

CHAPTER 4525

ETHICAL PRACTICES BOARD

HEARINGS

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4525.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4525.0100 to 4525.1000 the terms defined in this part have the meanings given to them.

Subp. 1a. **Address.** "Address" means, for an individual, the individual's home mailing address or, for an association, the place where the association conducts its business, including the street and number, the post office box or rural route, if appropriate, the room number, and the city, state, and zip code. An individual may provide a business address rather than a home mailing address.

Subp. 2. **Board.** "Board" means the Ethical Practices Board.

Subp. 3. **Contested case.** "Contested case" means a proceeding before the board in which the legal rights, duties, or privileges of specific parties are required by law or constitutional right to be determined after a board hearing. "Contested case" includes a proceeding pursuant to a request for exemption from campaign reporting requirements under Minnesota Statutes, section 10A.20, subdivisions 8 and 10; a proceeding to suspend a public official without pay for failure to file a statement of economic interest under Minnesota Statutes, section 10A.09, subdivision 8; a hearing ordered by the board under part 4525.0900, subpart 2 concerning a complaint, investigation, or audit; and any other hearing which may be ordered by the board under parts 4525.0100 to 4525.1000 or which may be required by law.

"Contested case" does not include a board investigation or audit conducted under Minnesota Statutes, section 10A.02, subdivisions 9 and 10.

Subp. 4. **File; filed; filing.** "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the next regular business day.

Subp. 5. **Party.** "Party" means a person whose legal rights, duties, or privileges may be determined in a contested case. "Party" includes the board except when the board participates in the contested case in a neutral or quasi-judicial capacity only. In anonymous proceedings, "party" includes the person designated to appear by the applicant under part 4525.1000. In a contested case commenced by the board following a complaint, "party" includes both the person who filed the complaint and the person against whom it was filed.

Subp. 6. **Person.** "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, or any government or governmental subdivision, unit, or agency, other than a court of law.

Subp. 7. **Service; serve.** "Service" or "serve" means service by certified mail addressed to the party at the last known address of that party, unless some other manner of service is required by law or permitted by parts 4525.0100 to 4525.1000.

Statutory Authority: *MS s 10A.02 subd 13*

History: *11 SR 1611*

4525.0200 COMPLAINTS OF VIOLATIONS.

Subpart 1. **Who may complain.** A person who believes a violation of Minnesota Statutes, chapter 10A or rules of the board has occurred may submit an oral or written complaint to the board.

Subp. 2. **Form.** There is no prescribed form for a written complaint, but all written complaints must be typewritten or handwritten legibly. The name and address of the person making the complaint must be typewritten or hand-printed on the complaint and it must be signed by the complainant. A complainant shall list the alleged violator and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with

the complaint. Complaints are not available for public inspection or copying until after the board makes a finding. No investigations are required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator, or is unsigned by the complainant.

Subp. 3. Oral complaints. The board need not investigate an oral complaint. No investigation or audit may be undertaken if an oral complaint is frivolous on its face, too indefinite, does not identify the violation, or does not identify the complainant. There is no prescribed form for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and the violation.

Subp. 4. Oath. Before a witness gives testimony in a meeting conducted by the board under part 4525.0500 or this rule, the following oath must be administered to the witness: "Do you solemnly swear or affirm that you will fully and truly answer all questions put to you and that all statements made or submitted to this board are true to the best of your knowledge?"

Subp. 5. Confidentiality. Any portion of a meeting during which the board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting must be closed to the public. The minutes and tape recordings of a meeting closed to the public must be kept confidential.

Subp. 6. Hearings. At any time during an investigation of a complaint, the board may hold a contested case hearing before making a finding on the complaint.

Statutory Authority: *MS s 10A.02 subd 13*

History: *11 SR 1611; 12 SR 1809*

4525.0300 [Repealed, 11 SR 1611]

4525.0400 [Repealed, 11 SR 1611]

4525.0500 INVESTIGATIONS AND AUDITS.

Subpart 1. No complaint. The board may undertake investigations or audits with respect to statements and reports which are filed or should have been filed under Minnesota Statutes, chapter 10A although no complaint has been filed. Any decision as to whether an investigation should be undertaken must be made at a closed meeting of the board.

Subp. 2. Conduct. Investigations and audits must be conducted in an expeditious manner, but with regard for fundamental fairness. Within a reasonable time after undertaking an investigation or audit, the executive director of the board shall inform the person under investigation or audit of the fact of the investigation or audit. The board shall make no final decision on any investigation or audit unless the person under investigation or audit has been informed of the charges and has had the opportunity to make a statement to the board or its employees or agents.

Subp. 3. Contested case hearing. At any time during an investigation or audit, the board may hold a contested case hearing before making a finding on any investigation or audit.

Subp. 4. Dispositions. At the conclusion of an investigation or audit or after a hearing if a hearing has been ordered, the board shall take the action in item A or B or both of those actions.

A. The board may make a finding that there is or is not probable cause to conclude that a violation of Minnesota Statutes, chapter 10A has occurred. The board shall report any finding of probable cause to the appropriate law enforcement authorities.

B. The board may authorize the commencement of a civil action for injunctive or other appropriate relief.

Subp. 5. Board meetings. Board meetings related to an investigation or audit must be conducted in accordance with part 4525.0200, subparts 3 to 6.

Statutory Authority: *MS s 10A.02 subd 13*

History: *11 SR 1611; 12 SR 1809*

4525.0600 [Repealed, 11 SR 1611]

4525.0700 [Repealed, 11 SR 1611]

4525.0800 [Repealed, 11 SR 1611]

4525.0900 INITIATING A CONTESTED CASE.

Subpart 1. **Initiation by application.** Any person requesting an exemption under Minnesota Statutes, section 10A.20, subdivisions 8 and 10, or any other person whose rights, privileges, and duties the board is authorized by law to determine after a hearing, may initiate a contested case by making application. Except in anonymous proceedings, an application shall contain: the name and address of the applicant; a statement of the nature of the determination requested including the statutory sections on which the applicant wishes a determination made and the reasons for the request; the names and addresses of all persons known to the applicant who will be directly affected by such determination; and the signature of the applicant.

Subp. 2. **Initiation by board order.** Where authorized by law, the board may order a contested case commenced to determine the rights, duties, and privileges of specific parties.

Statutory Authority: *MS s 10A.02 subd 13*

4525.1000 INITIATING ANONYMOUS PROCEEDINGS.

Subpart 1. **Authority.** Any person making application for an exemption from campaign reporting requirements under Minnesota Statutes, section 10A.20, subdivisions 8 and 10 may proceed anonymously if the board determines that identification of the person for the purpose of the hearing would result in exposure to economic reprisals, loss of employment, or threat of physical coercion.

Subp. 2. **Application.** Any person wishing to proceed anonymously under this part shall make an application under part 4525.0900, subpart 1, which shall contain:

A. A name by which the person wishes to be known for the purposes of the proceeding;

B. The name and address of a person upon whom service can be made;

C. A statement of the facts which lead the applicant to believe that identification of the applicant for purposes of the hearing would result in exposure to economic reprisals, loss of employment, or threat of physical coercion;

D. The name and address of a person who will appear for the applicant during the proceedings if the applicant wishes to remain anonymous. The person may be the same person on whom service is to be made;

E. A statement of the facts which lead the applicant to believe that exposure to economic reprisal, loss of employment, or threat of physical coercion would result from the applicant's compliance with the reporting and disclosure requirements of Minnesota Statutes, section 10A.20; and

F. The signature of the applicant in the name by which the person wishes to be known during the proceedings or the signature of the person designated to appear for the applicant.

Subp. 3. **Determination.** Upon receipt of an application for initiation of anonymous proceedings, the board may require the applicant or the person designated to appear for the applicant to appear before a closed meeting of the board with appropriate precautions taken to preserve the anonymity of the applicant from persons other than the board and its employees. The purpose of the appearance is to enable the board to decide whether an anonymous proceeding is required.

Statutory Authority: *MS s 10A.02 subd 13*