

Sec. 7-145. - Allegation of campaign violation.

a) Any candidate or registered elector of the City ("complainant") who has ~~reason~~ reasonable, good faith belief, based on factual information, that any person, candidate, candidate committee, issue committee, small-scale committee, or political committee believe ~~has~~ a violation of Chapter 7, Article V, of this Code; ~~has occurred by any person, candidate, candidate committee, issue committee, small-scale issue committee or political committee~~ may file a written complaint with the City Clerk, no later than sixty (60) days after the date of the alleged violation ~~has occurred~~.

~~b) 1) _____~~ The complaint must contain:

~~1) a. _____~~ The name of the alleged violator;

~~2) b. _____~~ The Code provision allegedly violated;

~~3) c. _____~~ A brief statement or description of the offense allegedly committed and the basis for the allegation;

~~4) d. _____~~ Identification of any relevant documents or other evidence; All documentation or other factual evidence known to the complainant to support the allegation;

~~5) e. _____~~ Identification of any witnesses or persons with relevant knowledge; and

~~6) f. _____~~ The name, address and telephone number of the complainant.

~~b) _____~~ Within 3 working days of receipt of a complaint the City Clerk, in consultation with the City Attorney, will conduct a preliminary review to determine whether the complaint is sufficient. A sufficient complaint must comply with the following:

~~1) _____~~ Was timely filed under § 7-145(a);

~~2) _____~~ Contains the information required by § 7-145(b); and

~~3) _____~~ Properly alleges a violation of Chapter 7, Article V, of this Code.

~~c) _____~~ If the City Clerk, in consultation with the City Attorney, determines that the complaint is insufficient, the City Clerk will:

~~1) _____~~ Notify the complainant that the complaint has been dismissed; and

~~2) _____~~ Forward the complaint to the person who is the subject to the complaint ("respondent") and notify them that the complaint has been dismissed.

~~d) _____~~ If the respondent to the complaint is a candidate for an elected position for municipal office or if the City Clerk, in consultation with the City Attorney, determines internal review of the complaint may raise conflict concerns, the City Attorney will retain special legal counsel to conduct the evaluation of the complaint using the process described below, if it is determined by the City Clerk to be sufficient.

~~e) _____~~ For sufficient complaints that allege a criminal violation as set forth in § 7-143(b), the City Clerk will forward the complaint to the respondent and to the City Attorney, who will evaluate the complaint for probable cause as provided for in this Division 2.

~~f) _____~~ For sufficient complaints that do not allege a criminal violation, the complaints ~~shall~~ will be subject to a civil infraction process as ~~provided herein~~ follows:

~~1) _____~~ The City Clerk will forward the complaint to the respondent by electronic mail, notifying the respondent that the alleged violation may be subject to a civil infraction and of the presumptive penalty in accordance with § 7-143(a).

~~2) _____~~ Upon receipt of the complaint and at any time prior to filing of the complaint with Municipal Court, the respondent may:

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- a. Pay the fine; or
- b. Provide any responsive information to the City Clerk regarding the allegations in the complaint.

1) —

2) — The City Clerk will forward the complaint to the City Attorney, who shall review the complaint to determine whether the complaint:

- a. Was timely filed under § 7-145(a);
- b. Contains the information required by § 7-145(b); and

e. 3) Alleges sufficient facts to support a factual and legal basis for the violations alleged. After providing notice to the respondent of the complaint, the City Clerk, in consultation with the City Attorney, will determine whether the complainant has provided credible evidence to support a finding that the respondent violated this Article so as to warrant further investigation. If the City Clerk determines that the complaint does not contain credible evidence or that the allegation does not warrant further investigation, the Clerk will dismiss the complaint and notify both the respondent and the complainant.

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3) — If the City Attorney determines that the complaint fails to satisfy any of the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall so notify the City Clerk who will, in turn, notify the complainant and respondent in writing.

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4) Upon receipt of the complaint up until the initiation of an investigation, the respondent may provide evidence of a cure. A "cure" is defined to include evidence of substantial compliance with the applicable law. Upon receipt of evidence of a cure, the City Clerk, in consultation with the City Attorney, will dismiss the complaint. The City Clerk will notify both the respondent and the complainant. When reviewing the evidence, the City Clerk, in consultation with the City Attorney, will consider the following:

- a. The extent of the respondent's noncompliance;
- b. The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and
- c. Whether the noncompliance may properly be viewed as a knowing attempt to mislead the electorate or election officials.

5) If the City Attorney-Clerk, in consultation with the City Attorney, determines that the complaint satisfies the three (3) elements in the immediately preceding Subsection (2) contains credible evidence and warrants further investigation, the City Attorney will arrange for any necessary outside or internal investigators to assist in conducting an investigation. , the City Attorney shall notify the City Clerk who will, in turn, notify the respondent and complainant that an investigation has begun, that they may be contacted for an interview or other information gathering. Any additional information that either the respondent or complainant wants to provide must be received by the City Clerk within ten (10) business days. Documentation must be received within the ten (10) working days in order to be considered during the investigation. in writing of the presumptive penalty in accordance with § 7-143(a) and that the

~~respondent shall have ten (10) days from the date of the notice to submit written evidence of its cure or diligent efforts to cure the violation, including any amendments to any applicable report containing one or more deficiencies, modified campaign materials or other proof that the violation has been corrected.~~

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~~4) The respondent's written response shall be due to the City Clerk no later than 5:00 p.m. on the tenth (10th) day. In the event the tenth (10th) day is a City holiday, the response shall be due no later than 5:00 p.m. the next business day.~~

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~~6) On receipt of the respondent's written response, the City Attorney may, through the City Clerk, ask the respondent to provide more information and may grant the respondent an extension of time of up to seven (7) additional days to file an amended response regarding cure in order to respond to any such request.~~

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~~7) Upon receiving payment of the fine, the City Clerk will close the complaint and notify the respondent and complainant.~~

~~8) Based on the outcome of the investigation the City Clerk, in consultation with the City Attorney, will After the period for cure has expired, the City Attorney shall determine whether a violation under the respondent has cured any violation alleged in the complaint and, if so, whether respondent has substantially complied with its legal obligations under Chapter 7, Article 5, of this Code occurred.~~

~~6) If it is determined that a violation did occur, the complaint will be filed with the Municipal Court. — In determining whether the respondent has substantially complied with its legal obligations, the City Attorney shall consider:~~

~~a. The extent of the respondent's noncompliance;~~

~~b. The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and~~

~~c. Whether the noncompliance may properly be viewed as a knowing attempt to mislead the electorate or election officials.~~

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~~7)9) _____ If the City Clerk, in consultation with the City Attorney, determines that a violation under Chapter 7, Article 5 did not occur, the City Clerk will dismiss the complaint and notify the complainant and respondent.~~

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~~If the City Attorney determines the respondent has cured any violation or otherwise substantially complied with its legal obligations under Chapter 7, Article 5, the City Attorney shall so notify the City Clerk who, in turn, shall notify the complainant and the respondent and no penalty shall apply for the corresponding alleged violation or violations, as applicable.~~

~~8) If the City Attorney determines the respondent has not cured the alleged violation or otherwise substantially complied with its legal obligations, the City Attorney may conduct additional review or investigation of the allegations of the complaint to determine whether to file a complaint with the Municipal Court.~~

~~9)10) _____ If the City Attorney files Any a complaint filed with the Municipal Court under this Section, the matter shall will be governed by Article V of Chapter 19 of this Code.~~

~~10~~11) A complainant or any other nonrespondent ~~shall~~will not be a party to the City Attorney's initial review, cure proceedings, investigation, or any proceeding in the Municipal Court. A complainant may request permission from the Municipal Judge or their designee to file an amicus curiae brief.

~~11~~12) Any person that commits a violation of this Article ~~shall~~will be personally liable for the penalties imposed. Any candidate ~~shall~~will be personally liable for penalties imposed upon the candidate or the candidate's committee and may use campaign contributions to pay penalties.