

2B-1.0041 Expedited Hearings for False Military Service.

Upon receipt of a complaint alleging violation of Section 104.271(2) or 104.2715, F.S., the following procedures shall be adhered:

(1) The executive director shall make a determination as to legal sufficiency of the complaint, and the legal sufficiency or legal insufficiency letter shall be sent by certified mail no later than 5 days after the expiration of the time allotted for the respondent to provide a written response to the complaint.

(a) If the complaint alleges a violation of any section of law other than Section 104.271(2) or 104.2715, F.S., the executive director shall cause the complaint to be separated into two complaints, one of which shall contain all allegations made under Sections 104.271(2) and 104.2715, F.S., and one of which shall contain all other allegations made by the complaint.

(b) A new case number shall be assigned to the complaint containing all allegations other than those made under Sections 104.271(2) and 104.2715, F.S., and the procedure for the investigation and hearing, if necessary, of the complaint assigned a new case number shall be as described in Rule 2B-1.004, F.A.C., and Sections 106.24, 106.25, and 106.26, F.S.

(2) On the same day that a legal sufficiency letter is sent to the respondent regarding allegations made under Section 104.271(2) or 104.2715, F.S., the Chairman shall issue an order to show cause to the respondent, the complainant, and their counsel setting a hearing to occur within no less than 15 days and no more than 20 days at which the respondent shall be provided the opportunity to show cause as to why a final order should not be issued against the respondent disposing of the complaint. Notice of the hearing shall be sent to the respondent, the complainant, and their counsel on the same day that the order to show cause is issued.

(3) The hearing on the order to show cause shall be set to be heard before not less than a quorum of the Commission.

(4) The respondent, the complainant, and their counsel shall be permitted to attend the hearing on the order to show cause, which shall be conducted in accordance with Section 106.26, F.S., and any civil penalties shall be determined in accordance with Sections 104.271(2), 104.2715, and 106.265, F.S.

The procedure for the investigation and hearing, if necessary, of a sworn complaint alleging a violation of Section 104.2715, F.S., will be as described in Rule 2B-1.004, F.A.C. and Sections 106.24, 106.25, 106.26, F.S., except that the following time restrictions shall be adhered:

(1) If the executive director finds that the complaint is legally sufficient, the legal sufficiency letter shall be sent by certified mail no later than 10 days after the expiration of the time allotted for respondent to provide a written response to the complaint.

(2) The Commission shall complete its report of investigation no later than 60 days after Respondent's receipt of the legal sufficiency letter.

(3) A copy of the Commission counsel's probable cause recommendation shall be furnished to the respondent no later than 10 days after the expiration of the time allotted for respondent to provide a written response to the investigator's report.

(4) Upon a finding of probable cause, the case shall proceed to hearing in accordance with Section 106.25(5), F.S., except that:

(a) In cases to be heard by the Division of Administrative Hearings, the executive director shall, no later than 10 days after receipt of an order finding probable cause, refer the case to the Division of Administrative Hearings for an expedited hearing.

(b) In cases involving disputed issues of material fact to be heard by the Commission, the Chairman shall, within 10 days of issuing an order finding probable cause, direct that a Commissioner or Commissioners hear the case, in accordance with subsection 2B-1.004(5), F.A.C.

(c) Informal hearings, involving no disputed issues of material fact, shall be conducted before the Commission at the next scheduled commission meeting, unless the Chairman elects to proceed in accordance with subsection 2B-1.004(5), F.A.C.

Rulemaking Authority 104.2715(3) FS. Law Implemented 104.2715 FS. History—New 1-8-14.