



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON D.C. 20463

DIRECTIVE NO: 6

TITLE: HANDLING OF INTERNALLY GENERATED MATTERS

APPROVED: TALLY VOTE APRIL 21, 1978

The statutory basis for the Commission's authority to initiate compliance proceedings is found in 2 U.S.C. §437g. Under this section, enforcement actions may be initiated either by a signed, sworn, notarized complaint (2 U.S.C. 437g(a)(1)), or by information which the Commission has ascertained in the normal course of carrying out its supervisory responsibilities (2 U.S.C. §437g(a)(2).) Thus, enforcement proceedings can be generated by external sources through verified complaints, and internally through information obtained by the Commission in the normal course of its supervisory duties.

I. Verified Complaints

The Act provides that any person may file a complaint with the Commission alleging that a violation of the Act has occurred. The legislative history contains the explicit statement that such verified complaints may be filed by anyone, including a member of the Commission or a Commission employee. ("The conferees agree that any person, including a member or employee of the Commission, may file a verified complaint...". H. Rep. No. 94-1057, 94th Cong., 2nd Session 50 (1976).) Such complaints must be in writing, signed by the complainant, sworn, and notarized. In addition, the regulations provide that the complaint must contain a clear statement of the acts alleged to constitute a violation, any documentation available to substantiate the alleged violation, and an assertion by the complainant that he or she is acting in his or her own behalf and not on behalf of a candidate. 11 CFR 111.2.



The General Counsel's procedures for processing externally generated complaints are established in the Commission's Regulations, and incorporated herein by reference .11 CFR 111. A copy of the initial step in the externally generated complaint procedure, the first general counsel's report, is attached as Attachment A for your information. This format for presenting externally generated complaints to the Commission will continue to be used by the General Counsel's office.

II. Internally Generated Matters Under Review (MURS)

The legislative history of Section 437(g) goes no further than the statutory language in describing what is meant by information obtained by the Commission "in the normal course of carrying out its supervisory duties."^{1/} However, the Commission has the authority to determine its own procedures and set clear standards for generating internal compliance actions.

The procedures outlined below provide uniform guidelines for the internal generation of MURS. Generally, each internally generated matter will include a clear and concise statement of the Commission policy or authority under which the matter is generated, its source of generation (which Division) and the generating person or officer (e.g., Staff Director, General Counsel). Following that section will be a clear and concise summary of the alleged violations, similar to that used by the General Counsel's office in processing externally generated complaints (See Attachment B). Each internally generated matter will be assigned a MUR number once the General Counsel determines that the complaint is sufficient.

General procedures for handling internally generated compliance matters arising out of different divisions of the Commission are outlined below:

A. Referrals From Operating Divisions of the Commission.

When the Reports Analysis Division, during its regular report review procedures, the Audit Division, in

^{1/} "... (O)r if the Commission, based on information obtained in the normal course of carrying out its duties under the Act, has reason to believe a violation has occurred." H. Rep. No. 94-1057, 94th Congress, 2nd Session. 49-50 (1976).

the course of carrying out its duties, or the Public Disclosure Division, in the course of carrying out its duties, obtains information suggesting a violation of the Act, such Division shall, through the Staff Director, forward such information to the Office of the General Counsel. The forwarding memorandum shall set forth: the Commission policy or authority under which the matter is generated, the specific source of the information, the name of the staff member who discovered the matter, the team chief, a summary of the Division's reasons for believing a violation exists, and any remedial steps the Division has taken (RFAIs, surface violation letters, audit action, etc.). This referral memorandum will be attached to the First General Counsel report.

The Office of General Counsel will determine whether or not to open a MUR on matters referred to it from the Operating Divisions of the Commission. If the decision is not to proceed into compliance, the Office of General Counsel shall return the referral to the appropriate Division with a statement of reasons for not proceeding or a recommendation for further action by the originating Division. The Reports Analysis or Audit Division shall, in the event of no action by the Office of General Counsel, determine whether to proceed with attempts to correct the violation, to obtain further information on the particular matter which may warrant re-referral, or to close the file. This action shall also be memorialized in the file.

B. Referrals From Other Agencies, Public Government Documents.

Information from other government agencies which may result in internal generation of compliance matters are of two general types. The first are those matters arising out of referrals to the Commission from other government agencies. These matters are reviewed by the General Counsel who determines whether or not a compliance action is warranted. The first General Counsel's report on such matters will note that the source of the initial complaint was another specified government agency. Matters referred from other government agencies will be circulated to the Commission, including the General Counsel's disposition of such matters in the event a MUR has not been opened.

The second type of internally generated compliance matter originating from other government agencies will be those arising out of government documents made available to the public or the Commission. The procedure outlined above with respect to referrals from government agencies, will also be followed where compliance matters arise out of government documents.

C. Commission-Authorized Non-Routine Reviews of Reports and Other Documents.

No non-routine reviews of reports or other documents shall be conducted by Commission staff members without specific prior approval of the Commission. Upon specific request, a project based upon a uniform policy of review of a particular category of candidates or other reporting entities or a review of a category of reports for specific types of information may be authorized by the Commission. A request to conduct a special review project should be made through the General Counsel's office and the Staff Director. A memorandum stating such request should be presented to the Commission for its consideration by the General Counsel and Staff Director. The memorandum should outline the scope and purpose of the proposed project, the supervising staff member, and the procedures which will be followed if possible compliance matters are discovered during the course of the project. Any information suggesting a violation of the Act arising during the course of a special review project should be referred in writing to the General Counsel. The General Counsel will then determine whether or not a MUR should be opened. A memorandum of the General Counsel's decision, as well as the initial referral memorandum, should be placed in the project file. The first General Counsel's report, in the event that a MUR is opened, shall state the origin of the matter, including the date of authorization and the scope of the special review project.

D. News Articles and Similar Published Sources.

News articles and similar published accounts of possible violations may, under certain conditions, constitute the source of internally generated MURs. (Oral reports of possible violations will not be the basis for internal generation of a MUR.) Generally, the standard for determining whether such articles may be the basis for Commission action depends upon such factors as the particularity with which the alleged violations are set out in the article and whether the allegations set forth therein are supported by

in-house documents. The Commission will take the ultimate responsibility for determining whether or not to open a MUR based on such accounts. A staff member must request the General Counsel, the Staff Director, or a Commissioner to prepare a memorandum to the General Counsel outlining the alleged violation. The supporting news account should be attached to this memorandum. The signed originating memorandum and accompanying news account will be submitted by the General Counsel to the Commission along with his recommendation as to whether or not a MUR should be initiated.

Attachments

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION _____

MUR NO. _____
DATE COMPLAINT RECEIVED
BY OGC _____

ATTORNEY _____

COMPLAINANT'S NAME:

RESPONDENT'S NAME:

RELEVANT STATUTE:

INTERNAL REPORTS CHECKED:

FEDERAL AGENCIES CHECKED:

SUMMARY OF ALLEGATIONS

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION _____

MUR NO. _____
STAFF MEMBER _____

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME:

RELEVANT STATUTE:

INTERNAL REPORTS CHECKED:

FEDERAL AGENCIES CHECKED:

GENERATION OF MATTER

