

State of Rhode Island and Providence Plantations

**Rhode Island Ethics Commission
40 Fountain Street
Providence, RI 02903
(401) 222-3790**

Public Notice of Proposed Rule-Making

Pursuant to the provisions of R.I. Const., art. III, sec. 8 and R.I. Gen. Laws § 36-14-9, and in accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-3, the Rhode Island Ethics Commission hereby gives notice of its intent to amend the following regulations:

Regulation 1006 -- Finding of Probable Cause. The purpose of this amendment is to eliminate the Complainant's attendance in executive session hearings, recognizing that the Complainant is not a party to the proceeding.

Regulation 1011 -- Informal Disposition. The purpose of this amendment is to eliminate the Complainant's attendance in executive session hearings and to maintain the confidentiality of settlement negotiations, recognizing that the Complainant is not a party to the proceeding.

Regulation 1003 -- Initial Determination of Complaint. The purpose of this amendment is to clarify that at this stage of the process, the Commission will not engage in fact-finding or consider materials not included in the Complaint.

Regulation 36-14-12001 -- Preliminary Investigations. The purpose of this amendment is to clarify that during a preliminary investigation, the Commission's only role is to determine whether there is good cause to allow an extension of time to conduct an investigation, and to clarify that at this stage the Executive Director may compel the attendance of witnesses and require the production of documents.

Regulation 1009 -- Subpoena. The purpose of this amendment is to clarify that the Executive Director may cause a subpoena to issue without the review or approval of a Commissioner.

The proposed regulations and concise summaries thereof are available for public inspection at <http://www.ethics.ri.gov>, in person at the above address, or by calling Jason Gramitt, Education Coordinator/Staff Attorney at (401) 222-3790.

In the development of the proposed amendments, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified upon available information.

All interested parties are invited to submit written comments concerning the proposed regulations by March 1, 2010 to the Ethics Commission at the above address, or via email to comment@ethics.state.ri.us. A public hearing to consider the proposed amendments shall be held on **Tuesday, March 9, 2010 at 9:00 a.m.** at the above address, at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling (401) 222-3790 or through Rhode Island Relay at 1-800-RI5-5555.

STATE OF RHODE ISLAND

RHODE ISLAND ETHICS COMMISSION

PROPOSED AMENDED REGULATION 1011

1 **Regulation 1011 - Informal Disposition.**

- 2 (a) At any time subsequent to a finding by the Commission that the Complaint, and any
3 amendment thereto, states a knowing and willful violation of the Code of Ethics, the
4 Executive Director or designee, with the concurrence of the Respondent and/or counsel,
5 may seek an informal disposition through an agreed settlement, consent order, or other
6 informal resolution of the pending Complaint.
- 7 (b) The Executive Director or designee may meet with the Respondent and/or counsel for an
8 informal conference to seek such informal disposition. The informal conference shall not
9 be transcribed or recorded and no statements made by any person at such conference shall
10 be used as evidence in any subsequent proceeding.
- 11 (c) These Regulations shall in no way limit the resolution of any matter pursuant to R.I. Gen.
12 Laws § 42-35-9(d), provided that any informal disposition of a pending Complaint shall
13 be subject to the approval of the number of Commission members otherwise required to
14 vote in the affirmative to find a violation of the Code of Ethics. For purposes of this
15 Regulation, any hearing conducted by the Commission to review an informal disposition,
16 prior to its approval and issuance, shall be treated as a proceeding in Executive Session,
17 pursuant to R.I. Gen. Laws § 42-3546-5(a)(4). The approved informal disposition of the
18 Complaint shall become a public record.
- 19 (d) If the Complaint at issue has been filed by a Complainant, he or she shall be ~~sent a copy~~
20 ~~of the proposed informal disposition and may attend the hearing scheduled to be held by~~
21 ~~the Commission to review said disposition.~~ notified of the date upon which the
22 Commission will consider the proposed informal disposition, shall be notified of any
23 actions taken by the Commission regarding said informal disposition, and shall be
24 provided with a copy of any approved informal disposition agreement and/or order.
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PROPOSED AMENDED REGULATION 1011

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CONCISE SUMMARY OF NON-TECHNICAL AMENDMENT

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This amendment eliminates the Complainant's attendance in the executive session

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hearing to determine whether to approve an informal resolution, and also eliminates the

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dissemination to Complainant of a proposed settlement prior to its approval, recognizing

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that the Complainant is not a party to an enforcement action. Rather, the people of the

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State of Rhode Island, represented by the Executive Director or his/her designee, and the

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Respondent are the parties in interest.