



ADMINISTRATIVE RULES OF MONTANA



44.11.106 COMPLAINTS OF VIOLATIONS

- (1) An individual who believes a violation of a provision of Title 13, chapters 35 or 37, MCA, or a rule or regulation implementing one or more of those statutory provisions has occurred may file a written complaint in person or by mail with the commissioner. A complaint may be filed on a form available from the COPP. Except as provided in this rule, within five business days after receipt of a complaint, the commissioner shall acknowledge its receipt and transmit a copy to the alleged violator.
- (2) Whether submitted on the form available from the COPP or otherwise, a complaint shall:
 - (a) be typewritten or legibly handwritten in ink; and
 - (b) contain the following information:
 - (i) the complete name and mailing address of the complainant;
 - (ii) the complete name and mailing address of the alleged violator, if known or readily discoverable;
 - (iii) a detailed description of the alleged violation, including citation to each statute and/or rule that is alleged to have been violated;
 - (iv) any evidentiary material; and
 - (c) be signed and verified by the oath or affirmation of the complainant, taken before any officer authorized to administer oaths.
- (3) Except as provided in (4), upon receipt of a complaint, the commissioner shall investigate the alleged violation. The commissioner shall prepare a written summary of facts and statement of findings, upon completion of the investigation, which shall be sent to the complainant and the alleged violator. Following the issuance of a summary of facts and statement of findings, the commissioner may take other appropriate action.
- (4) No investigation shall be required and a complaint may be dismissed if the complaint is frivolous on its face, illegible, too indefinite, does not identify the alleged violator, does not cite the statute or rule that is alleged to have been violated, is unsigned, or is not verified by the oath or affirmation of such person, taken before any officer authorized to administer oaths or affirmations. In addition, no investigation shall be required and may be dismissed if the complaint does not contain sufficient allegations to enable the commissioner to determine that it states a potential violation of a statute or rule within the commissioner's jurisdiction. The commissioner may request additional information from the complainant or the alleged violator prior to making a determination whether to proceed with a full investigation and whether to dismiss a complaint under this rule.

- (5) With the exception of any material that the commissioner determines is subject to protection from disclosure based on constitutional or statutory law, a filed complaint and the summary of facts and statement of findings shall be public record.
- (6) All documents provided to and all communications with the COPP are public records as provided by 13-37-118 and 13-37-119, MCA. The Montana Constitution Article II, Sections 9 and 10 require the commissioner to balance the public's right to know with an individual's privacy rights on documents that are filed with the COPP office. The COPP has a detailed privacy policy available on the commissioner's web site.

The December 2015 poll of the Montana Legislature on proposed amendment of 44.10.307 (ARM 44.11.106) COMPLAINTS OF VIOLATIONS in MAR Notice No. 44-2-207 was as follows: 27 Senators voted the proposed rule is consistent with legislative intent; 19 Senators voted the proposed rule is contrary to legislative intent; 50 Representatives voted the proposed rule is consistent with legislative intent; and 35 Representatives voted the proposed rule is contrary to legislative intent.

Authorizing statute(s): 13-37-114, MCA

Implementing statute(s): 13-37-111, MCA

History: NEW, Eff. 2/6/76; AMD, 2001 MAR p. 2049, Eff. 10/12/01; TRANS and AMD, from 44.10.307, 2016 MAR p. 28, Eff. 1/9/16.