submitted by Reps. McMullen and Sherwood, which sought to combine the comments received so far, along with the changes made, into one document.

A motion to amend Section 19-14 (D)(1)(d) to delete the phrase “which it reasonably suspects to have occurred, based on allegations in the original complaint” was made and seconded.

Committee members discussed the ability of the Investigating Committee to change the complaint, including the timing of such changes. The motion was approved by a vote of 9-0-0 (Reps Lee, McMullen, Curtis, Fedeli, Miller, Morson, Sherwood, Stella and Zelinsky).

A motion to amend the second sentence of Section 19-14 (D)(2)(a) as follows was made and seconded:

The Investigating ~~Board members~~ Committee shall investigate the complaint and such amendments as they may have ~~made~~ added.

This motion was approved by unanimous voice vote.

A motion to amend Section 19-14 (D)(1)(d) as follows was made, and seconded:

Subsequent to the filing of the original complaint, the Investigating Committee may, at its discretion, delete, defer, amend, or reject any complaint or element thereof filed with the

Board to include other alleged violations supported by materials uncovered during the investigation.

The motion was approved by a vote of 9-0-0 (Reps Lee, McMullen, Curtis, Fedeli, Miller, Morson, Sherwood, Stella and Zelinsky).

A motion to amend the second sentence of Section 19-14 (D)(2)(a) as follows was made and seconded:

Subsequent to the filing of the original complaint, the Investigating Committee may, at its discretion, delete, defer, amend, or reject any complaint or element thereof filed with the Board to include other alleged violations, provided that such additional allegations are supported by materials uncovered during ~~the~~ its investigation.

This motion was approved by unanimous voice vote.

A motion to amend Section 19-14 (D)(2)(a) as follows was made and seconded:

The Investigating Committee shall investigate the complaint and such amendments as they may have made. For this purpose, informal hearings may be held to determine whether or not there is probable cause to believe that the respondent has violated the Code of Ethics. The Investigating Committee shall investigate complaints to ensure each allegation is supported by material sufficient to sustain the complaint. In the absence of such material provided with the complaint, the Investigating Committee shall request further information from the Complainant. If there is no such information provided by the Complainant the Investigating Committee shall continue to investigate the complaint.

Committee members discussed the role of the Investigating Committee in reviewing the complaint, including, whether the Investigating Committee ensures that the allegations are supported, and the Committee's role in determining whether the facts, as alleged in a complaint, would sustain an ethics violation prior to proceeding. The motion was amended as follows::

The Investigating Committee shall investigate the complaint and such amendments as they may have made. For this purpose, informal hearings may be held to determine whether or not there is probable cause to believe that the respondent has violated the Code of Ethics. The Investigating Committee shall review the complaint to determine i) whether, if each allegation in the complaint were true, such allegations would be violation of this Code; and ii) whether such allegations are supported by material sufficient to reach a finding of probable cause. In the absence of such material provided with the complaint, the Investigating Committee shall request further information from the Complainant. If there is no such information provided by the Complainant, the Investigating Committee shall continue to investigate the complaint.

Committee members continued to discuss this proposed change, including whether this language would be clear to the public, and the extent to which a complainant is likely to have the necessary material. After further discussion, the motion and the second were withdrawn

The motion to amend Section 19-14 (D)(2)(a) as follows which was previously withdrawn was reintroduced and seconded:

The Investigating Committee shall investigate the complaint and such amendments as they may have made. For this purpose, informal hearings may be held to determine whether or not there is probable cause to believe that the respondent has violated the

Code of Ethics. The Investigating Committee shall review the complaint to determine i) whether, if each allegation in the complaint were true, such allegations would be violation of this Code; and ii) whether such allegations are supported by material sufficient to reach a finding of probable cause. In the absence of such material provided with the complaint, the Investigating Committee shall request further information from the Complainant. If there is no such information provided by the Complainant, the Investigating Committee shall continue to investigate the complaint.

The motion was approved by a vote of 9-0-0 (Reps Lee, McMullen,. Curtis, Fedeli, Miller, Morson, Sherwood, Stella and Zelinsky.

A motion to amend Section 19-14 (D)(2)(a) as follows was made and seconded:

The Investigating Committee shall investigate the complaint and such amendments as they may have made. For this purpose, informal hearings may be held to determine whether or not there is probable cause to believe that the respondent has violated the Code of Ethics. The Investigating Committee shall review the complaint to determine i) whether, if each allegation in the complaint were true, such allegations would be violation of this Code; and ii) whether such allegations are supported by material sufficient to reach a finding of probable cause. In the absence of such material provided with the complaint, the Investigating Committee shall request further information from the Complainant. If there is no such information provided by the Complainant, the Investigating Committee shall continue to investigate the complaint. At the termination of the investigation the Investigating Committee shall issue a finding that either probable cause exists to proceed to a public hearing or that probable cause does not exist to proceed to a public hearing.

Committee members discussed whether this additional language is needed, given the language in Section 19-14 (D)(3). The motion was then withdrawn.

A motion to amend the first sentence of Section 19-14(D)(2)(b) as follows was made and seconded:

Any investigation ~~and hearing, if held,~~ shall be confidential and shall not be open to the public unless the respondent requests that such investigation, ~~hearing and disclosure~~ be open ~~or if there is a finding of probable cause.~~

Committee members discussed the use of informal hearings by the Investigating Committee and the need for them to be confidential. The phrase "hearing" was thought to be confusing and the motion was amended to change the first sentence of Section 19-14(D)(2)(a) and the first sentence of Section 19-14(D)(2)(b) as follows:

(a) The Investigating Board members Committee shall investigate the complaint and such amendments as they may have made added. For this purpose, informal hearings-interviews may be held to determine whether or not there is probable cause to believe that the respondent has violated the Code of Ethics.

* * *

(b) Any investigation and hearing interviews, if held, shall be confidential and shall not be open to the public unless the respondent requests that such investigation, hearing interviews and disclosures be open ~~or if there is a finding of probable cause.~~

A motion to hold Item No. 1, as amended, was approved by unanimous voice vote.

Chair Lee noted that he would reach out to the Board of Ethics in order to get their feedback.

Chair Lee adjourned the meeting at 9:23 p.m.

Respectrfully submitted,
Benjamin Lee, Chair

This meeting is on [video](#).