

ARTICLE 16G

State Ethics Commission

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10-16G-1. Short title.

Sections 1 through 16 [10-16G-1 through 10-16G-16 NMSA 1978] of this act may be cited as the "State Ethics Commission Act".

History: Laws 2019, ch. 86, § 1.

10-16G-2. Definitions.

As used in the State Ethics Commission Act:

- A. "commission" means the state ethics commission;
- B. "commissioner" means a member of the commission;
- C. "complainant" means a person who files a verified complaint with the commission;
- D. "complaint" means a complaint that has been signed by the complainant and the complainant attests under oath and subject to penalty of perjury before a notary public that the information in the complaint, and any attachments provided with the complaint, are true and accurate;
- E. "director" means the executive director of the commission;
- F. "government contractor" means a person who has a contract with a public agency or who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a public agency;
- G. "legislative body" means the house of representatives or the senate;
- H. "lobbyist" means a person who is required to register as a lobbyist pursuant to the provisions of the Lobbyist Regulation Act [Chapter 2, Article 11 NMSA 1978];
- I. "political party" means a political party that has been qualified in accordance with the provisions of the Election Code [Chapter 1 NMSA 1978];
- J. "public agency" means any department, commission, council, board, committee, agency or institution of the executive or legislative branch of government of the state or any instrumentality of the state, including the New Mexico mortgage finance authority, the New Mexico finance authority, the New Mexico exposition center authority, the New Mexico hospital equipment loan council and the New Mexico renewable energy transmission authority;
- K. "public employee" means an employee of a public agency;
- L. "public official" means a person elected to an office of the executive or legislative branch of the state or a person appointed to a public agency; and
- M. "respondent" means a person against whom a complaint has been filed with or by the commission.

History: Laws 2019, ch. 86, § 2.

10-16G-3. State ethics commission created; membership; terms; removal.

A. The "state ethics commission", as created in Article 5, Section 17 of the constitution of New Mexico, is composed of seven commissioners, appointed as follows:

- (1) one commissioner appointed by the speaker of the house of representatives;
- (2) one commissioner appointed by the minority floor leader of the house of representatives;

- (3) one commissioner appointed by the president pro tempore of the senate;
- (4) one commissioner appointed by the minority floor leader of the senate;
- (5) two commissioners appointed by the four legislatively appointed commissioners; and
- (6) one commissioner appointed by the governor, who shall be a retired judge and who shall chair the commission.

B. No more than three members of the commission may be members of the same political party.

C. The appointing authorities shall give due regard to the cultural diversity of the state and to achieving geographical representation from across the state. Each appointing authority shall file letters of appointment with the secretary of state.

D. Commissioners shall be appointed for staggered terms of four years beginning July 1, 2019. The initial commissioners appointed by the speaker of the house of representatives and senate minority floor leader shall serve an initial term of four years; members appointed by the president pro tempore of the senate and house minority floor leader shall serve an initial term of two years; members appointed by the legislatively appointed members shall serve an initial term of one year; and the member appointed by the governor shall serve an initial term of three years. Members shall serve until their successors are appointed and qualified.

E. A person shall not serve as a commissioner for more than two consecutive four-year terms.

F. When any member of the commission dies, resigns or no longer has the qualifications required for the commissioner's original selection, the commissioner's position on the commission becomes vacant. The director shall notify the original appointing authority of the vacant position. The original appointing authority shall select a successor in the same manner as the original selection was made. A vacancy shall be filled by appointment by the original appointing authority no later than sixty days following notification of a vacancy for the remainder of the unexpired term. A vacancy on the commission shall be filled by appointment by the original appointing authority for the remainder of the unexpired term.

G. The commission shall meet as necessary to carry out its duties pursuant to the State Ethics Commission Act. Commissioners are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

H. Four commissioners consisting of two members of the largest political party in the state and two members of the second largest political party in the state constitute a quorum for the transaction of business. No action shall be taken by the commission unless at least four members, including at least two members of the largest political party in the state and two members of the second largest political party in the state, concur.

I. A commissioner may be removed only for incompetence, neglect of duty or malfeasance in office. A proceeding for the removal of a commissioner may be commenced by the commission or by the attorney general upon the request of the commission. A commissioner shall be given notice of hearing and an opportunity to be heard before the commissioner is removed. The supreme court has original jurisdiction over proceedings to remove commissioners, and its decision shall be final. A commissioner is also liable to impeachment pursuant to Article 4, Section 36 of the constitution of New Mexico.

10-16G-4. Commissioners; qualifications; limitations.

A. To qualify for appointment to the commission, a person shall:

- (1) be a qualified elector of New Mexico;
- (2) not have changed party registration in the five years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the commission;
- (3) not continue to serve as a commissioner if the member changes party registration after the date of appointment in such a manner as to make the member ineligible to serve on the commission; and
- (4) not be, or within the two years prior to appointment shall not have been, in New Mexico, any of the following:
 - (a) a public official;
 - (b) a public employee;
 - (c) a candidate;
 - (d) a lobbyist;
 - (e) a government contractor; or
 - (f) an office holder in a political party at the state or federal level.

B. Before entering upon the duties of the office of commissioner, each commissioner shall review the State Ethics Commission Act and other laws and rules pertaining to the commission's responsibilities and to ethics and governmental conduct in New Mexico. Each commissioner shall take the oath of office as provided in Article 20, Section 1 of the constitution of New Mexico.

C. For a period of one calendar year following a commissioner's tenure or following the resignation or removal of a commissioner, the commissioner shall not:

- (1) represent a respondent, unless appearing on the commissioner's own behalf; or
 - (2) accept employment or otherwise provide services to a respondent unless the commissioner accepted employment or provided services prior to the filing of a complaint against the respondent.
- D. During a commissioner's tenure, a commissioner shall not hold another public office or be:
- (1) a public employee;
 - (2) a candidate;
 - (3) a lobbyist;
 - (4) a government contractor; or
 - (5) an office holder in a political party at the state or federal level.
- E. A commissioner who changes political party affiliation in violation of the provisions of Subsection A of this section or who chooses to seek or hold an office in violation of Subsection D of this section shall resign from the commission or be deemed to have resigned.

History: Laws 2019, ch. 86, § 4.

10-16G-5. Commission; duties and powers.

- A. The commission shall:
- (1) employ an executive director, who shall be an attorney, upon approval of at least five commissioners;
 - (2) develop, adopt and promulgate the rules necessary for it to implement and administer the provisions of the State Ethics Commission Act; and
 - (3) establish qualifications for hearing officers and rules for hearing procedures and appeals.
- B. Beginning January 1, 2020, the commission shall:
- (1) receive and investigate complaints alleging ethics violations against public officials, public employees, candidates, persons subject to the Campaign Reporting Act [1-19-25 through 1-19-36 NMSA 1978], government contractors, lobbyists and lobbyists' employers;
 - (2) hold hearings in appropriate cases to determine whether there has been an ethics violation;
 - (3) compile, index, maintain and provide public access to all advisory opinions and reports required to be made public pursuant to the State Ethics Commission Act;
 - (4) draft a proposed code of ethics for public officials and public employees and submit the proposed code to each elected public official and public agency for adoption; and
 - (5) submit an annual report of its activities, including any recommendations regarding state ethics laws or the scope of its powers and duties, in December of each year to the legislature and the governor.
- C. Beginning January 1, 2020, the commission may:
- (1) by approval of at least five commissioners, initiate complaints alleging ethics violations against a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer;
 - (2) petition a district court to issue subpoenas under seal requiring the attendance of witnesses and the production of books, records, documents or other evidence relevant or material to an investigation;
 - (3) issue advisory opinions in accordance with the provisions of the State Ethics Commission Act;
 - (4) compile, adopt, publish and make available to all public officials, public employees, government contractors and lobbyists an ethics guide that clearly and plainly explains the ethics requirements set forth in state law, including those that relate to conducting business with the state and public agencies; and
 - (5) offer annual ethics training to public officials, public employees, government contractors, lobbyists and other interested persons.

History: Laws 2019, ch. 86, § 5.

10-16G-6. Executive director; appointment; duties and powers.

- A. The commission shall appoint an executive director who shall be knowledgeable about state ethics laws and who shall be appointed without reference to party affiliation and solely on the grounds of fitness to perform the duties of the office. The director shall hold office from the date of appointment until such time as the director is removed by the commission.
- B. The director shall:
- (1) take the oath of office required by Article 20, Section 1 of the constitution of New Mexico;
 - (2) hire a general counsel who may serve for no more than five years, unless rehired for up to an additional five years;
 - (3) hire additional personnel as may be necessary to carry out the duties of the commission;

- (4) prepare an annual budget for the commission and submit it to the commission for approval;
- (5) make recommendations to the commission of proposed rules or legislative changes needed to provide better administration of the State Ethics Commission Act;
- (6) perform other duties as assigned by the commission; and
- (7) be required to reapply for the position after six years of service and may serve as director for no more than twelve years.

C. The director may:

- (1) enter into contracts and agreements on behalf of the commission; and
- (2) have the general counsel administer oaths and take depositions subject to the Rules of Civil Procedure for the District Courts.

D. For a period of one calendar year immediately following termination of the director's employment with the commission, the director shall not:

- (1) represent a respondent, unless appearing on the director's own behalf; or
- (2) accept employment or otherwise provide services to a respondent, unless the director accepted employment or provided services prior to the filing of a complaint against the respondent.

History: Laws 2019, ch. 86, § 6.

10-16G-7. Recusal and disqualification of a commissioner.

A. A commissioner may recuse from a particular matter.

B. A commissioner shall recuse from any matter in which the commissioner is unable to make a fair and impartial decision or in which there is a reasonable doubt about whether the commissioner can make a fair and impartial decision, including:

- (1) when the commissioner has a personal bias or prejudice concerning a party to the proceeding or has prejudged a disputed evidentiary fact involved in a proceeding prior to a hearing. For the purposes of this paragraph, "personal bias or prejudice" means a predisposition toward a person based on a previous or ongoing relationship that renders the commissioner unable to exercise the commissioner's functions impartially;
- (2) when the commissioner has a pecuniary interest in the outcome of the matter; or
- (3) when in previous employment the commissioner served as an attorney, adviser, consultant or witness in the matter in controversy.

C. A party to the proceeding may request the recusal of a commissioner and shall provide the commission with the grounds for the request. If the commissioner declines to recuse upon request of a party to the proceeding, the commissioner shall provide a full explanation in support of the refusal to recuse.

D. A party may appeal a commissioner's refusal to recuse, or if the propriety of a commissioner's participation in a particular matter is otherwise questioned, the issue shall be decided by a majority of the other commissioners present and voting.

E. A disqualified commissioner shall not participate in any proceedings with reference to the matter from which the commissioner is disqualified or recused, and the commissioner shall be excused from that portion of any meeting at which the matter is discussed.

F. Minutes of commission meetings shall record the name of any commissioner not voting on a matter by reason of disqualification or recusal.

G. If two or more commissioners have recused themselves or are disqualified from participating in a proceeding, the remaining commissioners shall appoint temporary commissioners to participate in that proceeding. Appointments of temporary commissioners shall be made by a majority vote of the remaining commissioners in accordance with the political affiliation and geographical representation requirements and the qualifications set forth in the State Ethics Commission Act.

H. The commission shall promulgate rules for the recusal and disqualification of commissioners, for an appeal of a recusal decision and for the appointment of temporary commissioners.

History: Laws 2019, ch. 86, § 7.

10-16G-8. Advisory opinions.

A. The commission may issue advisory opinions on matters related to ethics. Advisory opinions shall:

- (1) be requested in writing by a public official, public employee, candidate, person subject to the Campaign Reporting Act [1-19-25 through 1-19-36 NMSA 1978], government contractor, lobbyist or lobbyist's employer;
- (2) identify a specific set of circumstances involving an ethics issue;

- (3) be issued within sixty days of receipt of the request unless the commission notifies the requester of a delay in issuance and continues to notify the requester every thirty days until the advisory opinion is issued; and
- (4) be published after omitting the requester's name and identifying information.

B. A request for an advisory opinion shall be confidential and not subject to the provisions of the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978].

C. Unless amended or revoked, an advisory opinion shall be binding on the commission in any subsequent commission proceedings concerning a person who acted in good faith and in reasonable reliance on the advisory opinion.

History: Laws 2019, ch. 86, § 8.

10-16G-9. Commission jurisdiction; compliance provisions. (Effective January 1, 2020.)

A. The commission has jurisdiction to enforce the applicable civil compliance provisions for public officials, public employees, candidates, persons subject to the Campaign Reporting Act [1-19-25 through 1-19-36 NMSA 1978], government contractors, lobbyists and lobbyists' employers of:

- (1) the Campaign Reporting Act;*
- (2) the Financial Disclosure Act [Chapter 10, Article 16A NMSA 1978];*
- (3) the Gift Act [Chapter 10, Article 16B NMSA 1978];*
- (4) the Lobbyist Regulation Act [Chapter 2, Article 11 NMSA 1978];*
- (5) the Voter Action Act [1-19A-1 to 1-19A-17 NMSA 1978];*
- (6) the Governmental Conduct Act [Chapter 10, Article 16 NMSA 1978];*
- (7) the Procurement Code [13-1-28 through 13-1-199 NMSA 1978];*
- (8) the State Ethics Commission Act; and*
- (9) Article 9, Section 14 of the constitution of New Mexico.*

B. All complaints filed with a public agency regarding the statutes listed in Subsection A of this section shall be forwarded to the commission.

C. The commission may choose to act on some or all aspects of a complaint and forward other aspects of a complaint to another state or federal agency with jurisdiction over the matter in accordance with Subsection E of this section.

D. If the commission decides not to act on a complaint, whether the complaint was filed with the commission or forwarded from another public agency, or decides only to act on part of a complaint, the commission shall promptly forward the complaint, or any part of a complaint on which it does not wish to act, to the public agency that has appropriate jurisdiction within ten days of the decision. The complainant and respondent shall be notified in writing when the complainant's request has been forwarded to another agency unless otherwise provided pursuant to Subsection H of Section 10 [10-16G-10 NMSA 1978] of the State Ethics Commission Act.

E. The commission may share jurisdiction with other public agencies having authority to act on a complaint or any aspect of a complaint. Such shared jurisdiction shall be formalized through an agreement entered into by all participating agencies involved with the complaint and the director. The commission may also investigate a complaint referred to the commission by the legislature, or a legislative committee, in accordance with an agreement entered into pursuant to policies of the New Mexico legislative council or rules of the house of representatives or senate.

F. The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section. The court action shall be filed in the district court in the county where the respondent resides.

History: Laws 2019, ch. 86, § 9.

10-16G-10. Complaints; investigations; subpoenas. (Effective January 1, 2020.)

A. A complaint of an alleged ethics violation committed by a public official, public employee, candidate, person subject to the Campaign Reporting Act [1-19-25 through 1-19-36 NMSA 1978], government contractor, lobbyist, lobbyist's employer or a restricted donor subject to the Gift Act [Chapter 10, Article 16B NMSA 1978] may be filed with the commission by a person who has actual knowledge of the alleged ethics violation.

B. The complainant shall set forth in detail the specific charges against the respondent and the factual allegations that support the charges and shall sign the complaint under penalty of false statement. The complainant shall submit any evidence the complainant has that supports the complaint. Evidence may include documents, records and names of witnesses. The commission shall prescribe the forms on which complaints are to be filed. The complaint form shall be signed and sworn by the complainant and notarized.

C. Except as provided in Subsection H of this section, the respondent shall be notified within seven days of the filing of the complaint and offered an opportunity to file a response on the merits of the complaint.

D. The director shall determine if the complaint is subject to referral to another state agency pursuant to an agreement or outside the jurisdiction of the commission, and if so, promptly refer the complaint to the appropriate agency. If the

director determines that the complaint is within the commission's jurisdiction, the director shall have the general counsel initiate an investigation.

E. The general counsel shall conduct an investigation to determine whether the complaint is frivolous or unsubstantiated. If the general counsel determines that the complaint is frivolous or unsubstantiated, the complaint shall be dismissed, and the complainant and respondent shall be notified in writing of the decision and reasons for the dismissal. The commission shall not make public a complaint that has been dismissed pursuant to this subsection or the reasons for the dismissal.

F. If the general counsel and the respondent reach a settlement on the matters of the complaint, the settlement shall be submitted to the commission for its approval, and if the matter has been resolved to the satisfaction of the commission, the complaint and terms of the settlement shall be subject to public disclosure.

G. If the general counsel determines that there is probable cause, the director shall promptly notify the respondent of the finding of probable cause and of the specific allegations in the complaint that are being investigated and that a public hearing will be set. If the finding of probable cause involves a discriminatory practice or actions by the respondent against the complainant, no settlement agreement shall be reached without prior consultation with the complainant. In any case, the notification, complaint, specific allegations being investigated and any response to the complaint shall be made public thirty days following notice to the respondent.

H. Notwithstanding the provisions of Subsections C and G of this section, the director may delay notifying a respondent and complainant and releasing to the public the complaint and related information required by Subsection G of this section if it is deemed necessary to protect the integrity of a criminal investigation. A decision whether to delay notifying a respondent shall be taken by a majority vote of the commission and shall be documented in writing with reasonable specificity.

I. As part of an investigation, the general counsel may administer oaths, interview witnesses and examine books, records, documents and other evidence reasonably related to the complaint. All testimony in an investigation shall be under oath, and the respondent may be represented by legal counsel. If the general counsel determines that a subpoena is necessary to obtain the testimony of a person or the production of books, records, documents or other evidence, the director shall request that the commission petition a district court to issue a subpoena.

J. The commission may petition the court for a subpoena for the attendance and examination of witnesses or for the production of books, records, documents or other evidence reasonably related to an investigation. If a person neglects or refuses to comply with a subpoena, the commission may apply to a district court for an order enforcing the subpoena and compelling compliance. All proceedings in the district court prior to the complaint being made public pursuant to Subsection G of this section, or upon entry of a settlement agreement, shall be sealed. A case is automatically unsealed upon notice by the commission to the court that the commission has made the complaint public. No later than July 1 of each even-numbered year, the chief justice of the supreme court shall appoint an active or pro tempore district judge to consider the issuance and enforcement of subpoenas provided for in this section. The appointment shall end on June 30 of the next even-numbered year after appointment.

K. A public official or state public employee who is a respondent who is subject to a complaint alleging a violation made in the performance of the respondent's duties shall be entitled to representation by the risk management division of the general services department.

History: Laws 2019, ch. 86, § 10.

10-16G-11. Status of investigation; reports to commission. (Effective January 1, 2020.)

A. If a hearing has not been scheduled concerning the disposition of a complaint within ninety days after the complaint is received, the director shall report to the commission on the status of the investigation. The commission may dismiss the complaint or instruct the director to continue the investigation of the complaint. Unless the commission dismisses the complaint, the director shall report to the commission every ninety days thereafter on the status of the investigation.

B. Upon dismissal of a complaint or a decision to continue an investigation of a complaint, the commission shall notify the complainant and respondent in writing of its action. If the commission has not notified a respondent pursuant to the provisions of Subsection G of Section 10 [10-16G-10 NMSA 1978] of the State Ethics Commission Act, the commission shall vote on whether to notify the respondent. A decision whether to continue to delay notifying the respondent shall be taken by a majority vote of a quorum of the commission and shall be documented in writing with reasonable specificity.

History: Laws 2019, ch. 86, § 11.

10-16G-12. Investigation report; commission hearings; decisions and reasons given; disclosure of an ethics violation. (Effective January 1, 2020.)

- A. Upon receipt of the general counsel's recommendation, the commission or hearing officer shall:
- (1) dismiss a complaint and notify the complainant and the respondent of the dismissal; or
 - (2) set a public hearing, as soon as practicable.
- B. At any time before or during a hearing provided for in Subsection A of this section, the hearing officer may, at a public meeting, approve a disposition of a complaint agreed to by the general counsel and the respondent, as approved by the commission.
- C. The hearing provided for in Subsection A of this section shall be pursuant to the rules of evidence that govern proceedings in the state's courts and procedures established by the commission. An audio recording shall be made of the hearing. The respondent may be represented by counsel. The parties may present evidence and testimony, request the director to compel the presence of witnesses and examine and cross-examine witnesses.
- D. The hearing officer shall issue a written decision that shall include the reasons for the decision. If the hearing officer finds by a preponderance of the evidence that the respondent's conduct constituted a violation, the decision may include recommendations for disciplinary action against the respondent, and the hearing officer may impose any fines provided for by law. A finding of fraudulent or willful misconduct shall require clear and convincing evidence.
- E. The complainant or respondent may appeal a decision of the hearing officer within thirty days of the decision to the full commission, which shall hear the matter within sixty days of notice of the appeal and issue its decision within 180 days.
- F. The commission shall publicly disclose a decision, including a dismissal following a finding of probable cause or the terms of a settlement, issued pursuant to this section. The commission shall provide the decision to the complainant, the respondent and the:
- (1) house of representatives if the respondent is a public official who is subject to impeachment;
 - (2) appropriate legislative body if the respondent is a member of the legislature;
 - (3) respondent's appointing authority if the respondent is an appointed public official;
 - (4) appropriate public agency if the respondent is a public employee;
 - (5) public agency with which the respondent has a government contract if the respondent is a government contractor; and
 - (6) secretary of state and the respondent's employer, if any, if the respondent is a lobbyist.
- G. The commission shall produce a quarterly report subject to public inspection containing the following information:
- (1) the number of complaints filed with and referred to the commission;
 - (2) the disposition of the complaints; and
 - (3) the type of violation alleged in the complaints.

History: Laws 2019, ch. 86, § 12.

10-16G-13. Confidentiality of records; penalty. (Effective January 1, 2020.)

- A. A decision that a respondent's conduct constituted a violation, and the terms of a settlement approved by the commission, are public records. Pleadings, motions, briefs and other documents or information related to the decision are public records, except for information that is confidential or protected pursuant to attorney-client privilege, provider-patient privilege or state or federal law.
- B. If a complaint is determined to be frivolous, unsubstantiated or outside the jurisdiction of the commission, the complaint shall not be made public by the commission; provided that the commission shall not prohibit the complainant or respondent from releasing the commission's decision or other information concerning the complaint.
- C. Except as otherwise provided in the acts listed in Section 9 of the State Ethics Commission Act, all complaints, reports, files, records and communications collected or generated by the commission, hearing officer, general counsel or director that pertain to alleged violations shall not be disclosed by the commission or any commissioner, agent or employee of the commission, unless:
- (1) disclosure is necessary to pursue an investigation by the commission;
 - (2) disclosure is required pursuant to the provisions of the State Ethics Commission Act; or
 - (3) they are offered into evidence by the commission, respondent or another party at a judicial, legislative or administrative proceeding, including a hearing before a hearing officer.
- D. Information and reports containing information made confidential by law shall not be disclosed by the commission or its director, staff or contractors.
- E. A commissioner, director, staff or contractor who knowingly discloses any confidential complaint, report, file, record or communication in violation of the State Ethics Commission Act is guilty of a petty misdemeanor.

History: Laws 2019, ch. 86, § 13.

10-16G-14. Criminal violations; referral. (Effective January 1, 2020.)

If the commission finds at any time that a respondent's conduct amounts to a criminal violation, the director shall consult with the attorney general or an appropriate district attorney, and the commission may refer the matter to the attorney general or an appropriate district attorney. The commission may provide the attorney general or district attorney with all evidence collected during the commission's investigation. Nothing in this section prevents the commission from taking any action authorized by the State Ethics Commission Act or deciding to suspend an investigation pending resolution of any criminal charges.

History: Laws 2019, ch. 86, § 14.

10-16G-15. Time limitations on jurisdiction. (Effective January 1, 2020.)

A. The commission shall not accept or consider a complaint unless the complaint is filed with the commission within the later of two years from the date:

- (1) on which the alleged conduct occurred; or*
- (2) the alleged conduct could reasonably have been discovered.*

B. The commission shall not adjudicate a complaint filed against a candidate, except pursuant to the Campaign Reporting Act [1-19-25 through 1-19-36 NMSA 1978] or Voter Action Act [1-19A-1 to 1-19A-17 NMSA 1978], less than sixty days before a primary or general election. During that time period, the commission may dismiss complaints that are frivolous or unsubstantiated or refer complaints that are outside the jurisdiction of the commission.

C. A complainant shall be notified in writing of the provisions of this section and shall also be notified in writing that the complainant may refer allegations of criminal conduct to the attorney general or the appropriate district attorney.

D. When commission action on a complaint is suspended pursuant to the provisions of this section, the respondent shall promptly be notified that a complaint has been filed and of the specific allegations in the complaint and the specific violations charged in the complaint.

History: Laws 2019, ch. 86, § 15.

10-16G-16. Prohibited actions. (Effective January 1, 2020.)

A. A person shall not take or threaten to take any retaliatory, disciplinary or other adverse action against another person who in good faith:

- (1) files a verified complaint with the commission that alleges a violation; or*
- (2) provides testimony, records, documents or other information to the commission during an investigation or at a hearing.*

B. A complainant and a respondent shall not communicate ex parte with any hearing officer, commissioner or other person involved in a determination of the complaint.

C. Nothing in the State Ethics Commission Act precludes civil or criminal actions for libel or slander or other civil or criminal actions against a person who files a false claim.

History: Laws 2019, ch. 86, § 16.