

Elections Code Committee



- Election of Chair
- Purpose of ECC
- 2023 Review: Accomplishments, remaining items on previous workplan
- 2024 Workplan: Potential topics
- 2024 sequencing
- Meeting cadence

- Debrief of campaign finance complaint process

In 2015, prior to formally establishing the ECC, City Council appointed an Ad Hoc Council Committee to review recent changes in relevant election rules, laws, policies and procedures and to make recommendations of possible City Code and City Charter changes for further discussion by the City Council. The work of the Ad Hoc Committee proved to be beneficial and necessary on an ongoing basis, and the Committee was formally established in 2017.

- Redistricting
- Campaign Finance Provisions
- November Elections
- Ranked Choice Voting

2021-23 ECC Items Not Moved Forward



PUBLIC FINANCING OF
ELECTIONS



ELECTION OVERSIGHT
BOARD



PARTISAN/NON-
PARTISAN ELECTIONS

2024 Potential topics for discussion

- Campaign finance complaints process and enforcement
- Campaign finance (in general)
- Candidates
- Initiative and referendum processes
- Ranked choice voting implementation
- Other



2024 Sequencing

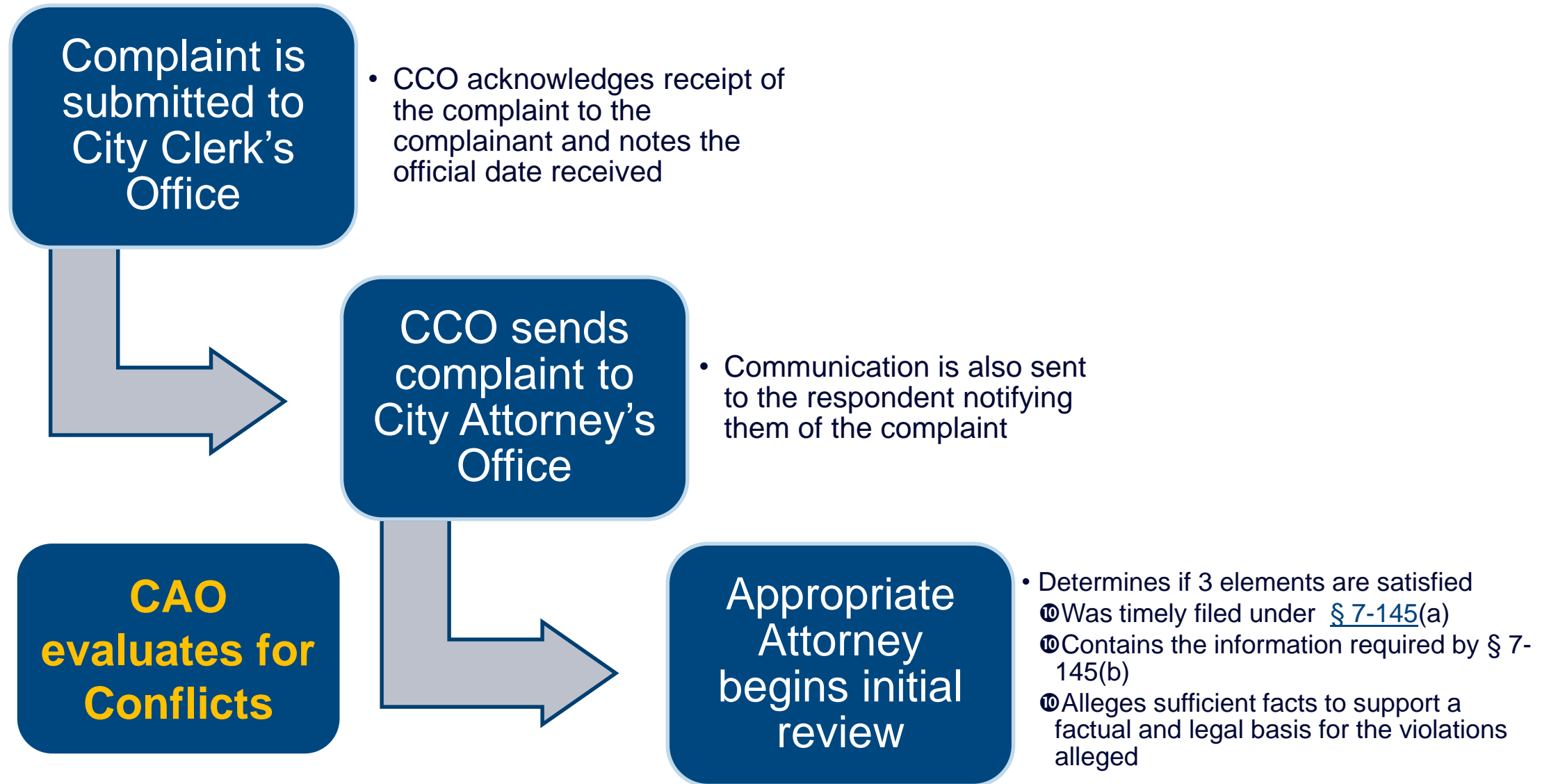


Meeting cadence



Campaign Finance Complaint Process Overview

Initial Steps for Complaints Alleging Civil Infractions



- Conflicts arise when there is a concern that the 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 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 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
- Pending State law could address how to deal with conflicts in the future

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

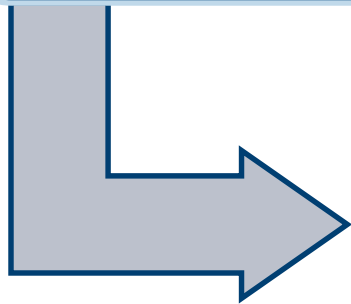
If YES

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

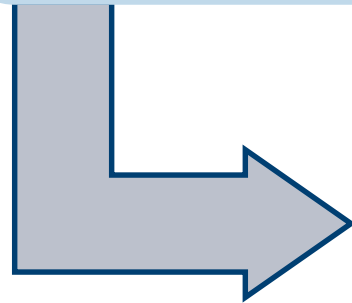
CCO sends notice of required action to respondent

- Respondent has 10 days to provide proof of cure or attempt to cure
- If Respondent fails to provide any information, the Reviewing Attorney will file a complaint in Municipal Court



Respondent provides proof of cure or attempt to cure

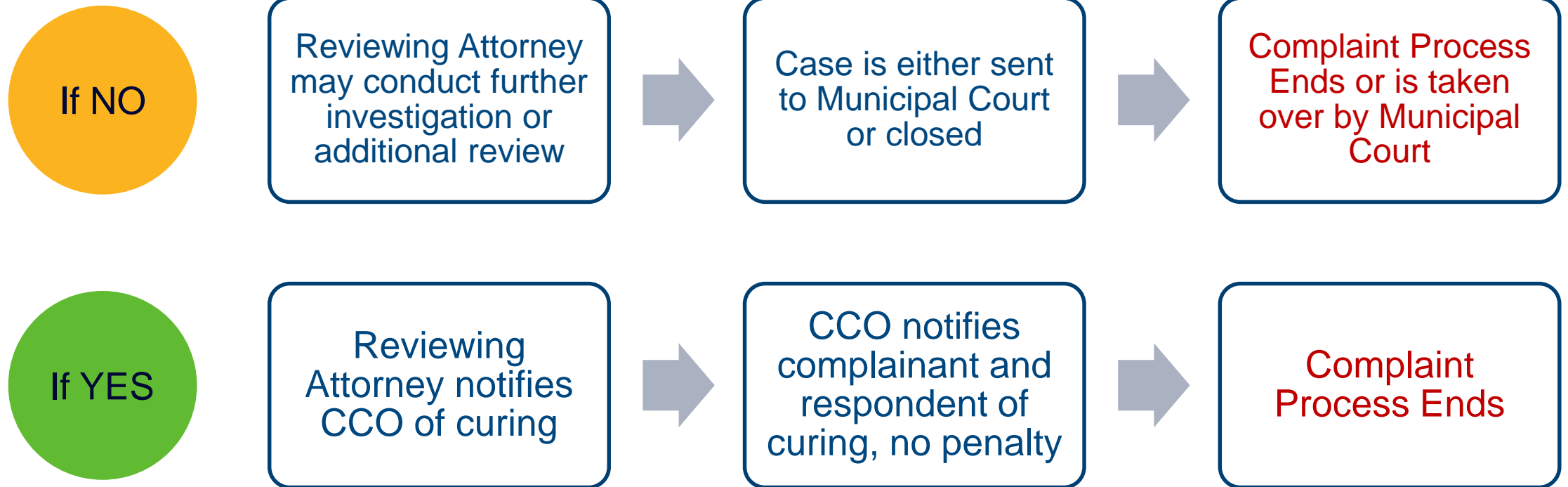
- CCO forwards this to Reviewing Attorney



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



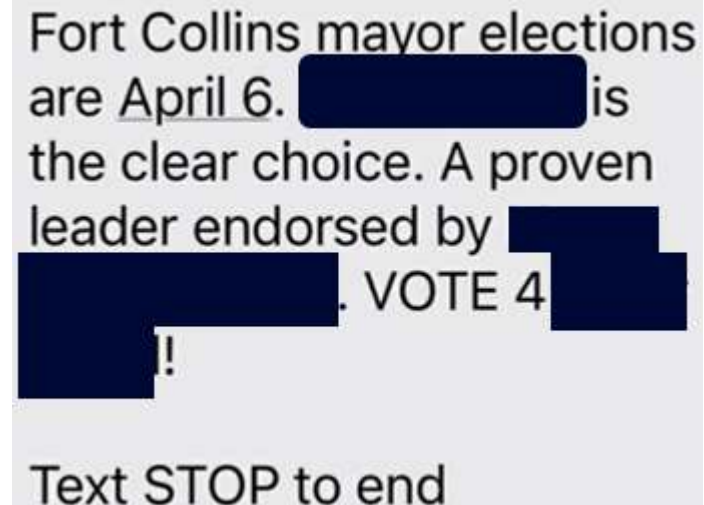
Campaign Finance Complaint Example #1

- Common complaint – “no paid for by” on campaign materials
- Section 7-140(a)(1) requires that any candidate/etc “expressly advocating a particular result in an election, or solicits any contribution or contribution in-kind through any” communication, if paid for or authorized by the candidate/etc, “shall clearly state the communication is paid for by” the candidate/etc
- 2022 complaint related to “Vote NO Ballot Question 2c” sign
- Conclusion was that while the “paid for by” language would make it even clearer, the inclusion of the logo itself provided ample information for the reader of the sign to determine who has paid for the communication
- Therefore, no violation of Section 7-140



Campaign Finance Complaint Example # 2

- 2021 complaint regarding alleged violation of a candidate in sending a “robotext” sent without “paid for by” language
- Unlike the prior sign, in this situation the absence of a clear “paid for by” makes it unclear who sent this (the candidate, their committee, or a separate committee that endorses the candidate)
- Violation found and plea with agreed upon monetary penalty paid



Fort Collins mayor elections are April 6. [REDACTED] is the clear choice. A proven leader endorsed by [REDACTED]. VOTE 4 [REDACTED]!

Text STOP to end

- In 2019, a complaint was filed alleging that an issue committee violated the Sec. 7-136 disclosure requirements because a contribution made was missing the address as required by Code
- In reviewing the filing of this issue committee, it was found that they reported the contributor's name, the date and the amount of the contribution but did not include the contributor's address
- While this was a violation of the Code per se, it was found to be a *de minimis* violation of the Code, factors that were considered in this determination:
 - The issue committee did note “no address on record” in their report, indicating that they knew of the requirement but did not have the information
 - The cost to the City in prosecution compared with the benefit to the City and its residents if prosecution were successful

- In 2019, a complaint was filed alleging that a candidate's campaign Facebook page did not include the "paid for by" required statement
- Counsel found that the Facebook page doesn't establish a clear link between the page and an expenditure from the candidate's campaign
 - While "social media of a candidate" is a form of communication subject to Sec. 7-140, it still must be an expenditure to trigger the "paid for by" requirement
 - Counsel found that as Facebook pages are free for creation, there was no expenditure, and therefore no violation