

Chapter 4.16 CODE OF ETHICS

4.16.010 Code of Ethics.

This chapter shall be known as the "Code of Ethics" and may be cited as such.
(Ord. 109950 , § 1, 1981; Ord. 108882 § 4.16.010, 1980.)

4.16.020 Purpose.

- A. The City finds that the proper operation of democratic representative government requires that public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officers and employees of the City, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the City; and to provide effective means for enforcement thereof. This chapter is not to be construed so as to impair the ability of City officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.
- B. City officers and employees will demonstrate the values of integrity in the performance of the City's business, accountability to the law and to the people we serve, stewardship of the City's resources, and independence in the performance of our jobs. City employees should recognize that public service is a sacred trust, and should strive to live up to the highest ethical standards.
- C. This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for City officers and employees.
- D. This Code shall be interpreted and applied to allow inadvertent minor violations to be corrected and cured without full hearing in conformance with the spirit and purpose of this Code.

(Ord. 123010, § 1, 2009; Ord. 115548 , § 1, 1991; Ord. 109950 , § 1, 1981; Ord. 108882 § 4.16.020, 1980.)

4.16.030 Definitions

As used in this chapter, the following terms shall have the meanings indicated.

"Ad hoc advisory committee" means: 1) any advisory committee expressly designated by ordinance as "ad hoc"; or 2) any advisory committee created by means other than by federal or state law, City Charter, or City ordinance, including by resolution, executive order, or other similar action.

"Administrator" means the Executive Director of the Seattle Ethics and Elections Commission.

"Advisory committee" means a committee, board, commission or other similar City entity that does not have the authority to enact, administer, interpret, or execute City laws, but does provide advice or recommendations to a City entity that does have such authority.

"Appointing authority" means a person authorized by ordinance or Charter to employ others on behalf of the City, usually the head of a department. With reference to a City contractor it is the person who is authorized to award the contract.

"Assist" means to act, or offer or agree to act, in such a way as to help, aid, advise, furnish information to, or otherwise provide assistance to another person, believing that the action is of help, aid, advice, or assistance to the person and with intent so to assist such person.

"Board of Ethics" or "Board" or "Commission" means the Seattle Ethics and Elections Commission established by Section 3.70.010.

"City agency" means every department, office, board, commission, or committee of the City, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.

"City contractor" means an individual who spends more than 1,000 hours in any twelve-month period providing services to a City agency under a contract, other than a contract of employment.

"City employee" means every individual appointed to a position of employment in any City agency.

"City officer" means every individual elected or appointed to an office in any City agency, whether such individual is paid or unpaid.

"Communicate," for the purposes of SMC 4.16.075, means to communicate in any form, including, without limitation, personally, through another person, by letter, by electronic mail, or by telephone.

"Confidential Information" means (i) specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and (ii) information made confidential by law.

"Covered Individual" means any City officer, City employee, City contractor or City volunteer. Covered Individual also includes every individual who was a City officer, City employee, City contractor or City volunteer at the time of the act or omission that is alleged to have violated this chapter, even if he or she no longer has that status.

"City volunteer" means someone who volunteers services to the City.

"Employee member of an advisory committee" means a paid City officer or employee who serves on an advisory committee by virtue of their paid position with the City.

"Executive Director" means the Executive Director of the Seattle Ethics and Elections Commission.

"Immediate family," except for the purposes of Section 4.16.080, means a spouse or domestic partner, child, child of a spouse or domestic partner, sibling, sibling of a spouse or domestic partner, brother-in-law, sister-in-law, parent, parent of a spouse or domestic partner, a person for whom the Covered Individual is a legal guardian, or a person claimed as a dependent on the Covered Individual's most recently filed federal income tax return.

"Legislative matter" means any enacted or introduced council bill, ordinance, resolution, clerk file, ballot measure, or charter amendment. A legislative matter may include a possible future council bill, ordinance, resolution, clerk file, ballot measure, or charter amendment, if the possible future matter has been discussed on the public record at an open public meeting of the City Council or one of its committees.

"Matter" means an application, submission, request for a ruling or other determination, permit, contract, claim, proceeding, case, decision, rulemaking, legislation, or other similar action. Matter includes the preparation, consideration, discussion, or enactment of administrative rules or legislation. Matter does not include advice or recommendations regarding broad policies and goals.

"Participate" means to consider, investigate, advise, recommend, approve, disapprove, decide, or take other similar action.

"Person" means an individual, association, corporation, or other legal entity.

"Proceeding" means a matter that involves a named party or parties in which a City agency administers, interprets, or executes City laws. Proceeding does not include the preparation, consideration, discussion, or enactment of administrative rules or legislation.

(Ord. 125589 , § 1, 2018; Ord. 123264, § 1, 2010; Ord. 123010, §§ 2, 8, 2009; Ord. 122242 , § 1, 2006; Ord. 118735 §§ 1, 2, 1997; Ord. 116377 , § 4, 1992; Ord. 116005 , § 8, 1991; Ord. 115552 , § 1, 1991; Ord. 109950 , § 1, 1981; Ord. 108882 § 4.16.030, 1980.)

4.16.070 Prohibited conduct

A covered individual may not engage in any of the following acts:

- A. Disqualification from acting on City business
 - 1. Participate in a matter in which any of the following has a financial interest, except as permitted by Section 4.16.071:
 - a. The covered individual;

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- b. An immediate family member of the covered individual;
 - c. An individual residing with the covered individual;
 - d. A person the covered individual serves as an officer, director, trustee, partner, or employee;
 - e. A person with whom the covered individual is seeking or has an arrangement concerning future employment.
2. Participate in a matter in which a person who employed the covered individual in the preceding 12 months, or retained the covered individual or the covered individual's firm or partnership in the preceding 12 months, has a financial interest; provided, however, that the Executive Director shall waive this subsection 4.16.070.A.2 when:
 - a. The covered individual's appointing authority or the authority's designee makes a written determination that there is a compelling City need for the covered individual to participate in a matter involving a prior employer or client, and submits that determination with a written plan showing how the authority will safeguard the City's interests, and
 - b. The Executive Director determines that the authority's plan is satisfactory.
 3. Perform any official duties when it could appear to a reasonable person, having knowledge of the relevant circumstances, that the covered individual's judgment is impaired because of either (a) a personal or business relationship not covered under subsection 4.16.070.A.1 or 4.16.070.A.2, or (b) a transaction or activity engaged in by the covered individual. It is an affirmative defense to a violation of this subsection 4.16.070.A.3 if the covered individual, before performing the official act, discloses the relationship, transaction, or activity in writing to the Executive Director and the covered individual's appointing authority, and the appointing authority or the authority's designee either approves or does not within one week of the disclosure disqualify the covered individual from acting. For an elected official to receive the same protection, the official must file a disclosure with the Executive Director and the City Clerk. If a covered individual is charged with a violation of this subsection 4.16.070.A.3, and asserts as an affirmative defense that a disclosure was made, the burden of proof is on the covered individual to show that a proper disclosure was made and that the covered individual was not notified that the covered individual was disqualified from acting.
 4. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply if the prohibited financial interest is shared with a substantial segment of the public, as defined by rule by the Ethics and Elections Commission. The Rule will consider if the elected official is elected by a district or citywide.

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5. Application to City elected officials and legislative matters. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply to an elected official's participation in legislative matters if:
 - a. The legislative matter establishes or adjusts assessments, taxes, fees, or rates for water, utility, or other broadly provided public services or facilities that are applied equally, proportionally, or by the same percentage to the elected official's interest and other businesses, properties, or individuals subject to the assessment, tax, fee, or rate and a disclosure is made in accordance with subsection 4.16.070.A.6, or
 6. Before participating in a matter covered by subsection 4.16.070.A.5, the elected official must publicly disclose any financial interest. An elected official must post a written disclosure on the official's webpage and file a copy with the Executive Director and the City Clerk. A Councilmember shall additionally make such a disclosure on the public record at an open public meeting of the Council or one of its committees at which the legislative matter is discussed. The Councilmember shall also, before participating in that legislative matter at any subsequent Council or committee meeting, repeat the oral disclosure on the public record of that meeting.
 - a. If a Councilmember is charged with a violation of subsection 4.16.070.A.1 or 4.16.070.A.2, and asserts as an affirmative defense that a disclosure under this subsection 4.16.070.A.6 was made, the burden of proof is on the Councilmember to show that a proper disclosure was made.
- B. Improper use of official position
1. Use or attempt to use his or her official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of the covered individual or any other person, rather than primarily for the benefit of the City, except as permitted by Section 4.16.071;
 2. Use or attempt to use, or permit the use of any City funds, property, or personnel, for a purpose which is, or to a reasonable person would appear to be, for other than a City purpose, except as permitted by Section 4.16.071; provided, that nothing shall prevent the private use of City property which is available on equal terms to the public generally (such as the use of library books or tennis courts), the use of City property in accordance with municipal policy for the conduct of official City business (such as the use of a City automobile), if in fact the property is used appropriately; or the use of City property for participation of the City or its officials in activities of associations that include other governments or governmental officials;
 3. Except in the course of official duties, assist any person in any matter involving the covered individual's department; provided, further, that except in the course of official duties, a covered individual in the Mayor's office or the legislative

department may not assist any person in any matter. This subsection c does not apply to any covered individual appearing on his or her own behalf on any matter, or on behalf of any business entity solely owned by the covered individual, if not otherwise prohibited by ordinance;

4. Influence or attempt to influence a City decision to contract with, or the conduct of City business with, a person in which any of the following has a financial interest:
 - a. the covered individual;
 - b. an immediate family member of the covered individual;
 - c. an individual residing with the covered individual;
 - d. a person the covered individual serves as an officer, director, trustee, partner or employee;
 - e. a person with which the covered individual is seeking or has an arrangement concerning future employment,

However, it is not a violation of this section for a City contractor to attempt to obtain other contracts with the City.

C. Acceptance of things of value

1. Solicit or receive any retainer, gift, loan, entertainment, favor, or other thing of monetary value from any person or entity where the retainer, gift, loan, entertainment, favor, or other thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the covered individual in his or her official capacity; provided, that nothing shall prohibit campaign contributions which are solicited or received and reported in accordance with applicable law.

D. Disclosure of confidential information

1. Disclose or use any confidential information gained by reason of his or her official position for other than a City purpose.

E. Interest in City contracts

1. Hold or acquire a financial or beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract which, in whole or in part, is made by, through, or under the supervision of the covered individual, or which is made by or through a person supervised, directly or indirectly, by the covered individual, except as permitted by Section 4.16.071; or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person or entity beneficially interested in the contract. This subsection does not apply to the furnishing of

electrical, water, other utility services or other services by the City at the same rates and on the same terms as are available to the public generally.

2. Unless prohibited by subsection 1, have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract to which the City or any City agency may be a party, and fail to disclose such interest to the City contracting authority before the formation of the contract or the time the City or City agency enters into the contract; provided, that this subsection 2 does not apply to any contract awarded through the public bid process in accordance with applicable law.
- F. Retaliate against a City Employee as prohibited under Section 4.20.810 of the Whistleblower Protection Code; or directly or indirectly threaten or intimidate a City employee for the purposes of interfering with that employee's right to communicate with the Commission, its employees, or its agents; or directly or indirectly threaten or intimidate an employee for the purposes of interfering with or influencing an employee's cooperation in an inquiry or investigation, or interfering or influencing testimony in any investigation or proceeding arising from a report; or knowingly take or direct others to take any action for the purpose of:
1. influencing an employee's cooperation in an inquiry or investigation based on a report of improper governmental action; or
 2. interfering or influencing testimony in any investigation or proceeding arising from a report.
- G. Application to Certain Members of Advisory Committees
1. Subsections 4.16.070.A.1 and 4.16.070.A.2 apply to employee members of advisory committees. Subsections 4.16.070.A.1 and 4.16.070.A.2 do not apply to other members of advisory committees. This subsection G instead applies to all other members of advisory committees. No member of an advisory committee to whom this subsection applies shall:
 - a. Have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in any matter upon which the member would otherwise act or participate in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating in the matter.
 - b. Engage or have engaged in any transaction or activity which would to a reasonable person appear to be in conflict with or incompatible with the proper discharge of official duties, or which would to a reasonable person appear to impair the member's independence of judgment or action in the performance of official duties, without fully disclosing on the public record of the advisory committee the circumstances of the transaction or activity giving rise to such an appearance before engaging in the performance of

such official duties. Such a member shall also file with the Commission a full written disclosure of the circumstances giving rise to such an appearance before engaging in such official duties. If such prior written filing is impractical, the member shall file such a disclosure as soon as practical.

(Ord. 125589 , § 2, 2018; Ord. 124362 , § 13, 2013; Ord. 123010, § 3, 2009; Ord. 122242 , § 2, 2006; Ord. 121859 , § 1, 2005; Ord. 116377 , § 5, 1992; Ord. 115548 , § 2, 1991; Ord. 109950 , § 1, 1981; Ord. 108882 § 14.16.070, 1980.)

4.16.071 Volunteer firefighters employed by City serving at Skagit Project.

- A. It is not a violation of Subsection 4.16.070 1a nor is it a violation of Subsection 4.16.070 1b for a City officer or employee while serving as, or while authorized to perform the duties of, a "volunteer firefighter-Skagit project," to hire, assign work to, decline to assign work to, or supervise a member of the officer or employee's immediate family while that person is also serving as, or authorized to perform the duties of, a "volunteer firefighter-Skagit project."
- B. A City officer or employee while serving as, or while authorized to perform the duties of, a "volunteer firefighter-Skagit project," does not violate Subsection 4.16.070 2a by assigning work to, declining to assign work to, or supervising a member of the officer or employee's immediate family while that person is also serving as, or authorized to perform the duties of, a "volunteer firefighter-Skagit project," unless the officer or employee uses his or her official position for a purpose that is primarily for the private benefit of, or to achieve a private gain or an exemption from duty or responsibility for, the officer or employee or any other person, rather than primarily for the benefit of the City.
- C. A City officer or employee while serving as, or while authorized to perform the duties of, a "volunteer firefighter-Skagit project," does not violate Subsection 4.16.070 2b by assigning work to, declining to assign work to, or supervising a member of the officer or employee's immediate family while that person is also serving as, or authorized to perform the duties of, a "volunteer firefighter-Skagit project," unless the officer or employee uses or permits the use of any person, funds, or property under his or her official control, direction, or custody, or of any City funds or City property, for a purpose which is for other than a City purpose and which is not permitted by the provisions in Subsection 4.16.070 2b.
- D. It is not a violation of Subsection 4.16.070 5a nor is it a violation of Subsection 4.16.070 5b for a city officer or employee while serving as, or while authorized to perform the duties of, a "volunteer firefighter-Skagit project," to have a beneficial interest in the service as, or authorized performance of the duties of, a "volunteer firefighter-Skagit project" of a member of the officer or employee's immediate family.

(Ord. 121859 § 2, 2005.)

4.16.075 Prohibited conduct after leaving City.

- A. A former Covered Individual may not disclose or use any confidential information gained by reason of his or her City work;
- B. A former City officer or City employee may not, during the period of two years after leaving City Office or employment, assist any person on a matter in which he or she participated.
- C. A former City officer or City employee may not, during the period of one year after leaving City office or employment communicate, on behalf of any person on a matter involving the City, with an employee of the agency of the City with which he or she was previously employed;
- D. A former Covered Individual may not, during the period of one year after leaving City office or employment, participate as a competitor in any competitive selection process for a City contract in which he or she assisted the City in determining the project or work to be done or the process to be used in selecting a contractor.
- E. A Covered Individual, who contracts with a former City officer or employee for expert or consultant services within one year of the latter's leaving City work, shall promptly inform the Executive Director about the agreement.
- F. The prohibitions of Sections 4.16.075.B. and 4.16.075.C. shall not apply to former City officers or City employees acting as employees or agents of a governmental agency unless that governmental agency's interest in the matter is adverse to the interest of the City.

(Ord. 123010, § 4, 2009; Ord. 116377 , § 6, 1992; Ord. 115548 , § 3, 1991.)

4.16.080 Statements of financial interests.

- A. Officers and Employees Subject to RCW 42.17.240. Every officer or employee of the City subject to the reporting requirements of RCW 42.17.240 shall file a duplicate copy of the report required to be filed under SMC Section 2.04.165 with the Ethics and Elections Commission (the Commission) at the same time the original report is required to be filed with the Public Disclosure Commission.
- B. Officers and Employees Not Subject to RCW 42.17.240—Reporting Person—Reporting Requirement.
 - 1. The Commission shall adopt by rule a list of the City officers and employees, identified by job title, pocket number, position description, or other means that provide adequate specificity, who shall file a statement of financial interests with the Commission. The list may be amended by rule from time to time, and shall include: (a) every head of a City department and every division manager reporting directly to the head of a City department; (b) every Assistant City Attorney; (c) each Deputy Mayor and each other member of the Mayor's staff with authority to direct the expenditure

of City resources; (d) the City Clerk, City Auditor, and every employee in the City Auditor's office who conducts or supervises the conduct of audits; (e) employees identified by department heads as having had decision-making authority over the preceding one (1) year period for (i) the purchase of goods or (ii) the purchase of equipment or (iii) the negotiation of contracts or (iv) the execution of contracts, the purchases or contracts having a total value of Five Thousand Dollars (\$5,000) or more; (f) each employee who supervises, directly or through others, an employee listed pursuant to subsection B1e of this section; and (g) every member of a City committee, City board, or City commission, that administers, interprets or executes City ordinances, whether a member is paid or unpaid. Each head of a City department shall identify the employees within that department fitting the categories in this subsection in accordance with procedures adopted by the Commission.

2. Each person listed or described on the then-current list of the Commission adopted under this section and each person taking on the duties or assuming the position of such a person (a reporting person) shall file a statement of financial interests within two (2) weeks of employment or appointment; and in addition, after January 1st and before April 15th of each year. The statement shall be for the preceding calendar year.
3. Each statement of financial interests filed under this section shall provide complete information with respect to the reporting person and each member of the immediate family of the reporting person.

For the purposes of this section 4.16.080, "immediate family" means:

- a. a spouse or domestic partner, or
 - b. a parent, parent of a spouse or domestic partner, child, child of spouse or domestic partner, sibling, uncle, aunt, cousin, niece or nephew, if that person either resides with or is a dependent on the Covered Individual's most recently filed federal income tax return.
4. Each statement of financial interests filed under this section shall be sworn as to its truth and accuracy.
- C. Officers and Employees Not Subject to RCW 42.17.240—Contents of the Statement of Financial Interests Required by Section 4.16.080 B.
1. Every head or listed division manager of a City department, every Assistant City Attorney, the employees designated in subsection B1c of this section in the Office of the Mayor and the employees designated in subsections B1d, e, and f of this section shall file with the Commission the information required in subsections C3a-d of this section.
 2. Every member of a City committee, City board, or City commission, that administers, interprets or executes City laws, whether a member is paid or unpaid, shall file with

the Commission the information required in subsections C3a-c of this section. In addition, every member of the Landmarks Preservation Board and every member of a special review district shall file with the Commission the information required in subsections C3a-d of this section.

3. The financial interests statement shall contain the following information:
 - a. The name and address of each person engaged in any transaction or activity with the City, excluding the purchase of utilities, from whom the reporting person, or a member of the reporting person's immediate family, has received compensation in any form of a total value of Two Thousand Five Hundred Dollars (\$2,500) or more, excluding campaign contributions reported in accordance with applicable law, and the name of each City agency involved in the transaction or activity, if known;
 - b. The name and address of each person engaging in any transaction or activity with the City, excluding the purchase of utilities, in which the reporting person or a member of the reporting person's immediate family held a direct financial interest with a value of One Thousand Five Hundred Dollars (\$1,500) or more; provided that policies of insurance and amounts on deposit in accounts with banks, savings and loan associations or credit unions shall not constitute a direct financial interest within the meaning of this section, and the name of each involved City agency, if known;
 - c. If a reporting person or a member of his or her immediate family holds a position in an entity engaged in any transaction with the City, the name of the person holding office and the title of office, directorship, or trusteeship held. The reporting person shall include the name and address of the entity and, if known, the name of each City agency with which the entity was involved. The reporting person may exclude an entity whose only transactions with the City consist of the purchase of utilities.
 - d. A list, including either addresses or legal descriptions of all real property in the City in which the reporting person or a member of the reporting person's immediate family held a direct financial interest; and if the facilities and properties of a City agency which employs the reporting person extend beyond the City limits, the list shall include all real property located within the county or counties within which such City agency has property or facilities, except that a member of a special review district need only report as to property within the district. No property shall be identified on the statement as being the home or personal residence of the reporting person.
- D. Officers and Employees Not Subject to RCW 42.17.240—Suspension or Modification of Reporting Requirements. After hearing, the Commission may by order suspend or modify a reporting requirement in a particular case if it finds that literal application of the

requirement would cause a manifestly unreasonable hardship and that such suspension or modification will not frustrate the purposes of this chapter.

(Ord. 123264, § 2, 2010; Ord. 119442 § 3, 1999; Ord. 117056 , § 1, 1994; Ord. 109950 , § 1, 1981; Ord. 108882 § 4.16.080, 1980.)

4.16.085 Advisory Opinions—Effect on Enforcement.

The Commission shall not find a person's conduct violates this chapter if: 1) the person has submitted to the Executive Director or to the Commission a written request for an advisory opinion; 2) the request describes possible future conduct and accurately and fully discloses the material facts related to that conduct; 3) the Executive Director or the Commission issues a written advisory opinion that the described conduct would not violate this chapter; and 4) the person, in reasonable reliance on the advisory opinion, acts in a manner consistent with that advisory opinion. If a person asserts this section as a defense in an enforcement action brought under this chapter, the Executive Director shall have the burden of proving by a preponderance of the evidence that this subsection does not apply. An advisory opinion issued by the Executive Director shall have no binding effect in any other proceeding.

(Ord. 122242 , § 4, 2006.)

4.16.090 Complaints, investigations, hearings, and enforcement.

In addition to the powers of the Commission and its Executive Director under SMC Sections 3.70.100 and 3.70.160 to initiate an investigation, an investigation may also be initiated by filing a complaint.

- A. Any person may file a complaint alleging a violation of this chapter. If such complaint is filed by a member of the Commission, he or she is then disqualified from participating in any proceedings that may arise from the complaint.
- B. The complaint shall be in writing and shall be signed by the complainant. The written complaint shall state the nature of the alleged violation(s), the date(s), time and place of each occurrence, and name of the person(s) alleged to have violated this chapter. The complaint shall be filed with the Executive Director. The complainant shall provide the Executive Director with all available documentation or other evidence to demonstrate a reason for believing that a violation has occurred.
- C. Within 30 days after receipt of a complaint, the Executive Director shall review the complaint to determine whether a complaint, on its face, alleges facts that, if true, would constitute a violation of Chapter 4.16. At the request of the Executive Director, the Commission may, for good cause shown, extend the time for completion of the review. If the Commission determines that the review must be completed in less than 30 days in order to avoid prejudice or irreparable harm to the person alleged to have violated this

chapter, the Commission shall order the Executive Director to complete the review in a shorter period of time, and the Executive Director shall comply.

- D. If the Executive Director determines, after investigation, that there are no reasonable grounds to believe that a violation has occurred, or determines that the violation was inadvertent and minor, the Executive Director shall dismiss the complaint. If the Executive Director does so dismiss the complaint, he or she shall do so in writing, setting forth the facts and the provisions of law upon which the dismissal is based, and shall provide a copy of the written dismissal to the complainant, to the person named in the complaint as the alleged violator and to the Commission. A complainant may appeal a dismissal under this subsection to the Commission under rules promulgated by the Commission.
- E. The Executive Director may, after investigation, seek an administrative dismissal of the complaint from the Commission when he or she determines that there are reasonable grounds to believe that:
 - 1. A violation occurred, but it was inadvertent or minor, but not both; or
 - 2. A violation occurred, but appropriate actions have been taken to address the allegedly unlawful conduct.
- F. If, after investigation, the Executive Director has reason to believe that a material violation of Chapter 4.16 has occurred, the Executive Director shall initiate an enforcement proceeding by issuing to the alleged violator a charging document which includes the provisions of Chapter 4.16 allegedly violated and the conduct that constitutes the violation(s), and shall issue a copy of the charging document to the Commission. The Director shall schedule a hearing to commence within 60 days of the charging document. The Commission Chair may, at any time, continue the hearing to another date. No hearing shall be scheduled, however, while an Executive Director's recommendation for a settlement is awaiting action by the Commission.
- G. The Commission shall issue a written determination stating whether the chapter has been violated and setting forth the facts and the provisions of law upon which this determination is based. A copy of said determination shall be delivered to the complainant, if any, to the person charged with the violation and, where appropriate, to the person's superior.
- H. All hearings hereunder shall be conducted as "contested case" hearings under the Administrative Code, Seattle Municipal Code Chapter 3.02 (Ordinance 102228) and the Commission's rules and regulations. All hearings under this section shall be open to the public unless closed upon the request of the City employee who is the subject of the charges being heard, except that all hearings on charges against (1) City officials elected by the public, (2) the Deputy Mayor, if any, (3) heads of departments and Executive Department offices, (4) members of boards and commissions, and (5) those City employees who are represented by a labor union that, on the date the charges were filed, had not reached written agreement with the City concerning closing hearings on request,

shall be open to the public. Regardless of whether the hearing was closed, if the Commission determines this chapter was violated, the charges, all recordings or transcripts of hearings that were made by the Commission, and the Commission's written findings of fact and conclusions of law shall be made public.

- I. If the Commission determines that a City officer or employee has violated the provisions of this chapter, the Commission may recommend that the officer or employee be subject to disciplinary action. In addition to any other penalty herein or otherwise provided by law, a violation shall be cause for suspension, discharge, or removal from office, or such other disciplinary action as may, by the appropriate City authority, be deemed necessary and proper, and consistent with personnel ordinances and rules. A written report of the disciplinary action taken as a result of the Commission recommendation shall be made by the appropriate City authority to the Commission within 14 calendar days after receipt of the Commission's recommendation; provided, that this section shall not derogate from employee rights under any collective bargaining agreement or City personnel ordinance, or rules promulgated thereunto. If the appropriate City authority determines that the written report of disciplinary action taken as a result of the Commission recommendation required in the section cannot be made to the Commission within 14 calendar days after receipt of the Commission's recommendation, because of procedures prescribed under any collective bargaining agreement, personnel ordinance, or rule promulgated thereunto, the appropriate City authority shall so report to the Commission within 14 calendar days after receipt of the Commission's recommendation, stating the date on which the written report of disciplinary action taken will be submitted to the Commission. If the violation involves prohibited conduct of a former officer or employee, the Commission may recommend to the administering City authority that no contract be made or that the contract be terminated and that proceedings be begun anew in order to prevent injury to the City or to avoid an unfair advantage accruing to a competitor by reason of the violation. Upon receipt of the written report of the disciplinary action taken, or in the event no report is received, the Commission shall review such matter and make such further recommendation as may be appropriate.

(Ord. 123010, § 5, 2009; Ord. 118735 § 3, 1997; Ord. 116377 , § 7, 1992; Ord. 115548 , § 4, 1991; Ord. 109950 , § 1, 1981; Ord. 108882 § 4.16.090, 1980.)

4.16.100 Action on violation.

The Commission may take one (1) or more of the following actions for violation of any provision of Chapter 4.16:

- A. Recommend prosecution or other remedy to the appropriate authorities;
- B. Impose a monetary fine of up to five thousand dollars (\$5,000) per violation or three (3) times the economic value of any thing sought or received in violation of Chapter 4.16, whichever is greater. Fines for a violation of SMC 4.16.070.6.a shall not exceed one

thousand dollars (\$1,000). Fines for a violation of SMC 4.16.070.6.b shall not exceed two hundred fifty dollars (\$250);

- C. Require reimbursement for damages of up to ten thousand dollars (\$10,000) sustained by the City that were caused by the violation and were not recovered by the City;
- D. Require reimbursement for costs, including reasonable investigative costs. Such reimbursement shall not exceed the amount of any monetary fine;
- E. Recommend to the Mayor and the appropriate agency that they request the City Attorney to bring an action to cancel or rescind the result of action taken by the violator, upon a Commission finding that:
 - 1. The violation has substantially influenced the City action, and
 - 2. Interests of the City require cancellation or rescission.
- F. In the case of a violation by a member of an advisory committee, the Commission may, in addition to taking any other action authorized by this section:
 - 1. Recommend that the member be censured or removed from his or her position on the advisory committee; and
 - 2. Recommend to the advisory committee that any finding or recommendation of the committee that has been substantially influenced by the violation be rescinded or reconsidered.

Each act that violates one (1) or more provisions of Chapter 4.16 may constitute a separate violation. Violation may be proven by a preponderance of evidence, and need not be proven beyond a reasonable doubt.

(Ord. 122242 , § 3, 2006; Ord. 120118 § 1, 2000; Ord. 118735 § 4, 1997; Ord. 109950 , § 1, 1981; Ord. 108882 § 4.16.100, 1980.)

4.16.105 Appeal of fine.

- A. Except as provided in subsection F of this section, if the Commission imposes a monetary fine for violation of any provision of this chapter, the City officer or employee on whom the fine is imposed may appeal the fine, on the Commission's record, to the Seattle Municipal Court. The Seattle Municipal Court shall uphold the Commission's decision if it determines the Commission's decision was not for any arbitrary, capricious, or illegal reason, and the decision was supported by substantial evidence in the Commission's record. Otherwise, the Court shall modify, reverse, or remand the matter to the Commission, as the Court deems appropriate.
- B. In order to appeal a monetary fine imposed under this chapter by the Seattle Ethics and Elections Commission, the City officer or employee on whom the fine is imposed must file a notice of appeal with the Clerk of the Municipal Court, serve it upon The City of Seattle,

and deliver a copy to the Executive Director of the Commission, all within twenty (20) days after the date of the Commission's decision. In order to file the notice of appeal, the City officer or employee must pay to the Clerk of the Municipal Court a filing fee in the amount set by statute or court rule for a civil action filed in the District Courts. The filing fee and the costs of preparing the record of the proceedings of the Commission may be taxed as costs against the nonprevailing party, as the Municipal Court may direct, but each party shall bear its own attorney's fees. The notice of appeal shall be in writing and shall include the mailing address and, if different, the street address where papers may be served on the appellant. The notice of appeal shall contain, in separate numbered paragraphs, statements of the specific findings of fact, conclusions of law, or aspects of the fine on which the appellant seeks review, the basis for the appeal, and a brief statement of the relief requested. The appellant shall attach a copy of the written decision of the Commission being appealed.

- C. Within thirty (30) days after the notice of appeal has been properly filed, served, and a copy delivered to the Executive Director, the appellant shall provide the Executive Director with a record of proceedings, which the Executive Director shall, if it complies with this subsection, promptly file with the Municipal Court so as to present the issues raised for review. Upon payment of the costs of copying, the Executive Director shall provide the appellant a copy of the relevant papers and exhibits, which shall be included in the record. The record shall also include a transcript of those portions of the testimony that are designed by the appellant or by the Executive Director, who shall each designate what they believe necessary to resolve disputed issues. The appellant at his or her expense shall submit to the Executive Director for review and approval, if accurate, the transcript of the designated portions of the testimony, prepared by a certified court reporter. The typed transcript, when certified as accurate by the Executive Director, shall constitute the record for review of the portion so transcribed. If all or a designated part of a tape recording is not audible, the Executive Director may prepare and certify a summary of that portion of the testimony in the proceedings based on his or her notes and memory. Where the Executive Director and the appellant agree that the testimony or facts are not in dispute, they may jointly prepare a narrative report of some or all of the evidence or a summary of some or all of the testimony in order to reduce the amount of material transcribed and to make a more compact record.
- D. Except where inconsistent with this section, the procedural rules of the Civil Rules for Courts of Limited Jurisdiction (CRLJs), as they may be amended from time to time, shall govern procedure related to the appeal in the Municipal Court, but no new evidence may be submitted to or taken by the Municipal Court.
- E. The Municipal Court shall appoint a judge pro tempore to hear appeals by employees of the Municipal Court unless both the City employee and the Executive Director agree that a regular Municipal Court judge may hear the case.

F. This section shall not apply to (1) City officials elected by the public, (2) the Deputy Mayor, if any, (3) heads of departments and Executive Department offices, and (4) those City employees who are represented by a labor union that, on the date the charges were filed had not reached written agreement with the City regarding the appeal to Municipal Court of monetary fines imposed by the Commission. Persons for whom an appeal to Seattle Municipal Court is not authorized by this section may seek review of a monetary fine imposed by the Commission in King County Superior Court as provided in state law.

(Ord. 122242 , § 5, 2006; Ord. 120118 , § 2, 2000: Ord. 118735 § 4, 1997; Ord. 109950 , § 1, 1981; Ord. 198882, § 4.16.100, 1980.)