

7845.7800 COMPLAINT PROCEEDING.

Subpart 1. **Office of Administrative Hearings.** The commission shall refer the complaint and answer to the Office of Administrative Hearings.

Subp. 2. **Investigation.** The administrative law judge assigned to the ex parte complaint proceeding by the Office of Administrative Hearings shall conduct a hearing investigation and shall issue a report within 30 days after the matter is referred. If the administrative law judge determines that the report cannot be properly completed within that time period, the judge shall report that fact to the commission within the 30-day period and shall file a final report within a reasonable time thereafter, no later than 60 days after the referral to the Office of Administrative Hearings.

Subp. 3. **Decision.** The report of the administrative law judge shall describe the relevant facts of the case and shall set forth the judge's findings as to whether ex parte violations occurred. The findings and decisions of the judge as to whether ex parte violations occurred are binding on the commission.

Subp. 4. **Sanctions.** In the report, the administrative law judge shall discuss and make recommendations regarding sanctions, including the recusal of any commissioner or the removal of decision-making personnel from an affected case. The administrative law judge may only recommend that the commission impose one of the following sanctions if the judge finds that the condition specified for the sanction is met:

A. dismiss the proceeding if the prohibited ex parte communication has so prejudiced the proceeding that the commission cannot consider it impartially;

B. issue an adverse ruling on a pending issue that is the subject of the prohibited ex parte communication, when other parties or participants are prejudiced by the prohibited ex parte communication;

C. strike evidence or pleadings when the evidence or pleadings are tainted by the prohibited ex parte communication;

D. issue a public statement of censure by the commission, when the prohibited ex parte communication is determined to be part of a continuing pattern of improper ex parte communication;

E. issue a public statement of censure by the commission when a single prohibited communication takes place and mitigating circumstances exist that:

- (1) negate the need for a more severe sanction;
- (2) do not prejudice the proceeding to the extent that the commission is unable to consider it impartially;
- (3) do not prejudice other parties to or participants in the proceeding; and

(4) do not taint the evidence or pleadings; or

F. if the administrative law judge finds the complainant's allegation of an ex parte violation was interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the proceeding, the judge may recommend that the commission issue an appropriate sanction against the complainant.

Statutory Authority: *MS s 216A.037*

History: *34 SR 902*

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