

UTAHNS FOR ETHICAL GOVERNMENT  
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# REAL ETHICS NOW!




Real reform, effective government, democracy Utahns can be proud of

# VS


Smokescreens, political tricks, legal roadblocks, baby steps, same old, same old

## **UEG'S Independent Ethics Commission (IEC)**


## **Legislative Ethics Commission (Senate Joint Resolution 3)**


 Commission is made up of five Utah residents who meet eligibility criteria and are selected by Legislature from a pool of 20 candidates agreed upon by the four Senate and House majority and minority leaders.


They serve staggered five-year terms.

 Commission consists of: (a) three former state court judges appointed by majority vote of the four Senate and House majority and minority leaders, (b) one former legislator appointed by the majority leaders, and (c) one former legislator appointed by the two minority leaders. (More partisan backgrounds; no ordinary citizens)

They serve staggered four-year terms.

 Complaints are allowed from any three citizens (including legislators).

 Complaints can be filed by two registered voters, one of whom must have actual knowledge of the facts and circumstances to initiate the investigation. Two legislators can also file, but also must meet excessively high evidentiary standards. The standards will preclude nearly all complaints.

 IEC screens complaints in private.

 Instead the partisan-controlled House or Senate Legislative Ethics Committee screens the complaints in private and acts as gatekeeper for what can be heard by the commission.

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**UEG'S Independent Ethics Commission (IEC)**

**Legislative Ethics Commission (SJR 3)**

😊 Frivolous complaints or those lacking in factual or legal basis will be dismissed. IEC investigates and conducts discovery of evidence to make these determinations.

😞 Complaints that lack affidavits or official documents and lack witness lists, as well as other required evidence will be dismissed and not even sent to the commission.

😊 IEC holds open hearings in public if a complaint is determined to have a basis in fact and law and is not frivolous.

😞 LEC hearings are closed to the public.

😊 The independent commission hires its own staff.

😞 Legislative Management Committee authorizes and approves the employment of LEC staff.

😊 The scope of the independent commission's jurisdiction includes all ethics violations in the UEG Code of Conduct, including alleged criminal violations, whether yet proven or not.

(Just because conduct may be legal does not mean that it's ethical)

😞 Scope of LEC jurisdiction is limited to the Legislative Code of Official Conduct and crimes for which the legislator has been convicted or has pled guilty, no contest, or a plea in abeyance to a crime labeled "moral turpitude."

Violations of proposed rules on personal use of campaign contributions are not part of the Legislative Code of Official Conduct.

😊 Complaint cannot be filed within 30 days of a primary or general election.

😞 Complaint cannot be filed within 60 days of a regular primary or general election.

😊 If complaint is leaked prematurely and IEC finds that it lacks merit, IEC may publicly release its order dismissing the complaint for lack of merit.

😞 If the complaint is leaked, the "leaker" (if discoverable) will be in contempt of the Legislature. If the complaint is disclosed during LEC review, the complaint will be dismissed.

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**Legislative Ethics Commission (SJR 3)**

😊 IEC determination is by majority vote of three of the five commissioners.

😞 Legislative Ethics Commission must have four of five members voting that misconduct was proven.

😊 After all elements of the alleged violation are introduced into evidence, the burden of proof shifts from complainants to the legislator to prove by preponderance of evidence that misconduct did not occur.

😞 The standard of evidence at the commission level is preponderance of the evidence, and the burden of proof is on the complainants during the entire process.

😊 IEC deliberations are in private, without staff present.

😞 Commission deliberations are in private. Staff will be present unless excluded by a majority of the commission.

😊 IEC issues a public, written report of recommendation and evidentiary findings.

😞 Commission reports recommendation publicly when misconduct has been found, but supporting evidence or witness testimony remains secret even from the Legislature.

😊 No time constraints for submission of written report prior to an election.

😞 Senate removed language prohibiting commission from forwarding recommendation within 60 days of a regular primary or general election.

😊 Recommendation and findings are submitted directly to the full House or Senate for action, bypassing the politically split Legislative Ethics Committee of the House or Senate.

The legislative chamber can accept or reject the recommendation and must have a roll call vote of its members.

😞 Recommendation goes to the pertinent legislative ethics committee of the House or Senate, which holds a hearing (which can be closed) and determines its recommendation.

The partisan committee chair rules on admissibility of evidence and witnesses and can dismiss the complaint unless overturned by Committee majority.

Majority (five of eight) of the four Republicans and four Democrats are required to find an ethical violation. Standard of evidence is "clear and convincing" (requires more evidence than preponderance of the evidence). If violation is found, recommendation moves to full House or Senate.

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**Legislative Ethics Commission (SJR 3)**

😊 If a legislator resigns, the complaint can still be heard and a determination made. No action from full Legislature can be made, however.

😞 If a legislator resigns, the complaint is dismissed.

**Elements of UEG's Code of Ethical Conduct**

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**Legislative action on ethical conduct**

😊 Provision allowing legislator to obtain an advance determination from an Independent Ethics Commission stating whether a contemplated action would be unethical

**NO PROVISION**

😊 No legislator may act as a lobbyist

**NO PROVISION**

😊 No legislator may act as a lobbyist for two years after the legislator leaves office

**NO PROVISION**

😊 No legislator may be a "control person" (e.g., owner, top manager, board member) of a corporation that retains and pays a lobbyist. If the corporation (including labor unions and nonprofits) does not retain and pay a lobbyist, the legislator may become a board member if status as a legislator was not a contributing factor in the appointment and the legislator is not compensated for board service.

**NO PROVISION**

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## Elements of UEG's Code of Ethical Conduct

## Legislative action on ethical conduct

😊 A sitting legislator may not accept a gift from a paid lobbyist (except for light refreshments of negligible value).

😞 House passed new lower limits on some kinds of lobbyist gifts (includes multiple exceptions and loopholes). (House Bill 267)

😊 Each legislator shall file a detailed financial disclosure form (revealing potential conflicts of interest) with the Commission each year: Sources of spousal income above \$3,000 are included in the disclosure.

😞 Similar provision passed in House but with less detail and \$5,000 threshold for disclosure of income from single source.

Disclosure of real property and sources of spouse's income are discretionary "as applicable." (House Bill 270)

😊 Legislators and legislative candidates are prohibited from giving monies from their own campaign accounts to other campaign accounts or accepting money from others' campaign accounts.

**NO PROVISION**

😊 Legislators and legislative candidates are prohibited from accepting campaign contributions from corporations, labor unions, nonprofit associations.

**NO PROVISION**

😊 Legislators and legislative candidates are prohibited from accepting contributions that exceed \$2500 per individual and \$5,000 per political action committee.

**NO PROVISION**

😊 Legislators and legislative candidates shall NOT use monies from their campaign accounts for personal use

😞 Prohibition on personal use of campaign contributions passed in the House with many qualifications. (House Bill 124)



Utahns for Ethical Government is a nonpartisan coalition of Republicans, Democrats, Independents, and unaffiliated voters who are committed to legislative ethics reform. UEG is working to obtain 95,000 signatures of registered voters to qualify its initiative on the November 2010 ballot. The initiative would establish a strict code of ethical conduct for the Utah Legislature and an independent ethics commission to advise the Legislature.

For more information, go to [www.utahethics.org](http://www.utahethics.org)

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