WEST VIRGINIA CODE: §6B-2-2A

§6B-2-2a. Probable Cause Review Board.

(a) There is hereby established a Probable Cause Review Board that shall conduct investigations to determine whether there is probable cause to believe that a violation of the West Virginia Governmental Ethics Act has occurred. The Review Board is an autonomous board, not under the direction or control of the Ethics Commission. The Review Board will review complaints received or initiated by the Ethics Commission to make a threshold determination of whether probable cause exists to believe that a violation of the West Virginia Governmental Ethics Act has occurred.

(b) The Governor, by and with the advice and consent of the Senate, shall appoint three persons as members of the Review Board, each of whom shall be a resident and citizen of the state. Each member of the Review Board shall hold office until his or her successor has been appointed and qualified. At least one member of the board must be an attorney licensed by the State of West Virginia and no more than two members can belong to the same political party. The members of the Review Board shall be appointed for overlapping terms of two years, except that the original appointments shall be for terms of one, two and three years, respectively. Any member whose term expires may be reappointed by the Governor. In the event a Review Board member is unable to complete his or her term, the Governor shall appoint a person with similar qualification to complete that term. Each Review Board member shall receive the same compensation and expense reimbursement as provided to Ethics Commission members pursuant to section one of this article. These and all other costs incurred by the Review Board shall be paid from the budget of the Ethics Commission.

(c) No person may be appointed to the Review Board or continue to serve as a member of the Review Board who holds elected or appointed office under the government of the United States, the State of West Virginia or any of its political subdivisions, or who is a candidate for any of such offices, or who is a registered lobbyist, or who is otherwise subject to the provisions of this chapter other than by reason of his or her appointment to or service on the Review Board. A Review Board member may contribute to a political campaign, but no member shall hold any political party office or participate in a campaign relating to a referendum or other ballot issue.

(d) Members of the Review Board may recuse themselves from a particular case upon their own motion, with the approval of the Review Board, and shall recuse themselves, for good cause shown, upon motion of a party. The remaining members of the Review Board may, by majority vote, select a temporary member to replace a recused member: Provided, That the temporary member selected to replace a recused member shall be a person who meets all requirements for appointment provided by subsection (c), section two-a of this article, and whose political affiliation is the same as the recused member.

WV Legislature

(e) The Ethics Commission shall propose, for approval by the Review Board, any procedural and interpretative rules governing the operation of the Review Board. The commission shall propose these rules pursuant to article three, chapter twenty-nine-a of the code.

(f) The Ethics Commission shall provide staffing and a location for the Review Board to conduct hearings. The Ethics Commission is authorized to employ and assign the necessary professional and clerical staff to assist the Review Board in the performance of its duties and commission staff shall, as the commission deems appropriate, also serve as staff to the Review Board. All investigations and proceedings of the Review Board are deemed confidential as provided in section four of this article and members of the Review Board are bound to the same confidentiality requirements applicable to the Ethics Commission pursuant to this article.

(g) The Review Board may subpoena witnesses, compel their attendance and testimony, administer oaths and affirmations, take evidence and require by subpoena the production of books, papers, records or other evidence needed for the performance of the Review Board's duties.

(h) Upon decision by the Review Board that probable cause exists to believe that a violation of this chapter has occurred, commission staff shall send notice to the commission members of the Review Board's finding. After an ethics complaint has been submitted to the Review Board in accordance with section four of this article, the commission may take no further action until it receives the Review Board's probable cause finding.

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