

ARKANSAS ETHICS COMMISSION

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Bob R. Brooks, Jr.
Executive Director

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Staff Attorney

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Director of Compliance

March 31, 1998

RECEIVED

MAR 31 1998

**SHARON PRIEST
SECRETARY OF STATE**
BY _____

Honorable Sharon Priest
Secretary of State
256 State Capitol Building
Little Rock, AR 72201

Dear Secretary Priest:

Enclosed please find proposed amendments to the Arkansas Ethics Commission's General Rules and Disclosure. The proposed amendments are subject to a forty-five (45) day public comment period ending on May 17, 1998. The Commission will hold an oral hearing on its proposed amendments on Friday, May 22, 1998, beginning at 11:00 a.m. in the State Capitol, Room 130.

The Commission invites you to submit written data, views or arguments on these proposed amendments. If you have any questions regarding this matter, please do not hesitate to contact us.

Very truly yours,

Bob R. Brooks, Jr.
Executive Director

enclosure

cc: Chairman Troy Burris
Commissioners

*Proposed
Amendment*

**PROPOSED AMENDMENTS TO
GENERAL RULES AND DISCLOSURE**

**Promulgated by the
ARKANSAS ETHICS COMMISSION
on March 27, 1998
subject to a 45 day public comment period
ending May 17, 1998**

RECEIVED

MAR 31 1998

SHARON PRIEST
SECRETARY OF STATE

BY _____

**ARKANSAS ETHICS COMMISSION
910 West Second Street, Suite 100
Little Rock, AR 72201
phone 501.324.9600 fax 501.324.9602**

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I. DESCRIPTION

The Arkansas Ethics Commission ("Commission") is composed of five appointed Commissioners who set policy under authority of the ethics, conflicts of interest, lobbying, campaign finance disclosure and ballot question laws within the State of Arkansas. In accordance with these rules of practice and procedure, the Commission issues advisory opinions and legal interpretations of law, and acts as fact-finder and enforcement body for those alleged to have violated those laws under its jurisdiction. Information may be obtained from the Commission by written request. The Commission staff, which may consist of an executive director, staff attorney(s), director of compliance and others, act as the administrator and operating entity of the 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 violations of laws under the Commission's jurisdiction, and perform such functions as the Commission deems appropriate. These rules of practice and procedure shall govern all proceedings before the Commission and shall be applicable to any complaints filed or initiated after the effective date hereof. All forms and instructions used by the Commission are set forth in the appendix hereto.

II. COMMISSION & STAFF

A. Commission Organization

(1) The 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 Attorney General of Arkansas
- one member by the Speaker of the Arkansas House of Representatives
- one member by the President Pro Tempore of the Arkansas Senate

(2) Pursuant to Ark. Code Ann. § 7-6-217(b)(1), the Commission shall, at all times, have among its members:

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

(3) Each Commissioner has a responsibility to attend all regular or special meetings of the Commission. Any Commissioner who fails to attend three (3) consecutive regular meetings shall be subject to removal from the Commission pursuant to Ark. Code Ann. § 25-17-211.

(4) The Commissioners shall be appointed in compliance with Ark. Code Ann. § 7-6-217, and each Commissioner shall serve for one term of five (5) years and so long as he or she maintains good moral character. Provided, however, 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 (5) 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 Commission may form such committees or subcommittees as it deems necessary and/or appropriate to accomplish its

legal aims and purposes. The Commission may appoint one or more of its members to an unofficial committee or subcommittee and may invite non-Commissioners to participate as unofficial committee or subcommittee members.

(7) At each meeting of the Commission, three members shall constitute a quorum whether in person or by electronic or telephonic means. However, an affirmative vote of at least three (3) Commissioners physically present at a meeting is required before any sanction(s) can be imposed. The vote of each member voting on any action shall be a public record.

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

- 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;
- c. all decisions on advisory opinions; and
- d. all decisions regarding findings of fact and conclusions of law or other actions regarding a person accused of violating any laws under the Commission's jurisdiction.

(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 action of the Commission shall be considered valid.

(11) 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).

(12) Each Commissioner, during the entire term of his or her service on the 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.

(13) Unless required for the disposition of ex parte matters authorized by law, members of the Commission shall not communicate, directly or indirectly, in connection with any issue of fact with any person, including the complainant and the accused, nor, in connection with any issue of law with either the complainant or the accused, or their representatives, except upon notice and opportunity for the complainant and accused to participate.

B. Staff Organization

(1) The Commission shall employ an executive director who shall serve at the will and pleasure of the Commission.

(2) The executive director shall employ a staff, with the consent of the Commission, to assist in the administration of the Commission office.

(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, ensure 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 executive director's hiring of staff shall be with the consent of the 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 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.

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. The time and place of each regular meeting shall be furnished to anyone who requests the information. 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. Special meetings of the Commission may be called by the chairman, provided that the majority of the members of the Commission so consent. Commissioners may call a meeting by written request to the chairman of any three Commissioners. In the event of a special meeting, notification of the date, time and place of the meeting shall be given, at least two (2) hours before the meeting takes place, to the news media located in the county in which the meeting is to be held and any news media located elsewhere which cover regular meetings of the Commission and which have requested to be so notified.

(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 regular 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 of practice and procedure.

(2) Any Commission member who has an actual conflict of interest on any proceeding before the Commission shall recuse voluntarily from any involvement in the matter. If a majority of the Commissioners determines 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) All meetings of the Commission, except as provided in subparagraph (D)(4), shall be open to the public.

(4) Any portion of a Commission meeting at which official complaints, including Commission initiated complaints, are considered shall be in confidential session and not open to the public. Following any such confidential session, the Commission shall reconvene in public to vote on any matters which require a vote.

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

(6) All proceedings, records, and transcripts of any investigations or inquiries shall remain confidential and not subject to disclosure, unless: (a) the accused requests disclosure of the documents; (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.

III. GENERAL ADMINISTRATION

(1) The Commission shall delegate to the executive director the authority to operate the 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 periodically report to the Commission concerning the conduct and operation of the office;
- b. Managing the appropriated budget of the Commission, and ensuring that all expenditures from budgeted money are made within the law and general purposes of the Commission. The executive director shall periodically report to the Commission concerning 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 Commission.
- d. Preparing reports, studies, opinions, policy statements, legal interpretations and other matters as required by the Commission;
- e. Receiving and responding to correspondence on behalf of the Commission on matters relating to 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. Ensuring that the Commission office and its employees reflect good character, comply with the law, and carry out other duties as may, from time to time, be enumerated by the Commission.

IV. MATTERS BEFORE THE COMMISSION

A. Advisory Opinions

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

(2) The Commission may, on its own initiative, direct the staff to prepare a draft opinion, or it may accept a draft advisory opinion from the staff without first receiving a request when the Commission determines the subject of the draft opinion is of such public concern that an advisory opinion would benefit the public.

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

(4) Any citizen shall be entitled to request an advisory opinion from the Commission. Any request which meets these procedural guidelines shall be responded to within ninety (90) days, unless good cause be shown. Under normal circumstances, opinion requests received less than ten (10) days before the next Commission meeting will not be placed on the agenda for that particular meeting.

(5) The response to opinion requests shall be prepared by the Commission staff and shall be presented by staff to the full Commission for its consideration within the time limit set forth above, unless good cause be shown.

(6) The Commission is not bound by or obligated to release the conclusions or language of the staff'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 opinion prepared by the Commission staff shall be considered an official opinion until it has received an affirmative vote of a majority of a quorum of the Commission.

(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 a quorum of the Commission.

(9) All advisory opinions issued by the Commission shall be made available for public inspection.

B. Declaratory Orders

(1) The Commission shall, upon the filing of a petition for declaratory order by any citizen, promptly issue a declaratory order as to the applicability of a any rule, statute, or order enforced by it. Such declaratory orders shall have the same status as final orders of the Commission in cases of adjudication.

C. Monitoring Compliance with Ethics and Disclosure Laws-Corrective Action Letters

(1) The Commission, through its staff, shall periodically review documents required to be filed pursuant to the laws under the Commission's jurisdiction.

(2) Persons who have failed to file, filed required documents late or filed required documents with incomplete or erroneous information may be contacted in writing by the Commission or its staff and advised to take corrective action. The contact and advice may be in lieu of, or in addition to, other action(s) by the Commission under Ark. Code Ann. § 7-6-218(b)(4).

(3) If the Commission or its staff is notified by the Secretary of State, a county clerk or city clerk or recorder that a person required to file documents under the Commission's jurisdiction has failed to file, filed late, or filed incomplete or false documents, the Commission may contact the person 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 action(s) by the Commission under Ark. Code Ann. § 7-6-218(b)(4)

(4) Corrective action letters shall be public records. However, the sending of a corrective action letter is not tantamount to the finding of a violation by the Commission. Instead, such letters are a means of seeking public disclosure. Persons who fail to take corrective action when advised to do so by the Commission may, after public hearing, be subject to sanction.

V. INITIATION OF COMPLAINT

A. Citizen Complaint

(1) The Commission staff has prepared a form on which any citizen may make a complaint of an alleged violation of the laws over which the Commission has authority and responsibility. The 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 Commission must:

- a. Clearly set forth the name(s) of the person or persons alleged to have violated the laws under the Commission's jurisdiction;
- b. Clearly set forth the facts the complainant believes constitute a violation of the laws under the Commission's jurisdiction and;

c. Be sworn and signed, under penalty of perjury.

(3) A valid complaint must be accepted by the staff of the Commission provided it is written on a 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 same to the executive director of the Commission for proper handling. If, however, the written complaint is against the executive director or other staff member, the Commissioner shall not release same to the executive director.

B. Complaints Against Staff or Commissioners

(1) Complaints against the executive director or any staff member of the Commission shall be filed with the chairman of the Commission.

(2) Complaints against any Commissioner shall be filed with the executive director of the Commission, or with any of the remaining Commissioners.

C. Commission Initiation of Investigation

The executive director or the staff attorney 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;

b. Receiving the consent of the chairman to proceed with an investigation;

c. Notifying the accused in writing that he or she is under investigation and the nature of the investigation; and

d. Once commenced, such an investigation shall be handled in the same manner as investigations arising from complaints received from citizens.

VI. INVESTIGATION PROCEDURE

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

(2) The executive director shall determine if the document meets the requirements of a valid complaint set forth in subparagraph A(2) of section V. 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 be commenced concerning the allegations of the complaint. As part of that investigation, the executive director shall request that the complainant submit any and all evidence he or she may have concerning the matter(s) alleged.

(4) Each such investigation must be assigned a case number, and thereafter, all records, documents, and other evidence collected must be maintained in the file to which such case 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 pursuant to Ark. Code Ann. § 7-6-

218(b)(1)(B). 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 in writing if an investigation of the new evidence or alleged violations is pursued. When notifying an accused of an investigation, the executive director shall inform the accused that he or she has a right to submit any and all evidence which may serve to rebut or mitigate the alleged violation(s).

(6) Staff shall prepare a preliminary report of its investigation, including a recommendation that the investigation either be continued or that the complaint be dismissed. Said preliminary report shall be presented to the Commission within sixty (60) days of the filing of the complaint, unless good cause be shown. After receiving staff's report, the Commission shall decide whether to dismiss the complaint or direct the staff to complete the investigation. If the Commission directs staff to complete the investigation, the executive director shall notify the accused in writing of this decision.

(7) If, during the course of the investigation, the Commission has reason to believe that any person filed or caused to be filed a complaint against another which he or she knows or should know contains a false material allegation, the Commission may forward all documents and other evidence of same to the appropriate law enforcement authority with such recommendations as it deems appropriate.

(8) The executive director or staff attorney of the Commission may issue subpoenas for documents, persons, books or other records relevant to complaint investigations and may take sworn statements or depositions and administer oaths in connection therewith. 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 executive director to deny the accused a requested subpoena shall be in consultation with the chairman of the Commission.

(9) All evidence received or documents, books or other records subpoenaed by the Commission in connection with 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 pursuant to Ark. Code Ann. § 7-6-218(3)(B). 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, shall be subject to public disclosure.

(10) The Commission's staff shall not detail evidence to the Commission members after being directed to proceed with an investigation, pursuant to ¶ 6, supra.

(11) The Commission's staff shall complete the investigation within one hundred fifty (150) days of the filing of the complaint. After completing its investigation, staff shall present a final report to the Commission to be considered in connection with determining whether or not probable cause exists for a finding of a violation. The final report of the investigation, including all records, affidavits, recorded statements and other evidence generated or received, shall be compiled by the Commission's staff. The final report shall include staff's recommendation for disposition of the charge(s) against the accused.

(12) The accused and the complainant, if applicable, shall be notified in writing by the executive director of the time and place of the meeting where the complaint will be considered for a probable cause determination. The accused may choose to attend and/or be represented by counsel. The accused may offer testimony and other evidence at the probable cause hearing. When the matter comes before the Commission for a probable cause determination, it will be handled in confidential 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. The accused shall have the right to submit any evidence to the investigative file prior to its presentation to the Commission.

(13) If following the investigation and a review of the evidence presented, the Commission finds that probable cause exists for a finding of a violation, the Commission shall issue a written Offer of Settlement to the accused stating the findings of the Commission and the proposed sanction(s). The issuance of an Offer of Settlement shall not mean that the Commission has found that the accused has committed a violation but, rather, that probable cause has been found to exist. If the Commission does not find probable cause, it shall dismiss the complaint.

(14) Any person who wishes to accept the Commission's Offer of Settlement shall do so in writing within ten (10) business days of receipt of the offer.

(15) If the accused neither accepts the Offer of Settlement nor requests a public hearing (in accordance with subparagraphs (1) of section VII) within ten (10) business days from his or her receipt of the Offer of Settlement, then the accused shall be deemed to be in default and the Commission shall prepare a final (non-appealable) order setting forth its findings of fact and conclusions of law based upon the evidence presented at the probable cause hearing. The Commission shall not be bound by the terms of the Offer of Settlement in issuing the said order.

(16) 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.

(17) The Commission, in a document, shall advise the complainant and the accused of the final action taken together with the reasons for the action. Said document shall be a public record.

(18) Nothing herein shall prohibit the Commission from informally disposing of a complaint by stipulation, settlement, consent order or default pursuant to Ark. Code Ann. §

25-15-208(b). Any settlement agreement entered into between the Commission and an accused shall be deemed a public document.

VII. PUBLIC HEARING

(1) Any individual who has received an Offer of Settlement from the Commission shall have the right to request a public hearing pursuant to Ark. Code Ann. § 7-6-218(b)(2). The request must be in writing and received by the Commission no later than ten (10) business days from the accused's receipt of the Commission's Offer of Settlement.

(2) Upon a request for public hearing by the accused, all documents and evidence gathered in the investigation of the complaint shall be open to public inspection, except the working papers of the Commission and its staff.

(3) Upon receiving a request for a public hearing, the executive director of the Commission shall set a date for the hearing, and written notice shall be given to the accused and complainant, if applicable, pursuant to Ark. Code Ann. § 25-15-208(a)(2).

(4) The accused shall have the right to appear in person before the Commission at the public hearing, to be represented by counsel, to present such documentary, oral or other evidence as he may have in support of his position, to cross-examine witnesses, and to present argument on all issues involved.

(5) The executive director or the staff attorney shall appear at the public hearing for purposes of presenting evidence concerning the alleged violation(s) of the accused. Whichever of these two (2) individuals presents such evidence shall not be present while the Commissioners conduct their deliberations.

(6) The chairman of the Commission shall preside at the public hearing, rule on motions and objections, and admit or deny evidence into the record.

(7) 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 Commission.

(8) All testimony given at the public 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 accordance with Ark. Code Ann. § 25-15-208(a)(5) in the event of judicial review is sought under Ark. Code Ann. § 25-15-212. The accused, or his counsel, shall have the right to cross-examine any witness or rebut any document presented at the public hearing.

(9) The decision of the Commission, after a public hearing, shall be reduced to a final order signed by the chairman of the Commission, containing written findings of fact and conclusions of law, separately stated, in accordance with Ark. Code Ann. § 25-15-210(b)(2). Findings of fact shall be based exclusively on the evidence and on matters officially noticed. All such decisions of the Commission shall be made available for public inspection.

(10) The accused shall be served either personally or by mail with a copy of any decision or order.

(11) Any final order of the Commission shall constitute an adjudication for purposes of judicial review under Ark. Code Ann. § 25-15-212.

VIII. RENDERING OF DECISION

(1) The Commission will review the evidence, testimony, documents and any other matters presented at the public hearing and thereafter render a decision. In rendering its

decision, the Commission will not be bound by the terms of its Offer of Settlement and shall do one or more of the following:

- a. Issue a final order in which the Commission finds that the accused did not violate any laws under the jurisdiction of the Commission and that the complaint shall be dismissed;
- b. Issue a final order in which the Commission finds that there is sufficient evidence to show that a violation of law under the jurisdiction of the Commission occurred and that the accused shall be issued a public LETTER OF CAUTION;
- c. Issue a final order in which the Commission finds that there is sufficient evidence to show that a violation of law under the jurisdiction of the Commission occurred and that the accused shall be issued a public LETTER OF WARNING;
- d. Issue a final order in which the Commission finds that there is sufficient evidence to show that a violation of law under the jurisdiction of the Commission occurred and that the accused shall be issued a public LETTER OF REPRIMAND;
- e. Report its findings and other evidence to the proper law enforcement authorities along with recommendations on criminal prosecution; and
- 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 law under the Commission's jurisdiction.

(2) In determining the type of sanction(s) to impose after making a finding of a violation, the Commission may consider all of the surrounding circumstances including, but not limited to, the following:

- 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 accused demonstrated good faith by consulting the Commission staff or any other government agency;
- e. Whether the violation was isolated or part of a pattern;
- f. Whether the accused has a prior record of violations of law under the Commission's jurisdiction; and
- g. Whether the accused, upon learning of a reporting violation, voluntarily filed amendments to provide full disclosure.

IX. DEFINITIONS OF PUBLIC LETTERS

(1) **Caution** is defined as: a written disposition of an allegation against any person 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 person 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 person 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 persons under the jurisdiction of the 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**.

X. JUDICIAL REVIEW

(1) Any person who has been sanctioned, fined and/or found to have violated the laws under the Commission's jurisdiction shall have the right to file a petition for review, within thirty (30) days of service of the Commission's final order, with an appropriate Circuit Court pursuant to Ark. Code Ann. § 25-15-212.

(2) A person filing a petition for review must serve the Commission with a copy of same by personal delivery or by mail.

(3) Upon receipt of a petition for review, the Commission staff shall prepare and transmit the entire record of the proceeding to the reviewing court within thirty (30) days, or within such further time as the court may allow, but not exceeding an aggregate of ninety (90) days. By stipulation of the parties, the record may be shortened.