

Campaign Finance Complaint Process Overview & Potential Changes to Streamline

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- Campaign finance complaints and investigations related to alleged violations of the City's campaign finance rules in the City Code
- Currently all investigations are initiated by citizens filing a complaint
- Statistics of Complaints Filed in Prior Elections:
 - 2023 – 7 complaints
 - 2022 – 3 complaints
 - 2021 – 12 complaints
- Complaints and accompanying documents are considered public records and posted on the City's Election website
- Questions have been raised regarding making the process more efficient and more timely

Current CFC Form



- CFC can be filed online or dropped off at the Clerk's Office
- The complaint must contain:
 - The name of the alleged violator;
 - The Code provision allegedly violated;
 - A brief statement or description of the offense allegedly committed and the basis for the allegation;
 - Identification of any relevant documents or other evidence;
 - Identification of any witnesses or persons with relevant knowledge; and
 - The name, address, and telephone number of the complainant.
- Complaints must be filed no later than 60 days after the alleged violation occurred

For City Clerk's Use Only: Date Filed: _____ Initials: _____

Return this completed form to:

City Clerk's Office, 300 LaPorte Avenue, Fort Collins, CO 80521, or email to elections@fcgov.com

NOTICE OF ELECTION COMPLAINT ALLEGING A VIOLATION OF CITY CAMPAIGN LAWS	
<small>Complainant Information: Name, address, telephone number(s), and email address of the complainant (who must be a registered elector). If more than one complainant, please provide the name, address, telephone number(s), email address, and signature of each complainant on the back of this form or on additional sheets.</small>	
Name: _____	Complainant's Signature: _____
Street Address: _____	Zip Code: _____
Phone #: _____	Email: _____

A complaint alleging a violation of City campaign laws, in accordance with Section 7-145, must be filed with the City Clerk no later sixty (60) days after the alleged violation has occurred.

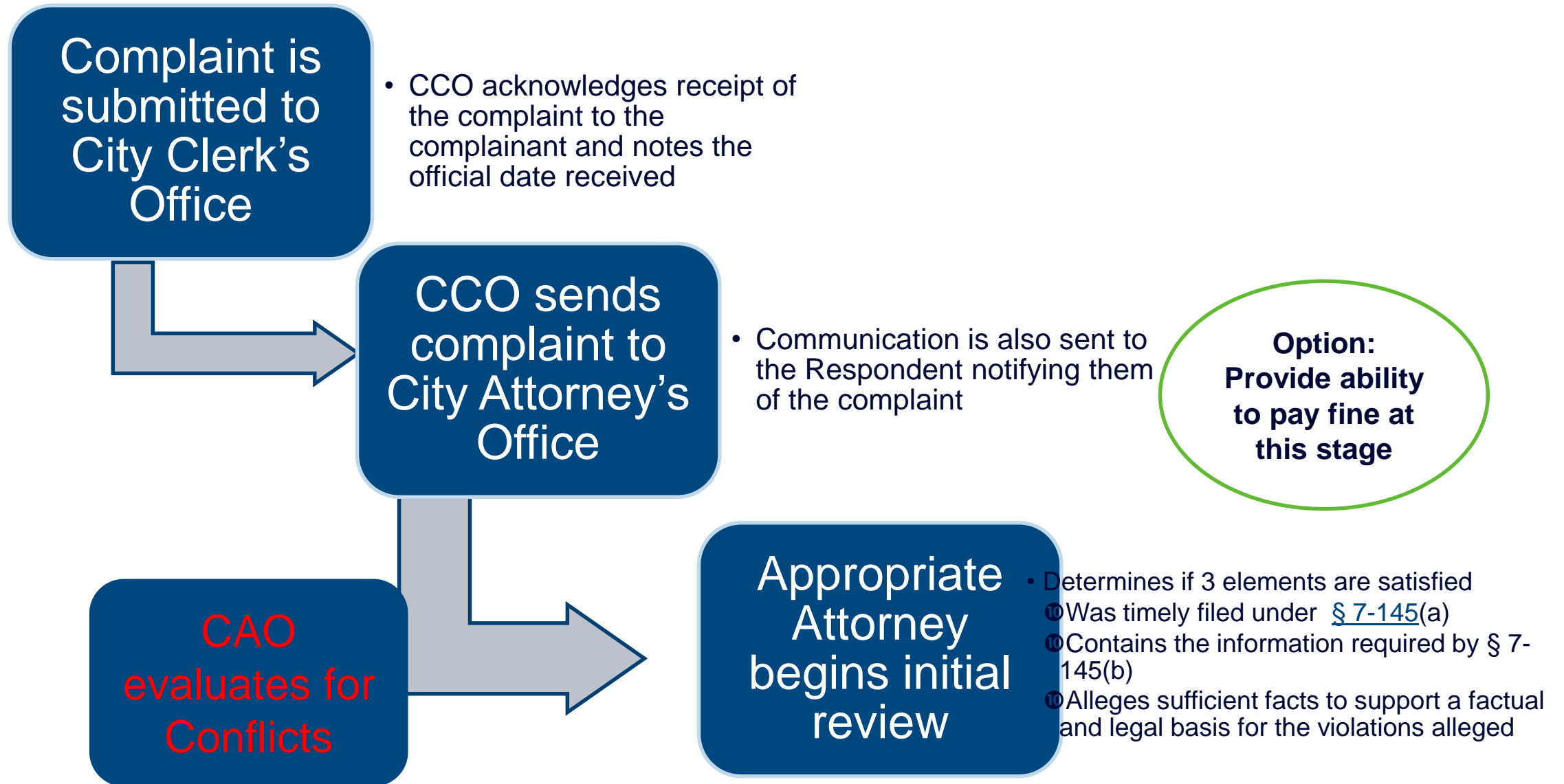
GROUNDS FOR ELECTION COMPLAINT	
Name of alleged violator(s): _____	Date(s) of alleged violation: _____
Code provision allegedly violated: _____	
Description of the offense allegedly committed and the basis for the allegation: _____	
Identification of any relevant documents or other evidence. Please attach copies of documents if available. _____	
Identification of any witnesses or persons with relevant knowledge. Please provide contact information for each witness or person identified, such as phone number, physical address, email address, etc. if available. _____	

****A separate form must be completed for each Complaint****

For City Clerk's Use Only

Date Complaint Forwarded to City Manager and City Attorney: _____ Initials: _____

Initial Steps for Complaints Alleging Civil Infractions



- Conflicts arise when there is a concern that the CCO/CAO may not be neutral in evaluating the complaint or could create future concerns, for example:
 - The CAO advises the individual as a client and involvement in a complaint could create a difficult future working relationship with the person involved in a complaint; or
 - When the CCO or CAO has already been deeply involved in the matter prior to the complaint
- What are routine conflicts:
 - Complaints related to anyone running for an elected position
 - Complaints related to an issue that the CCO or CAO has been closely involved with (ex: referendum)
- Currently when a conflict exists the CAO sends the matter to outside counsel to take the place of the CAO in the complaint process
- HB24-1283 could address how to deal with conflicts in the future (discussed under potential changes)

Reviewing Attorney determines if the complaint satisfies initial 3 elements

If NO

Reviewing Attorney notifies CCO that the 3 elements were not satisfied



CCO notifies complainant and respondent of failure to satisfy requirements



Complaint Process Ends

If YES

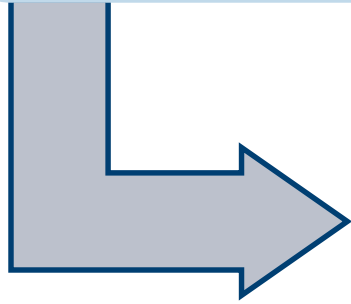
Reviewing Attorney notifies CCO who will, in turn, notify the respondent in writing of the presumptive penalty in accordance with 7-143(a) and that they have 10 days to file a response

Respondent Cure Period

CCO sends notice of required action to Respondent

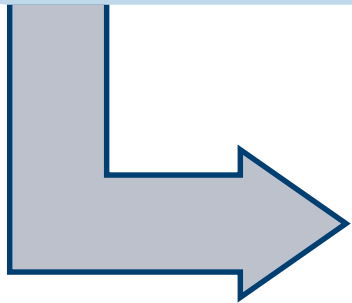
- Respondent has 10 days to provide proof of cure or attempt to cure
 - Often leads to Respondent arguing that they did not violate the code
- If Respondent fails to provide any information, the Reviewing Attorney will file a complaint in Municipal Court

**Option:
Remind of ability
to pay fine &
close along with
other options**



Respondent provides proof of cure or attempt to cure

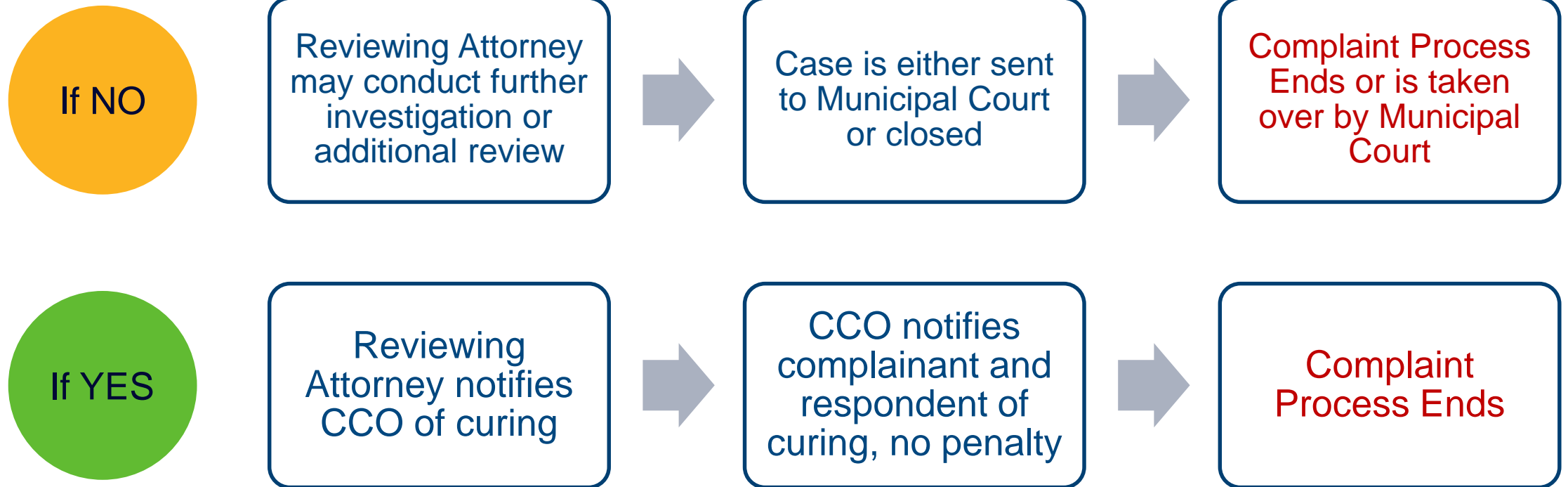
- CCO forwards this to Reviewing Attorney



Reviewing Attorney reviews proof of cure or attempt to cure

- Reviewing Attorney may request more information from respondent
- If they do, Respondent has another 7 days to provide information

Reviewing Attorney determines if the violation has been cured



Complaint Referred to Municipal Court

CAO refers complaint to Municipal Court

- FCPS must determine probable cause for criminal violation
- If probable cause found, FCPS will personally serve the Respondent with a citation to appear in Municipal Court
- Can take time given caseload on officers

Once referred, Respondent can no longer pay the fine with the CCO, must go through Court process

Respondent provided with appearance date

- Normally date is 3-6 weeks after service
- Respondent can ask to continue or reset date for many reasons

Respondent either takes a plea deal or contests at trial

- A plea could be accepted at the first appearance or reset
- Cases could take 2-4 months to resolve

- Evaluating whether there is a sufficient factual and legal basis for a violation Sec. 7-145(d)(2)(c)
 - Not always clear on the face
- Opportunity to cure
 - Often a “cure” is not readily available, especially after the election has passed
 - Investigations can be time consuming and requires staff to delay work for other client departments
 - Often Respondents will “argue their case” instead of providing evidence of a cure or substantial compliance with the law, causing substantial back and forth
- Filing with Municipal Court
 - When referred FCPS must do their own review and then serve the Respondent to initiate process
 - What is the intent for sending complaints to Court?
 - If someone admits that they unknowing violated the CFC but cannot cure now, should they go to Court?
 - Should only those who contest the violation and unwilling to cure or show substantial compliance go to Court?
 - By its nature, any matter referred to Court will take time to resolve
- Using outside counsel – generally will take longer

Summarizing Potential Changes

- Create a way to close a civil complaint by paying the presumptive fine
 - Provide this option when notifying Respondent of the compliant and presumptive fine
 - Ideal when election has occurred and therefore there is no clear “cure” for the violation
 - Would require a code change to allow
- In the future, examining whether to hire an investigator who will conduct CFC investigations for the CAO
 - FCPS Chief could grant authority to investigator to serve citations instead of referring all to FCPS
 - No code change required for this
- HB24-1283: Allow complaints with actual or potential conflicts to be referred to the Secretary of State
 - Requires Council to adopt an ordinance to do so
 - Cannot refer for an election that is less than 180 days after ordinance adopted & provided to the SoS
 - SoS has to use the City’s campaign finance process, not the State’s
 - City would waive collection of any fines
 - Likely would save City money as outside counsel for complaints, City spent \$24,594.66 from 2024-2019
 - 2021 was the most expensive year at \$9,428.50
- Repeal entire CFC process and refer all complaints to the SoS (similar requirements as above)



Questions?