

2B-1.0025 Complaints.

(1) Any complaint alleging violations of the Florida Election Code over which the Florida Elections Commission has jurisdiction may be filed with the Commission.

(a) Within 5 days after receipt of a complaint, Commission staff shall conduct a technical and clerical review of the complaint to ensure that:

1. FEC Form 1, adopted and incorporated herein by reference, has been used to file the complaint;

2. All information required by FEC Form 1 has been provided, and all instructions on the complaint form have been followed;

3. A single respondent has been named in the complaint;

4. The complaint has not been submitted anonymously;

5. Any exhibits or attachments referenced in the complaint have been included with the complaint, and if multiple complaints have been submitted together, separate copies of exhibits or attachments referenced in each complaint have been attached to the complaint that references those exhibits or attachments;

6. The complaint has been properly signed by the complainant under oath in the presence of a notary public or other person authorized by law to administer oaths; and

7. The complaint contains the original signature of the complainant.

(b) If a complaint does not comply with any of the requirements of subsection (1)(a) of this rule or is otherwise incomplete, Commission staff shall return the complaint to the complainant and identify the defect(s). Commission staff shall provide assistance or information to persons seeking to file a complaint, but shall not encourage, solicit, or discourage the filing of a complaint. Complaints that are returned in accordance with this subsection remain confidential in accordance with Section 106.25(7), F.S.

(c) Commission staff shall assign a case number to each complaint which is not returned to the complainant, and Commission staff shall then deliver the complaint to the executive director in order for the executive director to determine whether the complaint is legally sufficient.

(2) Upon receipt of a complaint from Commission staff after the completion of the technical and clerical review required by subsection (1) of this rule, the executive director shall determine whether the complaint is legally sufficient. A complaint is legally sufficient if it meets the following criteria:

(a) The complaint alleges a violation of Chapters 104 or 106 ~~or Sections 98.212 or 105.071~~, F.S.;

(b) ~~The complaint was made under oath in the presence of a notary public or other person authorized by law to administer oaths;~~

(c) ~~The complaint contains the original signature of the complainant;~~

(b)(d) ~~The complaint contains specific facts upon which the complainant bases the allegation of a violation of law; and~~

(c)(e) ~~The complaint alleges a violation that occurred within two years of the date the complaint is filed with the Commission;~~

(d)(f) ~~The complaint is based on personal information or information other than hearsay; and~~

(e) ~~The complaint otherwise complies with the requirements of subsection (1)(a) of this rule.~~

(3) If a person files a second complaint against the same person, the executive director shall determine that the second complaint is legally insufficient, if the second complaint alleges violations that are based upon the same facts or allegations that were raised or could have been raised in the first complaint.

(4) In determining the legal sufficiency of a complaint, the executive director shall consider any document referred to in the complaint and any material Commission staff has obtained in prior Commission investigations. In determining the legal sufficiency of a complaint alleging a violation of the campaign finance laws, the executive director shall also consider documents on file with the filing officer.

(5) When the executive director determines that a complaint is legally insufficient, the complainant and the respondent shall be notified. The notice shall include the reason the complaint is legally insufficient and notify the complainant that he has 14 days to correct the stated ground of insufficiency by filing FEC Form 2, adopted and incorporated herein by reference. If the complainant does not respond within 14 days, the executive director shall close the case. If the complainant responds but does not provide information that corrects the stated ground of insufficiency, the case shall be closed. A corrected complaint must also be sworn as required by Section 106.25(2), F.S.

Rulemaking Authority 106.26(1) FS. Law Implemented 105.071, 106.25 FS. History—New 2-17-91, Amended 11-14-93, 3-19-96, 8-19-96, Formerly 1D-1.0025, Amended 1-11-99, 1-2-02, 2-15-04, 4-24-05, 6-2-13.