



# Florida Elections Commission

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# About Our Agency: History

- In 1951, the Legislature revised the Florida Election Code and added the requirement that candidates file reports listing all contributions received and expenditures made by their campaigns and that they make all expenditures from their campaign accounts. This legislation is often referred to as the "Who Gave It Who Got It" law.
- In 1973, the Legislature passed what is now Chapter 106, Florida Statutes, and created the Florida Elections Commission to enforce campaign financing provisions.
- In 1998, the Legislature delegated to the Commission the responsibility to enforce the provisions of Chapter 104, Florida Statutes.
- The Commission is composed of nine members appointed by the Governor.

# About Our Agency: Composition of the Commission

- Composed of nine members appointed by the Governor
- The Governor appoints all the members except the Chair from lists of six names provided to him by the President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both houses
- The Chair serves for a maximum of four years with his or her term running concurrently with the term of the appointing Governor
- The members of the Commission may serve no more than two full terms of four years
- Commissioners shall not be a member of any county, state, or national committee of a political party; an officer in any partisan political club, or organization; or hold, or be a candidate for, any other public office
- No person is eligible for appointment to the Commission if they held an elected office in the year immediately preceding their appointment
- No more than five Commissioners can be from the same political party at any one time

# About Our Agency: The Commission

## **Tim Holladay, Chair**

Term Expires: January 5, 2015

## **Brian Seymour, Vice Chair**

Term Expires: December 31, 2012\*

## **Alia S. Faraj-Johnson**

Term Expires: December 31, 2015

## **Leslie Scott Jean-Bart**

Term Expires: December 31, 2015

## **Sean Hall**

Term Expires, December 31, 2015

## **Barbra Stern**

Term Expires: December 31, 2015

## **Gregory King**

Term Expired, December 31, 2012\*

\*Commissioners are holding over until new appointment is made

# About Our Agency: Organization

- The Commission is housed within the Department of Legal Affairs, Office of the Attorney General
- The Commission is a separate budget entity
- The Commission is not subject to the control, supervision, or direction of the Department of Legal Affairs or the Attorney General
- The Commission's staff consists of:
  - Executive Director
  - General Counsel
  - 2 Associate General Counsels
  - Investigations Manager
  - 5 Investigators
  - Business Manager
  - Agency Clerk
  - Paralegal
  - Administrative Assistant



# About Our Agency: Revenue Streams

- Three sources of revenue fund the Florida Elections Commission
  - 99.092(1), Florida Statutes – 1% Election Assessment on all Candidates
  - 99.093(1), Florida Statutes – 1% Election Assessment on all Municipal Candidates
  - 105.031(3), Florida Statutes – 3% Filing Fee of Judicial and School Board Candidates

**Remittance Forms Available Online:** <http://www.fec.state.fl.us/FECWebFi.nsf/pages/Forms>

# About Our Agency: Rules

- Commission rules are in Chapters 2B-1, and 2B-2, Florida Administrative Code
- The Commission has adopted the Uniform Rules of Procedure in Chapter 28, Florida Administrative Code, to govern its operations



# About Our Agency: Jurisdiction

- The Commission investigates all violations of Chapters 106 and 104, and section 105.071, Florida Statutes
- The Commission must receive either a sworn complaint or information from the Division of Elections

**STATE OF FLORIDA**  
**FLORIDA ELECTIONS COMMISSION**  
107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050  
Telephone Number: (904) 522-4330  
[www.fec.state.fl.us](http://www.fec.state.fl.us)

**CONFIDENTIAL COMPLAINT FORM**

The Commission's records and proceedings in a case are confidential until the Commission rules an probable cause. A copy of the complaint will be provided to the person against whom the complaint is brought.

**1. PERSON BRINGING COMPLAINT:**  
Name: \_\_\_\_\_ Work Phone: (\_\_\_\_) \_\_\_\_\_  
Address: \_\_\_\_\_ Home Phone: (\_\_\_\_) \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**2. PERSON AGAINST WHOM COMPLAINT IS BROUGHT:**  
A person can be an individual, political committee, committee of continuous existence, political party, electronic communication organization, club, corporation, partnership, company, association, or any other type of organization. If both an individual and a committee or organization are involved, name both.

Name of individual: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: (\_\_\_\_) \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

If individual is a candidate, list the office or position sought: \_\_\_\_\_  
Name of committee or organization: \_\_\_\_\_  
Address: \_\_\_\_\_ Phone: \_\_\_\_\_  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Have you filed this complaint with the State Attorney's Office? (check one)  
 Yes  No

**3. ALLEGED VIOLATIONS:**  
Please list the provisions of The Florida Election Code that you believe the person violated. The Commission has jurisdiction only to investigate the following per Chapter 106, Section 98.122, and Section 105.071, Florida Statutes. Also, please:

- The facts and actions that you believe support the violations you allege. The names and telephone numbers of persons you believe may be witness
- A copy or picture of the political advertisements you mention in your statement, and
- A copy of the documents you mention in your statement, and
- Other evidence that supports your allegations.

Form 12-01

**Complaint Form Available Online:**

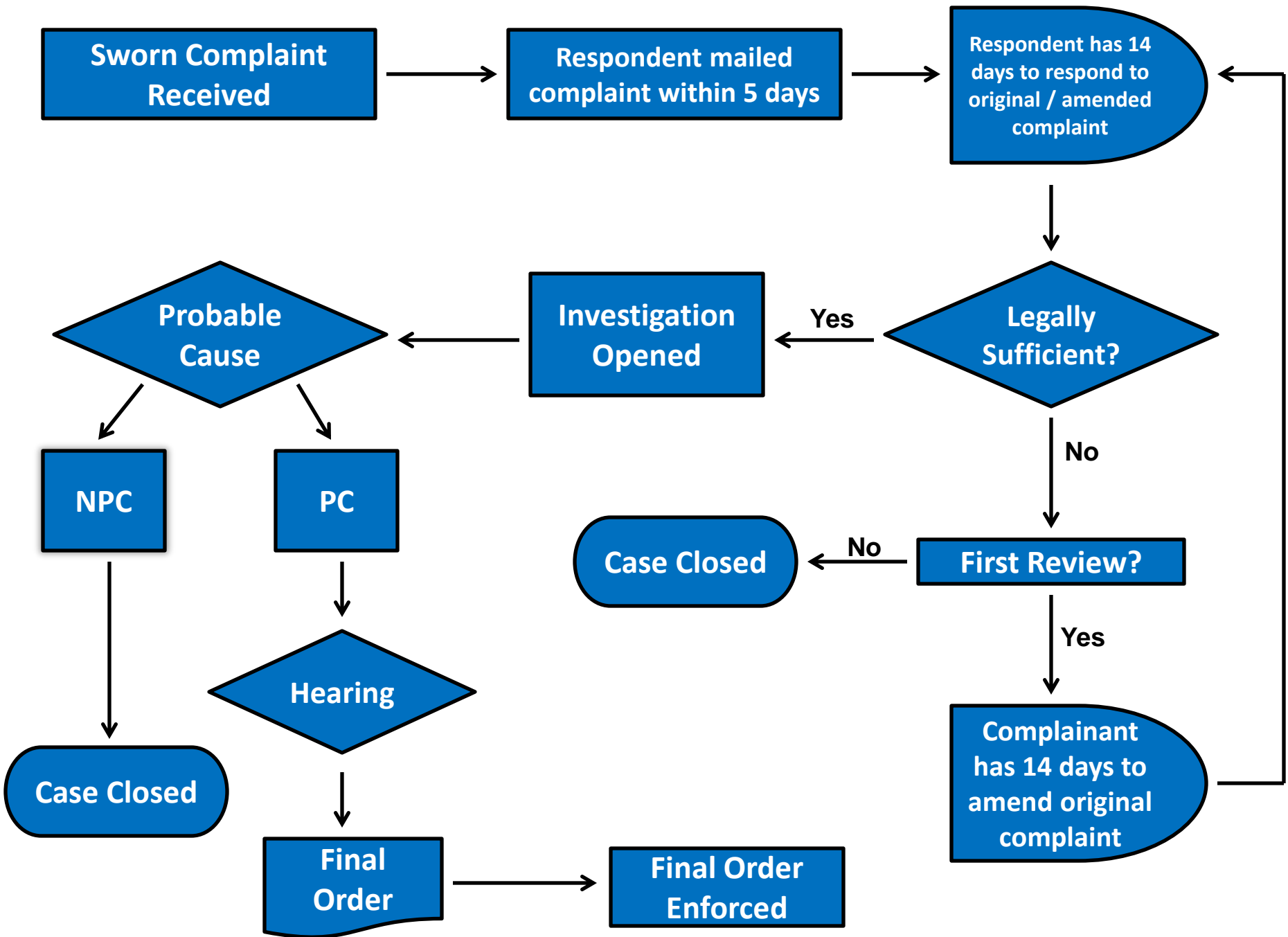
[http://www.fec.state.fl.us/FECWebFi.nsf/0/F56B5957EA09370885257870006CA19C/\\$file/FEC-ComplaintForm.pdf](http://www.fec.state.fl.us/FECWebFi.nsf/0/F56B5957EA09370885257870006CA19C/$file/FEC-ComplaintForm.pdf)



# The Complaint Process

- Complaints must meet the following criteria in order to be considered legally sufficient:
  - The complaint alleges a violation of Chapter 104 or 106 or Section 105.071, Florida Statutes;
  - The complaint was made under oath in the presence of a notary public or other person authorized by law to administer oaths;
  - The complaint contains the original signature of the complainant;
  - The complaint contains specific facts upon which the complainant bases the allegation of a violation of law; and
  - The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission.

*The Commission will not accept faxed complaints because an original signature is required.*



# Commission Meetings

- The Commission meets and hears cases four times per year:
  - February
  - May
  - August
  - November



# Civil Penalties

- Section 106.265, Florida Statutes, authorizes the Commission to impose a fine not to exceed \$1,000 per violation
- There are also several enhanced penalty provisions in Chapter 106, Florida Statutes
- All civil penalties collected by the Commission are deposited into the General Revenue Fund
- All consent order agreements approved by the Commission are deposited into the General Revenue Fund

# Common Violations

## Chapter 104, Florida Statutes

- There are over 60 separate violations
- Prohibiting a person from falsely swearing an oath in connection with or arising out of voting or elections.  
§104.011, F.S.
- Prohibiting any official from refusing or neglecting to perform his duty as prescribed in the Florida Election Code.  
§104.051(2), F.S.
- Prohibiting a person from giving or promising anything of value to a person intending to buy that person's vote.  
§104.061, F.S.
- Prohibiting a candidate from giving, paying, expending, or contributing any money or other thing of value to any other candidate.  
§104.071, F.S.

# Common Violations

## Chapter 104, Florida Statutes

- Prohibiting a person who knows that he is not a qualified elector from voting in any election. §104.15, F.S.
- Prohibiting a person from voting or attempting to vote both in person and by absentee ballot in any election. §104.17 and 104.18, F.S.
- Prohibiting a person from knowingly signing a petition or petitions for a candidate, a minor political party, or an issue more than one time. §104.185, F.S.
- Prohibiting a candidate from falsely and maliciously charging that an opposing candidate violated a provision of the Florida Election Code. §104.271(1), F.S.
- Prohibiting a candidate from making false factual statements with malice about an opposing candidate. §104.271(2), F.S.
- Prohibiting a person from aiding, abetting, or advising another person to violate the Election Code. §104.091, F.S.

# Common Violations

## Chapter 106, Florida Statutes

- There are almost 100 separate violations
- Prohibiting a candidate or political committee from accepting contributions or making expenditures prior to appointing a campaign treasurer and designating a campaign depository. §106.021(1)(a), F.S.
- Failure of a political committee to file a statement of organization. §106.03(1), F.S.
- Failure of the treasurer of a candidate or political committee to file regular reports of all contributions received, and all expenditures made, by or on behalf of the candidate or political committee. §106.07(1), F.S.
- Prohibiting a campaign treasurer, candidate, or political committee chair from certifying a campaign treasurer's report as true, correct, and complete when it is not. §106.07(5), F.S.
- Failure of a person who makes independent expenditures of \$5,000 or more to file periodic reports of the expenditures. §106.071(1), F.S.

# Common Violations

## Chapter 106, Florida Statutes

- Prohibiting a person, political committee, or committee of continuous existence from making contributions to a candidate or political committee in excess of \$500 for each election. §106.08(1)(a), F.S.
- Prohibiting a candidate from accepting contributions from national, state, and county executive committees and their subordinate committees in excess of \$50,000 prior to the general election. (There are larger limits for candidates for statewide office.) §106.08(2), F.S.
- Failure of a person to prominently mark all political advertisements with a proper political disclaimer. §106.143, F.S.
- Prohibiting a person or organization from accepting a contribution in excess of \$500 for each election. §106.19(1)(a), F.S.
- Prohibiting the expenditure of campaign funds that have already been obligated. §106.11(4), F.S.



# Appeal Hearings

- **Appeal of Automatic Fines**

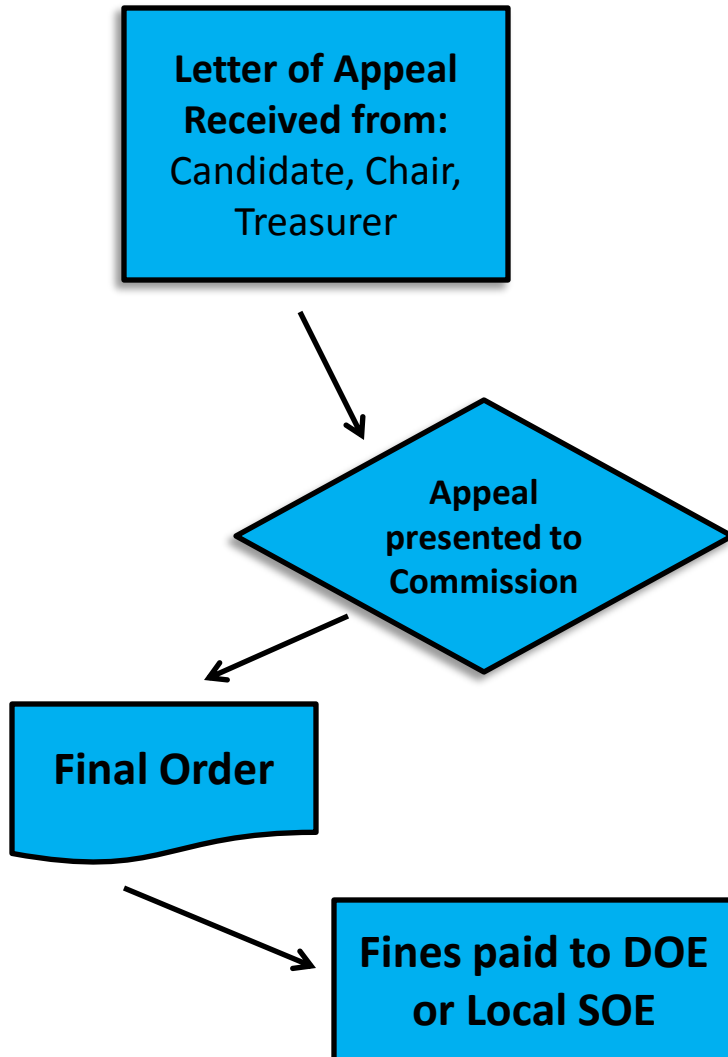
- The Commission hears appeals from candidates, committees, or political parties regarding fines automatically imposed for the late-filing of its campaign treasurer's reports
- Section 106.04(9)(a), Florida Statutes, provides that a committee of continuous existence that fails to timely file its campaign treasurer's report on the designated due date is subject to an automatic fine.\*
- Section 106.07(8)(a), Florida Statutes, provides that a candidate or political committee that fails to timely file is also subject to an automatic fine
- Finally, Section 106.29(3)(a), Florida Statutes, provides that a state or county executive committee of a political party is automatically fined for each day its report is late. Rule 2B-1.005, Florida Statutes

*\*As of November 1, 2013, all CCEs will be dissolved*

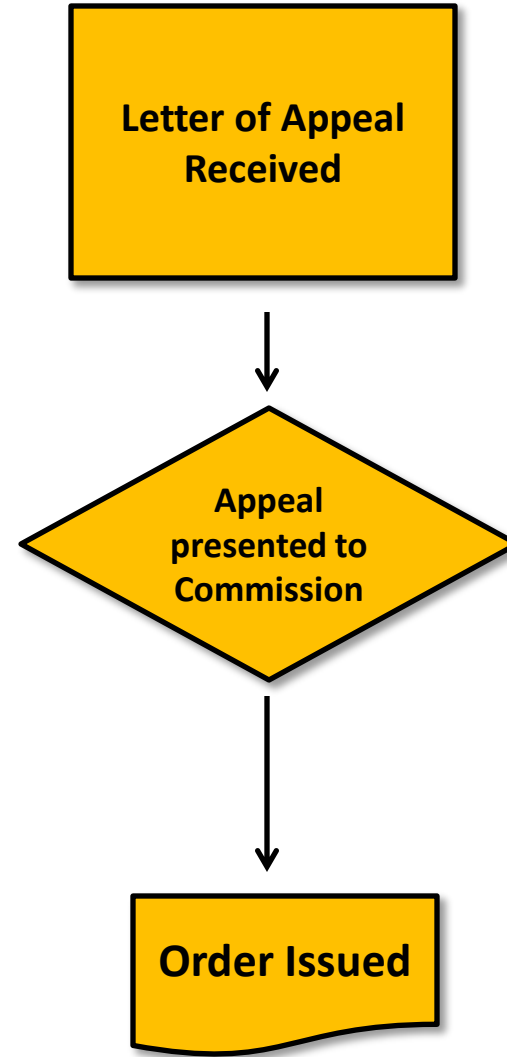
# Appeal Hearings

- **Appeal of Dissolution or Decertification of Committees**
  - The Commission hears appeals of dissolution of a political committee by its filing officer and decertification of a committee of continuous existence by the Division of Elections.
  - The committee must provide the Commission with documentation supporting its claim.
  - The Commission's determination after hearing is final agency action.

## Auto Fine Appeals



## Revocation of Political Committees & Political Party Appeals



# Florida Elections Commission



*Ensuring Fair Elections*