

1.1 **Campaign Finance and Public Disclosure Board**

1.2 **Adopted Expedited Rules Governing Complaints, Staff Reviews, Summary**
1.3 **Proceedings, Audits, and Investigations**

1.4 **4525.0100 DEFINITIONS.**

1.5 [For text of subps 1 to 2, see M.R.]

1.6 Subp. 2a. **Complaint.** "Complaint" means a written statement, including any
1.7 attachments, that:

1.8 A. alleges that the subject named in the complaint has violated chapter 10A or
1.9 another law under the board's jurisdiction; and

1.10 B. complies with the requirements in part 4525.0200, subpart 2.

1.11 Subp. 2b. **Complainant.** "Complainant" means the filer of a complaint.

1.12 Subp. 3. **Contested case.** "Contested case" means a proceeding conducted under
1.13 Minnesota Statutes, chapter 14, in which the legal rights, duties, or privileges of specific
1.14 parties are required by law or constitutional right to be determined after a board hearing.
1.15 "Contested case" includes a proceeding pursuant to a request for exemption from
1.16 campaign reporting requirements under Minnesota Statutes, section 10A.20, subdivisions
1.17 8 and 10; a hearing ordered by the board under part 4525.0900, subpart 2 concerning a
1.18 complaint, investigation, or audit; and any other hearing which may be ordered by the
1.19 board under parts 4525.0100 to 4525.1000 or which may be required by law.

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

1.22 Subp. 4. [Repealed, 20 SR 2504]

1.23 Subp. 5. [See repealer.]

1.24 Subp. 6. [See repealer.]

1.25 Subp. 7. [Repealed, 20 SR 2504]

2.1 Subp. 8. **Respondent.** "Respondent" means the subject of a complaint, ~~a formal~~ an
2.2 investigation, ~~a formal~~ or an audit, ~~or a staff review or another form of summary proceeding.~~

2.3 **4525.0150 GENERAL PROVISIONS.**

2.4 Subpart 1. **Scope.** This part applies to all ~~formal~~ complaints, investigations, ~~formal~~
2.5 and audits, ~~or staff reviews or other forms of summary proceedings~~ conducted under this
2.6 chapter and Minnesota Statutes, chapter 10A.

2.7 Subp. 2. **Notice, where sent.** Whenever notice is required, if a respondent is
2.8 registered with the board, notices must be sent by electronic and United States mail to
2.9 the most recent addresses that the respondent provided in a registration statement filed
2.10 with the board.

2.11 Subp. 3. **Opportunity to be heard.** When a provision in this chapter or Minnesota
2.12 Statutes, chapter 10A, provides that a complainant or a respondent has an opportunity to
2.13 be heard by the board, the complainant or respondent must be given an opportunity to
2.14 appear in person at a board meeting before the board makes a determination on the matter.
2.15 The complainant or respondent is not required to appear before the board.

2.16 A complainant or respondent who has an opportunity to be heard may submit a written
2.17 statement to the board in addition to or in lieu of an appearance before the board. A written
2.18 statement under this part must be submitted prior to or at least ten business days before the
2.19 board meeting at which the matter will be heard. The executive director must provide any
2.20 submitted statement to the board before the board makes a determination on the matter.

2.21 The opportunity to be heard does not include the right to call witnesses or to question
2.22 opposing parties, board members, or board staff.

2.23 The board may set a time limit for statements to the board when necessary for the
2.24 efficient operation of the meeting.

3.1 When notice of the opportunity to be heard has been sent as required in subpart 2, the
3.2 failure to appear in person or in writing at the noticed meeting constitutes a waiver of the
3.3 opportunity to be heard at that meeting.

3.4 Subp. 4. **Continuance.** The board may continue a matter to its next meeting if:

3.5 A. the parties agree;

3.6 B. the investigation is not complete;

3.7 C. the respondent shows good cause for the continuance; or

3.8 D. the delay is necessary to equitably resolve the matter.

3.9 Subp. 5. **Authority reserved to board.** The provisions of this chapter do not affect
3.10 the board's authority under Minnesota Statutes, section 10A.02, subdivision 10, to order a
3.11 ~~formal~~ an investigation or ~~formal~~ audit in any matter ~~or to direct the executive director to~~
3.12 ~~initiate a staff review or another form of summary proceeding of any matter.~~

3.13 **4525.0200 COMPLAINTS OF VIOLATIONS.**

3.14 Subpart 1. **Who may complain.** A person who believes a violation of Minnesota
3.15 Statutes, chapter 10A, or another provision of law placed under the board's jurisdiction by
3.16 Minnesota Statutes, section 10A.02, subdivision 11, or rules of the board has occurred
3.17 may submit a written complaint to the board.

3.18 Subp. 2. **Form.** Complaints must be submitted in writing. The name and address of
3.19 the person making the complaint must be included on the complaint and it must be signed
3.20 by the complainant or an individual authorized to act on behalf of the complainant. A
3.21 complainant shall list the alleged violator and the alleged violator's address if known by
3.22 the complainant and describe the complainant's knowledge of the alleged violation. Any
3.23 evidentiary material should be submitted with the complaint. Complaints are not available
3.24 for public inspection or copying until after the board makes a finding.

3.25 Subp. 3. [Repealed, 30 SR 903]

4.1 Subp. 4. **Oath.** ~~Evidence~~ Evidentiary testimony given in a meeting conducted by the
4.2 board under this chapter must be under oath. Arguments made to the board that do not
4.3 themselves constitute evidence are not required to be under oath.

4.4 [For text of subps 5 and 6, see M.R.]

4.5 **4525.0210 DETERMINATIONS PRIOR TO FORMAL INVESTIGATION.**

4.6 Subpart 1. ~~**Prima facie violation determination.**~~ A ~~prima facie determination is a~~
4.7 ~~determination that a complaint is sufficient to allege a violation of Minnesota Statutes,~~
4.8 ~~chapter 10A, or another provision of law placed under the board's jurisdiction by~~
4.9 ~~Minnesota Statutes, section 10A.02, subdivision 11.~~

4.10 ~~Subp. 2. **Preparation for prima facie determination.**~~ After a complaint is filed,
4.11 the executive director must follow the notice provisions in Minnesota Statutes, section
4.12 10A.02, subdivision 11, with regard to the respondent's right to submit written arguments
4.13 addressing the prima facie determination. ~~The notice must provide that the respondent~~
4.14 ~~is not permitted to contact any board member directly regarding the complaint or the~~
4.15 ~~prima facie determination.~~

4.16 Upon the expiration of the time provided for the respondent to submit written
4.17 argument, the executive director must submit the matter to the board member who will make
4.18 the determination or to all board members if the full board will make the determination.
4.19 The submission must include the complaint, any response submitted by the respondent,
4.20 and an analysis of the allegations of the complaint and the violations that it alleges.

4.21 Subp. ~~3~~ 2. **Making the prima facie determination.** In determining whether
4.22 a complaint states a prima facie violation, any evidence outside the complaint and
4.23 its attachments may not be considered. Arguments of the respondent, which are not
4.24 themselves evidence, must be considered.

4.25 If a finding is made that a complaint does not state a prima facie violation, the
4.26 complaint must be dismissed without prejudice. The dismissal must be ordered by the

5.1 board member making the determination or by the full board if the full board makes the
5.2 determination. The ~~order~~ determination must be in writing and must indicate why the
5.3 complaint does not state a prima facie violation.

5.4 If a finding is made that a complaint states a prima facie violation, the board chair
5.5 must schedule the complaint for a probable cause determination.

5.6 Subp. ~~4~~ 3. **Action after prima facie violation determination.** The executive director
5.7 must promptly notify the complainant and the respondent of the prima facie determination.
5.8 The notice must include a copy of the ~~order making the~~ prima facie determination.

5.9 If a determination is made that a complaint states a prima facie violation, the notice
5.10 also must include the date of the meeting at which the board will make a probable cause
5.11 determination regarding the complaint and a statement that the complainant and the
5.12 respondent have the opportunity to be heard before the board makes the probable cause
5.13 determination.

5.14 ~~Subp. 5. Probable cause determination.~~ In determining whether probable cause
5.15 exists, the board must consider the allegations of the complaint and the information and
5.16 arguments in any statement submitted by the complainant or respondent. The board must
5.17 also consider any inferences necessary to a probable cause determination that could be
5.18 drawn about the matter by a reasonable person.

5.19 ~~To find probable cause to believe that a violation has occurred, the board must~~
5.20 ~~conclude that the complaint presents a sufficient basis to order a formal investigation or~~
5.21 ~~a staff review.~~

5.22 Subp. ~~6~~ 4. **Action after probable cause not found.** If the board finds that probable
5.23 cause does not exist to believe that a violation has occurred, the board must order that the
5.24 complaint be dismissed without prejudice. The order must be in writing and must indicate
5.25 why probable cause does not exist to believe that a violation has occurred.

6.1 The executive director must promptly notify the complainant and the respondent
6.2 of the board's determination. The notice must include a copy of the order dismissing
6.3 the complaint for lack of probable cause.

6.4 Subp. 7.5. **Action after probable cause found.** If the board finds that probable
6.5 cause exists to believe that a violation has occurred, the board then must determine
6.6 whether the alleged violation warrants a formal investigation.

6.7 When making this determination, the board must consider the type of possible
6.8 violation; the magnitude of the violation if it is a financial violation; the extent of
6.9 knowledge or intent of the violator; the benefit of formal findings, conclusions, and orders
6.10 compared to informal resolution of the matter; the availability of board resources; whether
6.11 the violation has been remedied; and any other similar factor necessary to decide whether
6.12 the alleged violation warrants a formal investigation.

6.13 If the board orders a formal investigation, the order must be in writing and must
6.14 describe the basis for the board's determination, the possible violations to be investigated,
6.15 the scope of the investigation, and the discovery methods available for use by the board
6.16 in the investigation.

6.17 The executive director must promptly notify the complainant and the respondent ~~that~~
6.18 ~~the board has found that probable cause exists to believe that a violation has occurred, that~~
6.19 ~~the board has determined that the alleged violation warrants a formal investigation, and that~~
6.20 ~~the board has ordered a formal investigation into the matter~~ of the board's determination.

6.21 The notice to the respondent also must:

6.22 A. include a copy of the probable cause order;

6.23 B. explain how the investigation is expected to proceed and what discovery
6.24 methods are expected to be used;

6.25 C. explain the respondent's rights at each stage of the investigation, including
6.26 the right to provide a written response and the right to counsel; and

7.1 D. state that the respondent will be given an opportunity to be heard by the
7.2 board prior to the board's determination as to whether any violation occurred.

7.3 Subp. 8 6. **Action if formal investigation not ordered.** If the board finds that
7.4 probable cause exists to believe that a violation has occurred, but does not order a formal
7.5 investigation under subpart 7 5, the board must either dismiss the matter without prejudice
7.6 or ~~offer the respondent the option of resolving the matter through~~ order a staff review under
7.7 part 4525.0320. ~~If the board offers the respondent the option of resolving the matter through~~
7.8 ~~a staff review and that offer is not accepted, the board must order a formal investigation.~~

7.9 In making the determination of whether to dismiss the complaint or ~~offer resolution~~
7.10 ~~through~~ order a staff review, the board must consider the type of possible violation, the
7.11 magnitude of the violation if it is a financial violation, the extent of knowledge or intent of
7.12 the violator, the availability of board resources, whether the violation has been remedied,
7.13 and any other similar factor necessary to decide whether to proceed with a staff review.

7.14 An order dismissing a matter must be in writing and must indicate why the matter
7.15 was dismissed.

7.16 The executive director must promptly notify the complainant and the respondent of
7.17 the board's determination. The notice must include a copy of the order.

7.18 **4525.0220 SUMMARY PROCEEDINGS.**

7.19 Subpart 1. **Summary proceeding.** A summary proceeding is an action other than a
7.20 complete formal investigation that is undertaken to resolve a matter₂ or a part of a matter₂
7.21 that is the subject of a complaint, an investigation, or an audit. A staff review under part
7.22 4525.0320 is one form of summary proceeding.

7.23 Subp. 2. **Request by respondent.** At any time, a respondent may request that a
7.24 matter or a part of a matter be resolved using a summary proceeding. The request must
7.25 be in writing and must:

8.1 A. specify the issues the respondent is seeking to resolve through the summary
8.2 proceeding;

8.3 B. explain why those issues are suitable for the summary proceeding; and

8.4 C. explain how the proposed summary proceeding would be undertaken.

8.5 Subp. 3. **Consideration of request by board.** Upon receipt of a request for a
8.6 summary proceeding, the executive director must submit the request to the board. The
8.7 request must be considered by the board at its next meeting that occurs at least ten days
8.8 after the request was received.

8.9 The board is not required to agree to a request for a summary proceeding. If the board
8.10 modifies the respondent's request for a summary proceeding, the board must obtain the
8.11 respondent's agreement to the modifications before undertaking the summary proceeding.

8.12 **4525.0320 STAFF REVIEW.**

8.13 Subpart 1. **Staff review.** In a staff review, the executive director reviews information
8.14 and works informally with a respondent to determine whether a violation has occurred and
8.15 to determine how any identified violation should be resolved.

8.16 Subp. 2. **Staff review required.** The executive director must initiate a staff review
8.17 into a matter when directed to do so by the board.

8.18 Unless otherwise directed by the board, the executive director must also initiate a staff
8.19 review when a preliminary inquiry into the information provided on a report filed with
8.20 the board suggests that there has been a violation of chapters 4501 to 4525, Minnesota
8.21 Statutes, chapter 10A, or another law placed under the board's jurisdiction pursuant to
8.22 Minnesota Statutes, section 10A.02, subdivision 11.

8.23 Subp. 3. ~~**Resolution of matter under staff review by amendment.**~~ If a matter
8.24 ~~under staff review is resolved by the respondent amending a report, the matter under staff~~
8.25 ~~review must be closed by the executive director. The executive director must prepare a~~

9.1 ~~brief summary of the matter and file the summary with the board's records related to~~
9.2 ~~the respondent.~~

9.3 ~~Subp. 4.~~ **Resolution of matter under staff review by conciliation agreement.**

9.4 Subject to board approval under part 4525.0330, a respondent may agree to resolve a
9.5 matter under staff review by entering into a conciliation agreement. The agreement must
9.6 describe any actions that the respondent has agreed to take to remedy the violation or to
9.7 prevent similar violations in the future. The agreement must also include the amount of
9.8 any civil penalty that the respondent has agreed to pay and any other provisions to which
9.9 the respondent has agreed.

9.10 **4525.0330 SUBMISSION TO BOARD; MATTER UNDER STAFF REVIEW**
9.11 **RESOLVED BY CONCILIATION AGREEMENT.**

9.12 ~~Every~~ A matter under staff review that is resolved by conciliation agreement under
9.13 part 4525.0320 must be presented to the board for approval at a ~~public~~ meeting as ~~part~~
9.14 ~~of the board's consent agenda or as a separate item on the regular agenda. Upon the~~
9.15 ~~request of one board member, any agreement resolving a matter under staff review must~~
9.16 ~~be moved from the consent agenda to the regular agenda~~ closed to the public under part
9.17 4525.0200, subpart 5.

9.18 The respondent must be given an opportunity to be heard by the board prior to the
9.19 board's decision regarding the agreement.

9.20 The executive director must send notice of the meeting to the respondent. The notice
9.21 must be sent not later than the time that the agreement is provided to the board and must
9.22 include a copy of the agreement. The notice must include the date of the meeting at which
9.23 the board will consider the matter and a statement that the respondent has the opportunity
9.24 to be heard by the board before the board's determination regarding the agreement.

9.25 ~~An~~ A conciliation agreement made under part 4525.0320 to resolve a matter under
9.26 staff review is final only after the board approves the agreement.

10.1 If the board does not approve ~~an~~ a conciliation agreement to resolve a matter under
10.2 staff review, the board must lay the matter over until its next meeting and:

10.3 A. provide guidance and direct the executive director to continue the staff
10.4 review; or

10.5 B. direct the executive director to prepare the matter for resolution by the board
10.6 without an agreement pursuant to part 4525.0340.

10.7 If an agreement proposed under this subpart is not approved by the board, any
10.8 admissions by the respondent and any remedial steps taken or agreed to by the respondent
10.9 are not evidence of a violation in any subsequent proceeding.

10.10 **4525.0340 SUBMISSION TO BOARD; MATTER BOARD-INITIATED**
10.11 **INVESTIGATIONS AND MATTERS NOT RESOLVED BY CONCILIATION**
10.12 **AGREEMENT.**

10.13 Subpart 1. **Submission to board.** The executive director must submit the following
10.14 matters to the board for decision under this part:

10.15 A. If a matter under staff review that is not resolved by conciliation agreement
10.16 under parts 4525.0320 and 4525.0330, the executive director must submit the matter
10.17 to the board under this part.; and

10.18 B. any other matter that the board is to consider for the authorization of a formal
10.19 investigation, other than a matter arising from a filed complaint, must be submitted to
10.20 the board under this part.

10.21 The submission must be in writing, must describe the potential violation involved,
10.22 and must include any supporting information. The submission must explain the actions
10.23 undertaken in any summary proceedings and any points of disagreement preventing
10.24 resolution of the matter. ~~If the submission includes a recommendation for a formal~~
10.25 ~~investigation of the matter, the submission must be made at a meeting closed to the public.~~
10.26 ~~In all other cases, the submission must be made at a public meeting.~~

11.1 The respondent must be given an opportunity to be heard by the board prior to the
11.2 board's decision regarding the submission.

11.3 The executive director must send notice of the submission to the respondent. The
11.4 notice must be sent not later than the time that the submission is provided to the board
11.5 and must include a copy of the submission. The notice must include the date of the
11.6 meeting at which the board will consider the matter, and a statement that the respondent
11.7 has the opportunity to be heard by the board before the board's determination regarding
11.8 the submission.

11.9 Subp. 2. Board action on submission. When it receives a submission under this
11.10 part, the board must take one of the following actions:

11.11 A. provide guidance and direct the executive director to begin or to continue
11.12 ~~the~~ a staff review;

11.13 B. dismiss the matter without prejudice;

11.14 C. order a formal investigation of the matter; or

11.15 D. issue findings, conclusions, and an order ~~the respondent to take the actions~~
11.16 ~~required to remedy the subject violation and impose a civil penalty if provided for by~~
11.17 ~~statute~~ resolving the matter.

11.18 The board must consider the evidence in the executive director's submission and the
11.19 information and arguments in any statement submitted by the respondent.

11.20 In making its determination, the board must consider the type of possible violation;
11.21 the magnitude of the violation if it is a financial violation; the extent of knowledge or
11.22 intent of the violator; the benefit of formal findings, conclusions, and orders compared to
11.23 informal resolution of the matter; the availability of board resources; whether the violation
11.24 has been remedied; and any other similar factor necessary to decide whether the matter
11.25 under review warrants a formal investigation.

12.1 Unless the board directs the executive director to continue ~~the~~ an existing staff review,
12.2 the board's determination must be made in writing. The executive director must promptly
12.3 notify the respondent of the board's determination.

12.4 Subp. ~~2~~ 3. **Formal investigation ordered.** An order for a formal investigation must
12.5 describe the alleged violations to be investigated, the scope of the investigation, and the
12.6 discovery methods available for use by the board in the investigation.

12.7 When the board orders a formal investigation, the executive director must promptly
12.8 notify the respondent that the board has ordered a formal investigation into the matter.

12.9 The notice to the respondent must:

12.10 A. include a copy of the order initiating the investigation;

12.11 B. explain how the investigation is expected to proceed and what discovery
12.12 methods are expected to be used;

12.13 C. explain the respondent's rights at each stage of the investigation, including
12.14 the right to provide a written response and the right to counsel; and

12.15 D. state that the respondent will be given an opportunity to be heard by the
12.16 board prior to the board's determination as to whether any violation occurred.

12.17 **4525.0500 INVESTIGATIONS AND AUDITS; GENERAL PROVISIONS.**

12.18 [For text of subp 1, see M.R.]

12.19 Subp. 2. [See repealer.]

12.20 [For text of subps 3 and 4, see M.R.]

12.21 Subp. 5. **Board meetings.** Board meetings related to an investigation or audit
12.22 must be conducted in accordance with part 4525.0200, subparts 4 and 5. At every
12.23 board meeting, the executive director must report on the status of each active ~~formal~~
12.24 investigation and ~~formal~~ audit.

13.1 Subp. 6. **Subpoenas.** The board may issue subpoenas when necessary to advance
13.2 an investigation or audit. The board may not issue a subpoena for the production of
13.3 documents or witness testimony until a respondent has had at least 14 days to respond
13.4 to a written request for the documents or testimony. When deciding whether to issue a
13.5 subpoena, the board must consider the level of staff resources in taking witness testimony
13.6 and conducting discovery.

13.7 Subp. 7. **Respondent submission.** In any investigation, audit, or staff review
13.8 or other summary proceeding, the respondent may supply additional information not
13.9 requested by the board, including sworn testimony. The executive director must provide
13.10 the information submitted by the respondent to the board in advance of the meeting at
13.11 which the board will consider the matter.

13.12 **4525.0550 FORMAL AUDITS.**

13.13 Subpart 1. **Formal audit.** The purpose of a formal audit is to ensure that all
13.14 information included in the report or statement being audited is accurately reported. The
13.15 fact that the board is conducting a formal audit does not imply that the subject of the
13.16 audit has violated any law.

13.17 Subp. 2. **Respondent's rights.** The executive director must send to each respondent
13.18 a draft ~~audit report to the~~ of any negative or adverse findings related to that respondent
13.19 before the board considers adoption of the final audit report. The respondent has the right
13.20 to respond in writing to the draft findings ~~in the draft audit report~~. The respondent must
13.21 be given an opportunity to be heard by the board prior to the board's decision regarding
13.22 the draft audit report.

13.23 Subp. 3. **Final audit report.** At the conclusion of a formal audit, the board must
13.24 issue a final audit report. The final report must identify the subject of the audit and must
13.25 include the following:

13.26 A. the name of the primary board employee responsible for conducting the audit;

- 14.1 B. a description of the scope of the audit;
- 14.2 C. any findings resulting from the audit;
- 14.3 D. a description of any responses to the findings that the subject of the audit
- 14.4 provides; and
- 14.5 E. a description of the manner in which any findings were resolved.

14.6 The final audit report may not include any information related to audits that is

14.7 classified as confidential under Minnesota Statutes, chapter 10A.

14.8 **REPEALER.** Minnesota Rules, parts 4525.0100, subparts 5 and 6; and 4525.0500,

14.9 subpart 2, are repealed.