



# MINNESOTA CAMPAIGN FINANCE BOARD

## Complaint Procedures

### Who may file a complaint?

Any person may file a complaint.

### What may the Board investigate?

The Campaign Finance and Public Disclosure Board may investigate alleged violations of the following laws:

- The campaign finance and public disclosure laws in [Minnesota Statutes Chapter 10A](#);
- The campaign finance and public disclosure rules in [Minnesota Rules chapters 4501-4525](#); and
- Three provisions of Minnesota Statutes Chapter 211B that are under the Board's jurisdiction for state-level candidates, political party units, and political committees and funds, including sections [211B.04](#) (disclaimers on campaign material), [211B.12](#) (use of money collected for political purposes), and [211B.15](#) (corporate contributions).

### How do I file a complaint?

No special form is required to file a complaint. If you prefer to work from a form, one is available upon request from the Board and on the Board's website. [Click here for the form](#). The complaint must refer to the law that allegedly has been violated and include the name and address of the person or entity that allegedly violated the law (the respondent), a description of the facts that allegedly show how the respondent violated the law, and the name and address of the person making the complaint (the complainant). The complaint must also include the signature of the complainant or an individual authorized to act their behalf, such as an attorney.

### Is the complaint public?

Complaints and investigations are confidential until the Board issues a decision resolving the matter, to the extent provided by [Minnesota Statutes section 10A.022, subdivision 5](#). Board members and staff cannot talk about an investigation except as required to carry out the investigation or to take action in the matter. After the Board issues a decision, the record of the investigation is public including the complaint itself.

## **What happens after a complaint is filed?**

The complainant is notified that the Board has received the complaint. The Board also sends a copy of the complaint to the respondent. The law then requires a two-stage process to be completed before the Board can investigate the complaint. The first stage is a prima facie determination; the second is a probable cause determination.

## **What is a prima facie determination?**

A prima facie determination is the first of two tests that a complaint must pass before it can be investigated. At the prima facie stage, the Board chair or a Board member appointed by the chair determines whether the information in the complaint is sufficient to allege a violation of Chapter 10A, the Board's rules, or the provisions of 211B under the Board's jurisdiction.

## **When does the prima facie determination have to be made?**

The Board member must make the prima facie determination within 10 business days after the Board receives the complaint.

## **What happens after the prima facie determination?**

If the Board member determines that the complaint does not state a prima facie violation, the complaint is dismissed and the Board notifies both the complainant and the respondent of the decision. If the complaint does state a prima facie violation, it moves to the probable cause stage.

## **What is a probable cause determination?**

The probable cause determination is the second of two tests that a complaint must pass before it can be investigated. At the probable cause stage, the entire Board reviews the complaint to decide whether probable cause exists to believe a violation of the campaign finance laws has occurred and, if it has, whether that violation warrants a formal investigation.

## **When does the probable cause determination have to be made?**

The Board must make the probable cause determination within 45 days after the prima facie determination. The Board makes the probable cause determination at a meeting closed to the public. Both the complainant and the respondent may send a written statement and attend the Board meeting where the probable cause determination will be made to explain why they think probable cause does or does not exist in the matter. The meeting is not a trial, however, and neither the complainant nor the respondent may question anyone. Instead, the discussion is limited to whether probable cause exists to justify moving forward with an investigation of the complaint. If both the complainant and the respondent appear before the Board, they do so separately and are not entitled to observe the appearance of the other party.

### **What happens after the probable cause decision?**

If the Board determines that probable cause does not exist to believe a violation has occurred, the Board dismisses the complaint. If the Board determines that probable cause exists but that the violation does not warrant a formal investigation, the Board may order an informal investigation known as a staff review or dismiss the complaint while recognizing that there was a violation. If the Board determines that probable cause exists and the violation warrants a formal investigation, the Board will begin an investigation of the allegations in the complaint. The Board always notifies the complainant and the respondent of its decision.

### **What happens during the investigation?**

During the investigation, Board staff gathers information related to the allegations in the complaint. In most cases, the Board asks people to voluntarily provide information or statements to the Board. However, the Board has the power to issue subpoenas for information and testimony that is not voluntarily provided. In all cases, the respondent may provide witness testimony and additional evidence to the Board even if the Board has not asked for that information. The Board may seek additional information from a complainant during an investigation, but does not provide updates to the complainant regarding the status of the investigation.

### **What is a summary proceeding?**

A summary proceeding is something other than a full investigation that resolves a matter or part of a matter under investigation. A summary proceeding may be resolved by a conciliation agreement or a settlement agreement. In a conciliation agreement, the respondent admits a violation and usually agrees to pay a penalty and take remedial actions to prevent a future violation. At any time during an investigation, a respondent may request a summary proceeding. The request must specify the issues to be resolved and the type of summary proceeding requested.

### **When does the Board have to make a decision about the complaint?**

Although there is a 60-day deadline for investigating complaints that allege spending or contribution limits violations, this deadline may be extended by majority vote of the Board. There is no deadline for investigating complaints that do not involve spending or contribution limits.

### **What happens when the Board makes a decision on the complaint?**

When the investigation is complete, the matter is scheduled for a decision at a Board meeting. The respondent is notified of, and given an opportunity to appear at, the meeting to address the Board. If the Board's staff plans to recommend a resolution of the matter, the respondent also is told what that recommendation will be. The meeting where the Board considers the complaint

is not a trial and the respondent is not allowed to question anyone. Instead, the Board considers the record developed during the investigation, including any witness testimony or evidence provided to the Board. The respondent may present arguments about whether the record developed during the investigation does or does not show that a violation occurred.

**What standard of evidence is used by the Board?**

In the past the Board has applied a preponderance of the evidence standard. In order to find that a violation occurred, the Board must be convinced by the evidence, and the reasonable inferences that may be drawn from that evidence, that it is more likely than not that a violation occurred.

**What happens after the Board makes a decision on the complaint?**

If the Board determines that there is not sufficient evidence to believe that a violation occurred, the complaint is dismissed. If the Board concludes that a violation occurred, the Board may issue findings, conclusions, and an order describing the violation and any penalty imposed. Alternatively, the Board may try to resolve the matter through a conciliation agreement with the respondent. If the Board cannot reach an agreement with the respondent, the Board will issue findings, conclusions, and an order in the matter.

This document is available in alternative formats to individuals with disabilities by calling 651-539-1180; 800-657-3889; or through the Minnesota Relay Service at 800-627-3529.