

How to prepare for a hearing before the Independent Legislative Ethics Commission

Do I need a lawyer?

You do not need to hire an attorney to present your case at a hearing before the Legislative Ethics Commission. You may consult or hire counsel if you desire.

Should I bring witnesses?

Yes, you should have any witnesses listed in your complaint or response available to testify before the Commission. If the witnesses are one of the first three complainants listed on the complaint, they will be allowed to attend the hearing. Otherwise, they will be asked to wait outside until the Commission is ready to hear their testimony.

Give your witnesses as much advance notice as possible of the hearing date. The Commission has the power to subpoena witnesses who are unwilling to come to the hearing voluntarily. A subpoena allows the Commission to require a witness's attendance.

Because the purpose of the Fifth Amendment privilege not to incriminate oneself is to prevent prosecution for criminal action, a witness will not be allowed to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for a crime to which the witness's testimony relates.

As a complainant, how do I know what witnesses the legislator will bring?

After the Commission has determined that a complaint meets the criteria for review, they will ask the respondent legislator to provide a written response to the complaint. This response will be forwarded to the complainant after the Commission receives it. This response will outline any witnesses or evidence that the respondent legislator plans to present at the hearing.

As a respondent legislator, how do I know what witnesses the complainant will bring?

The respondent legislator will be provided a copy of the original complaint. This complaint will include a list of all witnesses and a brief summary of what each witness will testify to.

Will we be able to cross examine witnesses?

Unlike a court case, you or your counsel will not have the opportunity to directly question or cross examine the witnesses. Each side is simply there to provide information to the Commission and respond to the Commission's questions.

What should I bring to the hearing?

Exhibits or Evidence – if you have any physical evidence or exhibits to support your complaint or response, bring the originals and six copies of each document/paper/picture you want the Commission to consider. One copy will be provided to the other side and one copy will be provided to each of the five Commissioners.

How should I handle myself during the hearing?

Attending a hearing and presenting evidence can be stressful. Do your best to stay calm. The Commission can only hear answers and review evidence that is directly related to the elements of the complaint or response. Please contain your statements to the issues that are relevant to the complaint or response.

Be to the hearing location at least fifteen minutes before the hearing is to start. Ensure that your witnesses are ready to testify when the hearing starts. Even if they may not be able to sit in the hearing, make sure your witnesses stay close by during the hearing so they will be ready when the Commission calls them to testify.

Do not interrupt or speak to the other party, even if they interrupt or speak to you. You will have a chance to address the Commission or clarify any information that you feel is incorrect.

The Commission will ask you questions. If you do not understand the question, say so. Do not answer until you fully understand the question. Take your time when answering questions. Give the question as much thought as you need to understand it and come up with your answer. Explain your answer if needed.

After the hearing, the Commission will ask everyone to leave while they deliberate. They will not announce their findings publicly after their deliberation. If the Commission determines no allegations were proved, the Commission will issue an order that the complaint be dismissed and will classify all recordings, testimony, evidence and other records presented at the hearing.

If the Commission finds that allegations in the complaint were proven, they will publicly release their recommendation, the complaint, and the response. They will also provide notice of those findings in writing to the complainants and the respondent as well as the Ethics Committee of the respective house of which the respondent is a member.

Within 30 days of receiving a recommendation from the Commission, the Ethics Committee of that body will then hold a public hearing to review the complaint.