



## CAROLINE COUNTY ETHICS COMMISSION

Robert L. Willey, Chair

Betty Ballas, Vice Chair

Wayne Cole, Commissioner

H. Francis A. Callahan, Jr., Commissioner

Berl Lovelace, Commissioner

### **RULES OF PROCEDURE**

*Adopted/Effective: June 25, 2015*

#### **Introduction**

These Rules of Procedure are adopted pursuant to the County Ethics Ordinance, Chapter 33 of the Code of Public Local Laws of Caroline County.

#### **Section 1 – Meetings and Hearings**

- A. The Ethics Commission shall meet annually on the 1st Thursday of June at 6:00 pm and as otherwise scheduled. Notice of Commission meetings shall comply with the provisions of the Open Meetings Act of Maryland.
- B. The Chair or, in his/her absence, the Vice-Chair or senior member of the Commission (in that order) shall preside at all meetings and hearings of the Commission. The presiding officer shall decide on all points of order and procedure, subject to these rules, unless otherwise directed by the majority of the Commission members present.
- C. The order of business shall be in accordance with the agenda prepared by the County Attorney and Chief of Staff in consultation with the Chair or, in his/her absence, the Vice-Chair. The order of the agenda may be amended at the meeting by affirmative vote of the majority of the Commission members present.
- D. The Commission shall initiate complaints upon a majority determination of its members or written complaints from others; and investigate, hold hearings, and render decisions with respect to complaints regarding alleged violations of the Chapter; provided, however, that in the event that a member of the Commission, on his or her own volition, files a complaint without obtaining a majority concurrence for such complaint by the Commission, such member shall be recused from participating in the investigation, hearing, and determination of such complaint. – Caroline §33-4 (A)(e).
- E. All meetings of the Ethics Commission are public meetings unless otherwise indicated. Requests for accommodations need to be made three working days in advance of the meeting. Materials are available in alternative formats upon request. The Commission may vote in an closed session, pursuant to the Maryland Open Meetings Act, General Provisions Article § 3-305(b) of the Annotated Code of Maryland, to go into closed session for any enumerated purpose.

## **Section 2 - Voting**

- A. A quorum consists of three Commission members.
- B. A member shall not vote on a matter in which he or she has a conflict of interest.
- C. Items put to a vote are decided by a majority of the members present. The Chair may make motions and vote on all items.
- D. A tie vote by the Commission shall be interpreted as a defeat of the motion upon which the vote was taken.
- E. In order to be put to a vote, a motion must have a second. Members' votes shall be recorded on each motion.

## **Section 3 - Requests for Advisory Opinions**

- A. Definition: An Advisory Opinion is a formal, written opinion, issued by the Ethics Commission that provides an interpretation of the Ethics Ordinance.
- B. Request for Advisory Opinion: If a County employee or official questions whether an activity, conduct, or action violates the Ethics Ordinance, that individual should contact the County Attorney or Chief of Staff to receive a Request for Advisory Opinion Form. Once the requestor has completed the Request for Advisory Opinion Form, it should be returned in a sealed envelope marked "Request for Advisory Opinion," either via hand-delivery or first-class mail to the County of Caroline Ethics Commission, 403 South 7<sup>th</sup> Street, Suite 246, Denton, Maryland 21629. Alternatively, the request may be emailed to the County Attorney. The County Attorney will review the Request Form to determine whether the required information has been provided, request the Chief of Staff to schedule the matter to be heard by the Ethics Commission, and notify the Ethics Commission Chair. Forms are also available online. They can be located in the Ethics Commission section of the website via the following link: <http://www.carolinemd.org/204/Ethics-Commission>.
- C. Process:
  - 1. Once the Ethics Commission decides it has sufficient information, a hearing will be scheduled. The requestor will attend the hearing to explain the facts surrounding the request and to answer questions from the Commission. The Commission may accept/hear information from any other source deemed by the Commission as relevant and necessary for deliberations.
  - 2. After deliberation, the Commission will provide an interpretation of the applicability of the provisions of the Ethics Ordinance to the requestor based on the facts provided by the requestor. The Commission's interpretation shall be

rendered by the County Attorney as a formal, written Advisory Opinion, and shall be sent to the requestor.

3. All Advisory Opinions shall be written without disclosing the names of any persons involved in order to maintain confidentiality.
4. Once the Advisory Opinion has been released to the requestor, it is available to the public.

#### **Section 4 – Filing a Complaint**

- A. Definition: A Complaint is a written statement, signed under oath, alleging a specific violation of the Ethics Ordinance. Any person may file a Complaint. The Complaint must be filed within one year of the time the person filing the Complaint either knew, or in the exercise of reasonable care should have known, of the violation.
- B. Filing a Complaint: If a person believes that an activity, conduct, or action violates the Ethics Ordinance, that person should contact the County Attorney to obtain an Ethics Complaint Form. Once the complainant has completed the Ethics Complaint Form, it should be returned in a sealed envelope marked “Ethics Complaint,” either via hand-delivery or first-class mail to the County of Caroline Ethics Commission: 403 South 7<sup>th</sup> Street, Suite 246, Denton, Maryland 21629, with all pertinent information regarding the matter. The County Attorney will review the Complaint Form to determine whether the required information has been provided, request the Chief of Staff to schedule the matter to be heard by the Ethics Commission, and notify the Ethics Commission Chair. In the event a complaint is filed against the County Attorney, the Chief of Staff or any member of the Ethics Commission, such complaint shall serve as the basis for automatic recusal by the individual subject of the complaint in order to avoid conflict and appearance of impropriety. Forms are also available online. They can be located in the Ethics Commission section of the website via the following link: <http://www.carolinemd.org/204/Ethics-Commission>.
- C. Process:
  1. Once the Ethics Commission reviews the Complaint, the Commission may either dismiss the Complaint, direct the County Attorney to investigate the allegations to aid the Commission in its initial evaluation of the Complaint, or set a formal hearing on the Complaint. The Ethics Commission shall notify the complainant in writing of its initial determination.
  2. All actions regarding a Complaint are confidential until a final determination is made by the Commission.
  3. At the formal hearing on the Complaint, the complainant and County employee or official named in the Complaint shall be given the opportunity to present

evidence and cross-examine witnesses. All testimony shall be taken under oath.

4. The Commission may issue subpoenas and compel the attendance of witnesses and production of documents.
5. At the conclusion of the hearing, the Commission will issue a formal written Decision that includes findings of fact and conclusions of law based on the evidence presented. The written Decision shall be sent to the complainant.
6. Upon a finding of a violation of the Ethics Ordinance, the Commission may issue an order to cease and desist, impose a fine of up to \$1,000, and/or seek judicial enforcement for compliance.
7. Once a final determination is made by the Commission on a Complaint, information regarding the Complaint, including the decision, may be made public, subject to §33-29H(3) of the Code.
8. Order of Presentation

Due process procedures will be followed in the hearing. These procedures will be:

- a. Opening statement by the Chairperson to explain the reason for the hearing.
- b. The Complaint will be read into the record.
- c. Testimony of all parties and witnesses will be sworn or affirmed. All witnesses will be excused from the hearing except while testifying.
- d. The Complainant, if applicable, and Respondent will be given an opportunity to present evidence and testimony on their behalf and to call witnesses.
- e. The parties and their legal counsel will be afforded an opportunity to examine and cross-examine all witnesses and parties.
- f. The Commissioners may ask questions at any time during the proceedings. The Commissioners may call as a witness any persons whose testimony is relevant.
- g. Each party may make a closing statement. If applicable, the Complainant will make the first closing statement, and the Respondent will make the final closing statement.
- h. Any party may submit briefs of the issues of fact and law involved in the hearing in such form and within such time as the Chairperson may designate. The hearing record will officially close at the conclusion of

closing statements or submissions of briefs, whichever occurs later.

- i. After adjournment, the Commissioners will privately deliberate and decide the case, and may seek advice of counsel.

#### 9. Findings

- a. Within thirty (30) days after the close of the hearing, the Ethics Commission shall prepare a written report.
- b. The report shall recommend, as appropriate, that the complaint be dismissed, or it will state that a determination was reached that a violation of the Code of Ethics has occurred, or that there were insufficient facts and that Ethics Commission was unable to reach a final determination.
- c. The written report shall include a statement of the alleged violation(s), written findings of fact, conclusions of law, and recommendations, which may include: recommendations for corrective action, disciplinary or other appropriate personnel action, or termination.

### **Section 5 - Conduct of Commission Members**

- A. Only the Chair of the Commission has the authority to represent the Commission in speaking on behalf of the Commission with regards to advisory opinions or complaints.
- B. No Commission member shall publicly comment on the merits of a matter before the Commission, or a matter that can reasonably be expected to appear before the Commission, prior to public release of the decision.
- C. The Ethics Commission recognizes that impartiality and fair-mindedness is critical to the decision-making and integrity of the Commission. The Commission must remain neutral since even the appearance of bias threatens the integrity of the Commission and compromises its effectiveness. Therefore, members of the Commission shall not use the Commission for political purposes, either to benefit themselves or another.
- D. Sanctions for violations of Sections 5(a)-(c) include:
  1. Private reprimand;
  2. Public reprimand;
  3. Request by the Commission for the removal of a Public Official by the Caroline County Commissioners;
  4. Voiding an official action taken by a Public Official who has been found to have a

- conflict of interest;
5. Suspension from payment of salary of other compensation; and
  6. Criminal enforcement – Willful violation of these provisions may result in a fine not to exceed \$1,000.00 and/or imprisonment not to exceed 90 days.

### **Section 6 - Amendments**

Amendments to these Rules of Procedure may be introduced at any meeting of the Commission and voted on at any subsequent regular meeting.

### **Section 7 - Suspension of Rules**

Any provision of these Rules not governed by the County Code may be temporarily suspended by an affirmative vote of a majority of the Commission members present. The vote of any such suspension shall be taken and entered into the record.