

ARKANSAS REGISTER

Transmittal Sheet



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SHARON PRIEST
SECRETARY OF STATE
STATE OF ARKANSAS

Sharon Priest
Secretary of State
State Capitol Rm. 01
Little Rock, Arkansas 72201-1094

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Name of Agency Arkansas Ethics Commission

Department n/a

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Statutory Authority for Promulgating Rules A.C.A. § 7-6-217

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CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Amanda Nixon White
Signature

324-9600
Phone Number

Executive Director
Title

Dec 6, 1995
Date

RULES AND REGULATIONS

FILED

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GENERAL PURPOSE

SECRETARY OF STATE
STATE OF ARKANSAS

BY

The Arkansas Ethics Commission is composed of five appointed commissioners who set policy under authority of the ethics and conflict of interest, lobbying and campaign finance disclosure and practices laws within the State of Arkansas. It shall issue advisory opinions and legal interpretations of law, and act as fact-finder and sanctioning body for those alleged to have violated those laws. The Commission staff, which may consist of an executive director, staff attorney(s), investigator(s), paralegals, clerical staff and others, act as the administrator and operating entity of the Ethics Commission. This staff, or members thereof, may make office administrative procedure, act as spokesman for the commission, receive correspondence and correspond on behalf of the commission, provide legal and other research to the Commission, investigate allegations of violation of ethics and disclosure law, and other matters as the Commission shall see fit. These rules and regulations, in conjunction with Initiated Act 1 of 1988 and Initiated Act 1 of 1990, shall serve as guidelines for the Commission and its staff and regulations for those who have dealings with the Commission and its staff.

I. ETHICS COMMISSION & STAFF

A. Commission Organization

(1) The Arkansas Ethics Commission shall consist of five (5) commissioners who shall be appointed as follows:

- one member by the Governor of the State of Arkansas
- one member by the Lieutenant Governor of the State of Arkansas
- one member by the Speaker of the House of Representatives of Arkansas
- one member by the President Pro Tempore of the Senate of Arkansas
- one member by the Attorney General of Arkansas

(2) The Commission shall, at all times, have among its five members:

- one member of a minority race
- one woman
- one member of a minority political party

(3) Each commissioner is expected to attend all regularly scheduled meetings. Any commissioner who fails to attend three (3) or more consecutive regularly scheduled meetings within a one year period is subject to dismissal from the commission.

(4) The commissioners shall be appointed in compliance with ACA § 7-6-217, and shall serve for one term of five (5) years and so long as he or she maintains good moral character. Provided, that any commissioner who has been appointed to serve two (2) years or less of an unexpired term shall be eligible for an appointment to a subsequent five-year term.

(5) The Commission shall annually elect one of its members to serve as chairman for a term of one year. The Commission may elect a vice-chairman and other such officers as a majority of the Commissioners choose. The vice-chairman shall serve as chairman in the absence, disqualification or disability of the chairman.

(6) The election of officers shall be conducted at the first meeting of the Commission following January 1 of each year. The Ethics Commission may form committees or subcommittees as it deems necessary and/or appropriate to accomplish its legal aims and purpose. The Ethics Commission may appoint one or more of its members to an unofficial committee or subcommittee and may invite non-commissioners to participate as an unofficial committee or subcommittee member.

(7) At each meeting of the Commission, whether in person or by electronic or telephonic means, three members shall serve as a quorum. However, an affirmative vote of at least three (3) commissioners physically present at a meeting is required before any sanction(s) can be imposed.

(8) A majority of the members of the Commission present shall vote in the affirmative on any matter before the Commission for any decision of the Commission to become official. The following matters shall be by motion, followed by a second, in order for a vote of the Commission to become final:

- a. all matters requiring affirmative action by the full Commission or one of its members;
- b. all decisions on public positions taken by the full Commission; and
- c. all decisions on advisory opinions and all decisions regarding official findings of fact or actions regarding one accused of violating any ethics and disclosure laws.

(9) The Commission may by majority vote delegate the execution of any official action to its chairman, one of its members, or the executive director.

(10) A vacancy on the Commission shall not impair the right of the Commission to exercise its statutory powers and authority, subject to the requirement that a quorum be present and participating before any meeting of the Commission shall be considered valid.

(11) A majority of the membership of the Commission shall constitute a quorum for conducting business. No action shall be taken except by an affirmative vote of a majority of those present and voting. No sanctions shall be imposed without the affirmative vote of at least three (3) members of the commission who are physically present at a commission meeting. The vote of each member voting on any action shall be a public record.

(12) No member of the Commission shall be a federal, state or local government official or employee, an elected public official, a candidate for public office, a lobbyist as defined by Ark. Code Ann. §21-8-402(11), or an officer or paid employee of an organized political party as defined by Ark. Code Ann. §7-1-101(1).

(13) Each commissioner, during the entire term of his or her service on the Arkansas Ethics Commission, shall be prohibited from participating in, raising funds for, making contributions to, providing services to, or lending his or her name in support of any candidate for election to a state, district, county, municipal or school board office or in support of a ballot issue or issues submitted or intended to be submitted to voters of the state of Arkansas, excluding the exercise of the right to vote or the mere signing of an initiative or referendum petition. This prohibition shall not extend to the spouse or family members of a commissioner nor to his or her business partners or professional associates.

B. STAFF ORGANIZATION

(1) The Ethics Commission shall employ and appoint an executive director who shall serve at the will and pleasure of the Commission, and whose duties and responsibilities shall be enumerated by the Ethics Commission.

(2) The executive director shall employ a staff, with the consent of the Ethics Commission, to assist in the administration of the Ethics Commission office. Administration of the ethics office shall be in compliance with the dictates of Initiated Act 1 of 1990 and other relevant Arkansas law.

(3) The executive director shall be responsible to the full Commission and shall not be answerable to any member thereof. The executive director shall, however, insure that the chairman of the Commission is advised of the progress and conduct of the employees and operation of the Commission office.

(4) Though the hiring of the staff and employees of the office shall be by consent of the Ethics Commission, such employees, once approved for employment, shall be the responsibility of the executive director in matters common to an employer/employee relationship, and the executive director shall be responsible to the Commission for the actions of employees on the staff.

(5) Each member of the Commission staff, during the entire term of his or her service on the Arkansas Ethics Commission, shall be prohibited from participating in, raising funds for, making contributions to, providing services to, or lending his or her name in support of any candidate for election to a state, district, county, municipal or school board office or in support of a ballot issue or issues submitted or intended to be submitted to the voters of the state of Arkansas excluding the exercise of the right to vote or the mere signing of an initiative or referendum petition. This prohibition shall not extend to the spouse or family members of the employee, nor to his or her business partners or professional associates.

C. Meeting Times and Sites

(1) Meetings shall be regularly scheduled and held, subject to cancellation or re-scheduling by majority vote of the members. Should there fail to be a quorum at a scheduled meeting, then such meeting may be rescheduled by the chairman provided all members are given reasonable notice of the time and place of the rescheduled meeting. Emergency meetings of the Commission may be called by the chairman, provided that the majority of the members so consent. Commissioners may call a meeting by written request of three or more commissioners.

(2) The Commission may vary its meeting site to accommodate its needs and accomplish its purposes.

(3) The executive director shall prepare a proposed agenda for each meeting, and the proposed agenda shall be distributed to the Commission members prior to any scheduled meeting. Commissioners may add items to the agenda by notification to the executive director twenty-four (24) hours before the scheduled meeting date. Any item may be added to the agenda at any time with the unanimous consent of the Commission.

D. Meeting Procedure

(1) All meetings of the Commission shall be governed by Robert's Rules of Order, except as may be modified by a majority of the Commission members and by these rules and procedures.

(2) Any Commission member who has an actual conflict or an apparent conflict of interest on any matter under investigation or before the Commission for an official decision shall recuse voluntarily from any official involvement in the Commission's handling of the matter. If the Commission or a majority of its members determine that one of its members has a conflict of interest on a matter before the Commission, they may by affirmative vote disqualify said member from participation in the matter.

(3) At any meeting of the Commission in which an investigation or an appeal from the executive director's decisions shall be heard, such investigatory matter or appeal shall be conducted after other official business of the Commission shall be conducted.

E. Freedom Of Information Act

(1) All meetings of the Commission, except as provided in subparagraph (E)(2), shall be open to the public. There shall be notice given to the press and public of all commission meetings. If an unscheduled meeting of the Commission is held by electronic or telephonic means, the press shall be notified in advance of such meeting.

(2) Any portion of a Commission meeting at which official complaints, including Commission initiated complaints, are heard shall be by confidential session and not open to the public.

(3) All documents generated by or accepted by the Commission and its staff shall be open to the public, except for matters which are parts of confidential investigations and the advice and opinions of the Commission's director or legal counsel when acting as the Commission attorney on matters which may be considered to have occurred in an attorney-client relationship.

(4) All documents relating to the investigation of a complaint shall remain confidential and not subject to disclosure, unless: (a) the accused requests disclosure of the documents; or (b) there is a public hearing by the Commission; or (c) there is judicial review of a Commission decision. However, thirty (30) days after any final adjudication in which the Commission makes a finding of a violation, all records relevant to the investigation and upon which the Commission based its decision, except working papers of the Commission and its staff, shall be open to public inspection.

II. General Administration

(1) The Ethics Commission shall delegate to the executive director the authority to operate the Ethics Commission office, with his or her duties enumerated by the Commission. Such duties shall include, but not be limited to:

- a. conducting general administration of the Commission office and its staff in a business-like and efficient manner. The executive director shall report to the Commission periodically the conduct and operation of the office;
- b. managing the appropriated budget of the Ethics Commission, and insuring that all expenditures from budgeted money are made within the law and general purposes of the Arkansas Ethics Commission. The executive director shall report to the Commission periodically the financial status of the office;

- c. preparing and maintaining files and records on the activities, matters and persons who come under the authority and responsibility of the Arkansas Ethics Commission.
- d. preparing reports, studies, opinions, policy statements, legal interpretations and other matters as required by the Ethics Commission;
- e. receiving and responding to correspondence on behalf of the Arkansas Ethics Commission on matters regarding official Commission business;
- f. managing travel, logistics, expenses and reimbursement for Commission members and staff and scheduling seminars and training by or for the Commission; and
- g. insuring that the Commission office and its employees reflect good character, comply with the law, and carry out other duties as may be enumerated by the Commission.

III. MATTERS BEFORE THE COMMISSION

A. Advisory Opinions

(1) Advisory opinions, except commission-initiated opinions, shall be issued only in response to a written request or question setting forth an inquiry into matters falling under authority of the Ethics Commission.

(2) The Commission may on its own initiative direct the staff to prepare a draft opinion, or it may accept draft advisory opinions from the staff without first receiving a request when, in the Commission's opinion, the subject of the draft opinions are of such public concern that an advisory opinion would serve the benefit of the public regarding ethics and disclosure matters.

(3) No advisory opinion shall be valid, official or have any effect unless the same has been passed or validated by a vote of a majority of the Commission.

(4) Any citizen or government official shall be entitled to an advisory opinion issued by the Commission. Any opinion or question by any citizen or official which meets with these procedural guidelines shall be responded to within the time provided for within these rules and regulations.

(5) The response to opinion requests or questions shall be prepared by the Commission staff and shall be presented by the executive director to the full Commission for its consideration within the time limits set forth herein.

(6) The Commission is not bound by or obligated to release the conclusions or language of the Commission counsel's draft opinion but may alter, amend, add to, or strike any portion of the draft opinion, or may order that said draft opinion be tabled for future consideration or that it be rewritten to comply with the Commission's directives, as the Commission shall so decide.

(7) No draft prepared by the Commission staff shall be considered an official document until it has received an affirmative vote of the Commission members.

(8) The Commission may reconsider, withdraw, or amend prior opinions upon request of a citizen, or on its own motion, on a majority vote of the Commission.

B. Advice and Guidelines

(1) The Ethics Commission shall accommodate, to the extent practicable, requests for advice and guidelines for constitutional offices, state executive agencies, county agencies and municipal agencies.

(2) Such advice and guidelines shall include, but not be limited to: (a) suggested employee conduct regarding acceptance and reporting of gifts and gratuities; (b) determination and reporting of potential and actual conflict of interest; (c) participation in candidate campaigns; (d) participation in issue campaigns; (e) interaction with lobbyist and lobbying interests, and participation in political action committee activity.

(3) Any advice or guidelines issued by the Ethics Commission are non-binding, and violation of the same shall not subject an employee to Commission sanction unless the conduct which is deemed violative of the advice or guidelines may also be a violation of statutory law under authority of the Ethics Commission.

C. Monitoring Compliance with Ethics and Disclosure Laws

(1) The Ethics Commission, through its staff, shall periodically review or check documents required to be filed under authority of Initiated Act 1 of 1988 and Initiated Act 1 of 1990.

(2) Public servants who are found to have filed required documents late or with incomplete information or whose documents contain errors may be contacted by the Ethics Commission or its staff and advised to take corrective action as to the documents filed. The contact and advice may be in lieu of or in addition to other disciplinary action the Commission may take.

(3) If the Ethics Commission or its staff is notified by the Secretary of State, a county clerk or city clerk or recorder that a public servant required to file documents under authority of Initiated Act 1 of 1988 or Initiated Act 1 of 1990 has failed to

file, filed late, or filed incomplete or false documents, the staff may contact the public servant and advise him or her to take corrective action as to the document(s) required to be filed. The contact and advice may be in lieu of or in addition to other disciplinary action the Commission may take.

IV. INITIATION OF COMPLAINT

A. Citizen Complaint

(1) The Arkansas Ethics Commission staff shall prepare a form on which a citizen may make a complaint of an alleged violation of the laws over which the Commission has authority and responsibility. The Ethics Commission complaint form may be given or mailed to any person who expresses an intent to file a complaint, free of cost to the citizen.

(2) A valid complaint to the Arkansas Ethics Commission must:

- a. Clearly set forth the name(s) of the person or persons alleged to have violated the relevant ethics, conflict of interest, disclosure or campaign laws
- b. Clearly set forth the facts the complainant believes constitute a violation of relevant ethics, conflict of interest, disclosure or campaign laws
- c. Be sworn and signed.

(3) A valid complaint must be accepted by the staff of the Arkansas Ethics Commission provided it is written on an Arkansas Ethics Commission complaint form or is otherwise reduced to writing.

(4) Any commissioner who shall receive a written complaint or evidence relevant to an on-going complaint investigation shall immediately transfer the same to the director of the Ethics Commission for proper handling. If, however, the written complaint is against the executive director or other staff member, the commissioner shall not release the same to the Commission director.

B. Complaints Against Staff or Commissioners

(1) If any individual may wish to file a complaint against the executive director or any staff member of the Ethics Commission, he shall file the same with the chairman of the Ethics Commission.

(2) If any person may wish to file a complaint against any commissioner, he shall file the same with the director of the Ethics Commission, or with any of the remaining commissioners.

C. Commission Initiation of Investigation

The executive director or the Commission counsel may initiate an investigation not otherwise contained in a sworn complaint, by:

- a. Notifying the chairman of the name of the individual alleged to have violated the law and setting forth the nature of the alleged violation; and
- b. Receiving the consent of the chairman to proceed with an investigation.

D. FRIVOLOUS COMPLAINTS

If the Ethics Commission finds that any person filed or caused to be filed any complaint against another which he or she knows or should know contains a false or frivolous allegation, the Commission may forward all documents and other evidence of the same to the appropriate law enforcement or prosecuting authority.

V. INVESTIGATION PROCEDURE

(1) Every document which purports to be a complaint, whether sworn or unsworn, received into the Ethics Commission office shall immediately upon receipt, be stamped with the current date, then forwarded to the executive director of the office.

(2) The executive director shall determine if the document meets the requirements of a valid complaint. If the executive director determines that the document does not constitute a valid complaint, he or she shall advise the complainant in writing specifically as to how the document fails to meet the requirements of a valid complaint.

(3) Upon a determination that a valid complaint has been received, the executive director shall cause an investigation to commence into the allegations contained in the complaint.

(4) Each such investigation must be assigned a number, and thereafter, all records, documents, and other evidence collected must be maintained in the file to which such number is assigned.

(5) The executive director shall notify the person accused that he or she is under investigation, and the nature of the investigation. If during the process of the investigation evidence of other violations or allegations of other violations arise against the accused, the executive director shall notify the accused of the same if an investigation of the new evidence or alleged violations is pursued. The executive director shall insure that he or she shall obtain from the accused all evidence the accused may have which rebuts or mitigates the allegations. The accused shall have the right to submit any evidence to the investigative file prior to its presentation to the full commission for its consideration.

(6) The executive director shall present the results of the preliminary investigation to the Commission with a recommendation that the investigation either be continued or be dismissed. The Commission shall decide whether to dismiss the investigation or direct the executive director and his/her staff to complete the investigation. If the Commission elects to continue the investigation, the executive director shall notify the accused of this decision. The executive director shall notify the Commission of the name(s) of the person(s) under investigation and the nature of the complaint filed and shall provide a brief preliminary overview of the likelihood that the allegations, if proven, might violate a provision of the laws of Arkansas under the scope of the Commission.

(7) The executive director or legal counsel of the Arkansas Ethics Commission may issue subpoenas for documents, persons, books or other records relevant to its complaint investigations. The executive director shall also be empowered to issue subpoenas on behalf of the accused so as to insure all relevant evidence may be obtained in any investigation. Any decision by the director to deny the accused a requested subpoena shall be in consultation with the chairman of the commission.

(8) All evidence received or documents, books or other records subpoenaed by the Ethics Commission in furtherance of an investigation shall remain confidential, except as noted herein. The complete investigative file, excluding the working papers of the Commission and its staff, shall be disclosed upon request by the accused. If the investigation results in a public hearing or if there is subsequent judicial review, the entire file, excluding working papers of the Commission and its staff, may be subject to public disclosure.

(9) During the course of any investigation, the Commission staff shall not detail evidence to the Commission members after receiving approval to proceed with an investigation.

(10) When an impending investigation is placed upon a commission meeting agenda for consideration, the agenda shall not reflect the name of the person being investigated nor the nature of the investigation. A separate communication shall be forwarded to each commissioner prior to such meeting in which the executive director shall provide the name of the person under investigation and shall characterize the nature of the investigation or alleged violation. The accused and the complainant, if applicable, shall be advised of the meeting where the investigation will be considered and may choose not to attend. The accused may be represented by counsel if he or she so desires. The accused may offer testimony. A record will be maintained in case of further appeal. When the matter comes before the Commission, it will be handled under confidential executive session and not be open to the public. At that time, the investigative file and all other related information will be presented to the Commission.

(11) All investigations commenced as a result of any complaint must be completed within one hundred fifty (150) days from the date of receipt of the complaint upon which the investigation is based, except that, if a hearing is conducted, all action on the complaint by the Commission shall be completed within one hundred eighty (180) days.

VI. Disciplinary Actions

A. IMPOSITION OF SANCTIONS

(1) The results of the investigation, including all records, affidavits, recorded statements and other evidence received by the staff of the Commission, shall be compiled by the Commission's staff, who shall present the same to the Commission, together with a recommendation for Commission disposition of the charge against the accused.

(2) The Commission will review the evidence, testimony, documents and any and all matters which the Commission deems relevant to the proceeding. The Commission, after review of the evidence and consideration of the staff recommendation, shall do one or more of the following:

- a. Issue a letter in which the Commission declares that the complaint filed, together with the investigation therein, reveals the accused did not violate any laws coming under authority of the Arkansas Ethics Commission;
- b. Issue a letter in which the Commission declares that there is sufficient evidence to show that a violation of law under authority of the Arkansas Ethics Commission occurred, and the accused is issued an official CAUTION;
- c. Issue a letter in which the Commission declares that there is sufficient evidence to show that a violation of law under authority of the Arkansas Ethics Commission occurred, and the accused is issued an official WARNING;
- d. Issue a letter in which the Commission declares that there is sufficient evidence to show that a violation under the authority of the Arkansas Ethics Commission occurred and the accused is issued an official REPRIMAND;
- e. Report the findings and other evidence to the proper law enforcement authorities along with recommendations on criminal prosecution; or
- f. Impose a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) for each negligent or intentional violation of Ark. Code Ann. §7-6-201, et. seq. or of subchapters 4-9 of Ark. Code Ann. Title 21, Chapter 8, as amended.

- (3) In reaching a determination on the type of discipline or sanction to impose, the Commission may consider all the surrounding circumstances including but not limited to:
- a. The seriousness of the violation;
 - b. The presence or absence of any intention to conceal, deceive or mislead;
 - c. Whether the violation was deliberate, negligent or inadvertent;
 - d. Whether the violator demonstrated good faith by consulting the Commission staff or any other government agency;
 - e. Whether the violation was isolated or part of a pattern and whether the violator has a prior record of violations of the Ethics and Disclosure act or similar laws; and
 - f. Whether the violator, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

(4) If, following the investigation and review of the evidence presented, the Commission finds probable cause that a violation of law has occurred, the Commission shall issue an Offer of Settlement to the accused stating the findings of the Commission and the proposed sanctions.

(5) (a) Any person electing to accept the Commission's decision or Offer of Settlement shall do so in writing within ten (10) days of receipt of the Offer. If the response is sent by United States mail, the postmark date shall be used as the response date. If the Offer of Settlement is not accepted within this time period, the Commission shall prepare a Final Order setting out its proposed findings of fact and conclusion of law based upon the evidence presented with its proposed sanctions. The Commission shall not be bound by the terms of the Offer of Settlement in preparing this Order.

(b) If a person disagrees with the Final Order of the Commission, he may petition the applicable county circuit court for review of the Commission's decision within thirty (30) days of service of the Commission's final decision, pursuant to the Arkansas Administrative Procedures Act.

B. DEFINITIONS OF AVAILABLE SANCTIONS

- (1) **Caution** is defined as: a written disposition of an allegation against any individual which is advisory in nature, clearly giving notice to the accused that his or her action or lack of action is a violation of law, and further advising the accused not to engage in the same activity again. A caution may include a requirement that the accused take corrective action as to the improper activity.

- (2) **Warning** is defined as a written disposition of an allegation against any individual which is condemnatory in nature, expressing strong disapproval for the accused's misconduct and expressing the view that the misconduct undermines public confidence in the integrity of the governmental process. A warning may include a requirement that the accused take corrective action as to his or her misconduct, and may also include notice to any public official, public agency, professional association or other entity to which the accused is a member or is employed.
- (3) **Reprimand** is defined as: a written disposition of an allegation against any individual which is condemnatory in nature, clearly giving notice to the accused that his or her action or lack of action is a violation of the law and constitutes activity which is below the standard of conduct expected of public officials or entities engaging in conduct governed by the Arkansas Ethics Commission. The reprimand will require the accused to refrain from engaging in the same activity again. A reprimand may include a requirement that the accused take corrective action as to his or her misconduct and may also include notice to any public official, public agency, professional association or other entity to which the accused is a member or is employed. A reprimand shall be considered more severe than a caution or warning.

VII. APPEAL PROCEDURES

A. PUBLIC HEARING

(1) Any individual who has been disciplined, fined and/or recommended for criminal prosecution by the Ethics Commission shall have the right to request a public hearing before the Arkansas Ethics Commission. The request must be in writing and filed with the Commission no later than ten (10) days from receipt of the Commission's Offer of Settlement. If filed by United States mail, the postmark of the request shall be used as the filing date.

(2) The Ethics Commission must hold a public hearing at the request of any person having received a letter of discipline or Offer of Settlement or recommendation of criminal prosecution if he or she timely requests. The hearing must be held within one hundred fifty (150) days from the date of the initial filing of the complaint upon which the discipline or recommendation of criminal prosecution is based.

(3) Upon a request for public hearing by the accused, all documents and evidence gathered in the investigation of the accused becomes public record, except the working papers/records of the Commission's staff, pursuant to Ark. Code Ann §7-6-218, as amended by Act 349 of 1995.

(4) Upon notification of a request for a public hearing, the chairman of the Ethics Commission shall set a date for the hearing, and notice shall be given to the accused and complainant.

(5) The accused shall have the right to appear in person before the Ethics Commission at a proper date and time set for hearing, and present such documentary, oral or other evidence as he may have at his disposal to support his position. He shall have the right to be represented by counsel.

(6) The executive director and/or the commission attorney shall appear in support of the discipline imposed against the accused.

(7) The chairman of the Ethics Commission shall preside at the public hearing, shall rule on motions and objections, and admit or deny the admittance of evidence.

(8) The Commission may appoint a hearing master who shall at the conclusion of a public hearing report his factual findings and recommend disposition to the Ethics Commission.

(9) All testimony given at the hearing will be given under oath. The Commission, or a master, shall have the power to take testimony, examine or cause to be examined any and all documents relevant to the inquiry, and generally be allowed to conduct the hearing, take proof and consider any information deemed relevant to the issues. The hearing will be recorded and a record maintained in case of further appeal. The accused, or his representative, shall have the right to cross-examine any witness or rebut any document presented at this hearing.

(10) For purposes of any hearings before the Commission, the Commission shall not be bound by the legal or strict rules of the Arkansas Code of Civil Procedure or the Arkansas Rules of Evidence.

(11) The Ethics Commission may, in confidential session, after a full hearing or after a master's report by majority vote:

- a. affirm the decision made in issuing the letter of discipline or Offer of Settlement or recommendation for criminal action;
- b. affirm the decision made in issuing the letter of discipline or Offer of Settlement or recommendation for criminal action in part, and reverse that decision in part;
- c. issue a ruling and decision on the evidence presented; or
- d. reverse the decision made in issuing the letter of discipline or Offer of Settlement or recommendation for criminal action and dismiss the complaint.

(12) Following any confidential session, the Commission shall reconvene in public session and present and vote on the matter.

(13) The decision of the Commission, after a public hearing, shall be reduced to an order signed by the Chairman of the Commission, containing written findings of fact and conclusions of law.

(14) Any order of the Commission issued under this section, shall constitute an adjudication for purposes of judicial review under Ark. Code Ann. §25-15-212.

B. JUDICIAL REVIEW

Any individual who has been disciplined, fined and/or found to have violated the ethics laws of Arkansas shall have the right to petition, within thirty (30) days of service of the Commission's final decision, the Pulaski County Circuit Court or an applicable Circuit Court as defined by the Arkansas Administrative Procedures Act, Ark. Code Ann. §25-15-212.