

THE FAIR CAMPAIGN PRACTICES COMMITTEE

Hearing Procedures

PLEASE NOTE

Fair Campaign Practices Committee meetings and/or Hearings might be video or voice taped

The following is a proposed list of procedures of the Fair Campaign Practices Committee of Broward County (hereinafter known as FCPC). These procedures are subject to change and/or clarification.

Greetings and Introductions of members of the FCPC:

Ask that all cell phones be placed on "silent" or turned off.

Explain the purpose of the FCPC and rules for today's hearing.

Anyone who appears and wishes to speak during the proceedings must be sworn in.

Instructions to the Committee Members:

Remind everyone that petitioner has the burden of proof that a violation has occurred.

Explain to the Committee members that the burden of proof is based on clear and convincing evidence, which is more than a preponderance of the evidence but less than beyond and to the exclusion of every reasonable doubt.

Committee members are to be reminded that the bylaws state that the Committee will not be concerned with minor or unintentional deviations, nor with violations, which could be in the eye of the beholder.

The bylaws provide certain circumstances under which members must recuse themselves. Review those reasons and give members the opportunity to recuse themselves if necessary. Any member that has inadvertently done any independent investigation of the petition shall also recuse himself or herself.

General Comments:

Procedural questions only from petitioner and respondent.

The Chair has discretion with regard to time constraints during the hearing; both sides being given equal time.

Opening statements by Petitioner

Two (2) minutes

Opening statements by Respondent

Two (2) minutes

Petitioner to present their case

Fifteen (15) minutes

This time should include argument and direct examination of any witnesses whom petitioner wishes to call and any introduction of documents petitioner wishes to introduce.

Respondent shall have ten (10) minutes to cross-examine any or all of petitioner's witnesses.

Committee members: permitted to question the petitioner or the petitioner's council (if present). While there is no time limit on this portion of the agenda members are asked to keep their questions brief.

Respondent to present their case

Fifteen (15) minutes

This time should include argument and direct examination of any witnesses whom petitioner wishes to call and any introduction of documents petitioner wishes to introduce.

Petitioner shall have ten (10) minutes to cross-examine any or all of respondent's witnesses.

At the conclusion of the cross-examination of the respondent, Committee members may ask additional questions of either the petitioner or the respondent. While there is no time limit on this portion of the agenda members are asked to keep their questions brief.

Petitioner will have three (3) minutes for rebuttal of the respondent's case. Note that this rebuttal may deal ONLY with the issues raised by the respondent in their case and may not introduce new issues. No questions will be allowed after the rebuttal.

Closing Statement by Respondent

Two (2) minutes

Closing Statement by Petitioner

Two (2) minutes

Public Comments

Twelve (12) minutes; maximum of two minutes per person. The Committee may wish to eliminate the public comment portion or limit the portion to procedural issues only.

At the conclusion of the hearing:

If no counterpetition has been filed, there will then be debate among the Committee members. The Chairperson will entertain a motion from the Committee and a ruling from the Committee. No questions will be allowed of either petitioner or respondent once the debate begins. Additional testimony will not be permitted.

If a counterpetition has been filed, the counterpetition will be presented in the same fashion as listed above. The Committee shall hear both sides before ruling on either the petition or the counterpetition. At the conclusion of the hearings on both the petition and the counterpetition the Committee shall first rule on the petition and then on the counterpetition.

Possible Rulings (as per Fair Campaign Practices Committee bylaws):

- After considering a complaint, the Committee may dismiss it, request further information, request that the candidate or organization cease and desist from such actions, publicly criticize, or censure the candidate or organization.
- A majority vote of the disinterested members of the Committee present at the hearing is required to authorize cease and desist requests or public statements critical of a candidate or organization that has violated the Broward County Code of Ethical Campaign Practices.
- A vote of two-thirds of the disinterest member of the Committee present at the hearing is required to censure a candidate or organization that has violated the Code of Ethical Campaign Practices.
- Upon a vote of two-thirds of the disinterested members of the Committee, a formal complaint may be filed with the Florida Election Commission, based upon the complaint and evidence received by the Committee.
- If a complaint has been made public through campaign activity or through the media, and the complaint is found to be groundless, the Committee may issue a public statement of such determination, and will issue such statement at the request of any person.