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State of Florida  
COMMISSION ON ETHICS  
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*"A Public Office is a Public Trust"*


Kerrie J. Stillman  
*Executive Director*

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*Deputy Executive Director/  
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## MEMORANDUM

**TO:** Commission Members  
**FROM:** Gray Schafer, Assistant General Counsel   
**DATE:** November 15, 2023  
**RE:** Rule Hearing on amendment to Chapter 34-12.750

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The Commission is being asked to consider and approve rulemaking involving a necessary amendment to Chapter 34-12.750, Florida Administrative Code (F.A.C.). The rule amendment has been duly noticed and materials have been provided to the Joint Administrative Procedures Committee.

This rulemaking is necessary to reflect a recent statutory change to Section 112.3215(8)(d), Florida Statutes, made by Chapter 2023-49, Laws of Florida. This change modifies how the Commission on Ethics may dispose of complaints involving violations of the executive branch lobbying registration statute (Section 112.3215, Florida Statutes). Currently, Rule 34-12.750(3) requires these matters to proceed to a probable cause hearing, and indicates dismissal can only be based on a finding of no probable cause. The statutory change now allows the Commission to dismiss these types of proceedings—at any stage of disposition—if it determines that the public interest will not be served by proceeding further. The rulemaking will update this portion of the Rule to account for this statutory change.

The text of the proposed amended rule, the Notice of Proposed Rulemaking, and the relevant portion of Chapter 2023-49, Laws of Florida are attached. You will be asked to approve this proposed rulemaking at your December 1, 2023, Commission meeting.

Attachments

34-12.750 Probable Cause Hearing.

(1) No change.

(2) No change.

(3) Disposition of Complaint. At the probable cause hearing the Commission may find that there is probable cause to believe that the Respondent committed one or more violations of Section 112.3215, F.S.; may find that there is no probable cause to believe that the Respondent violated Section 112.3215, F.S., and dismiss the complaint; or may continue the hearing to allow further investigation. The Commission may also dismiss a complaint at any stage of disposition if it determines that the public interest is not served by proceeding further, in which case the Commission must issue a public report stating with particularity its reasons for the dismissal.

PROPOSED EFFECTIVE DATE January 4, 2024.

Rulemaking Authority 112.3215, 112.322(9) FS. Law Implemented 112.3215 FS. History--New 10-12-89, Amended 7-2-00,\_\_\_\_\_.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based on past experience, the adverse impact or regulatory costs, if any, do not exceed and would not be expected to exceed any one of the economic criteria set forth in Section 120.541, FS.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Sections 112.322(9) and 112.3142, Florida Statutes

LAW IMPLEMENTED: Section 112.3142, Florida Statutes

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 1, 2023, 8:30 a.m.

PLACE: First District Court of Appeal, Third Floor Courtroom, 2000 Drayton Drive, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Diana Westberry, Office Manager, Florida Commission on Ethics, (850)488-7864. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Steven J. Zulkowski, General Counsel, or Gray Schafer, Assistant General Counsel, Florida Commission on Ethics, (850)488-7864

THE FULL TEXT OF THE PROPOSED RULE IS:

34-7.025 Ethics Training Course Content.

(1) Constitutional officers, elected municipal officers, and commissioners of community redevelopment agencies created under Part III of Chapter 163, F.S., and elected local officers of independent special districts, as defined in Section 189.012, Florida Statutes, including any person appointed to fill a vacancy for an unexpired term of such elective office of an independent special district, are required

by Section 112.3142, F.S., to complete four (4) hours of ethics training each calendar year.

(2)(a) In addition to receiving training on Florida's public records laws (Chapter 119, F.S.) and open meetings laws (Chapter 286, F.S.), constitutional officers, elected municipal officers, and commissioners of community redevelopment agencies created under Part III of Chapter 163, F.S., and elected local officers of independent special districts, as defined in Section 189.012, Florida Statutes, including any person appointed to fill a vacancy for an unexpired term of such elective office of an independent special district, are required to obtain ethics training that is derived from Article II, Section 8, Florida Constitution, "Ethics in Government," and Chapter 112, Part III, F.S., the "Code of Ethics for Public Officers and Employees."

(b) No change.

(3)(a) through (b) No change.

(4) No change.

PROPOSED EFFECTIVE DATE January 4, 2024.

Rulemaking Authority 112.322(9), 112.3142 FS. Law Implemented 112.3142, 332.0075 FS. History--New 9-10-13, Amended 1-8-15, 1-9-20, 4-8-21, \_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gray Schafer, Assistant General Counsel, Florida Commission on Ethics, (850)488-7864

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kerrie J. Stillman, Executive Director, Florida Commission on Ethics

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 25, 2023

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: October 5, 2023

COMMISSION ON ETHICS

RULE NO.: RULE TITLE:

34-12.750 Probable Cause Hearing

PURPOSE AND EFFECT: Rulemaking is needed to account for a recent statutory change to Section 112.3215(8)(d), Florida Statute, by Chapter 2023-49, Laws of Florida. This change modified how the Commission on Ethics may dispose of complaints or investigations resulting from complaints or random audits of lobbying reports. It specifies these types of proceedings may be dismissed at any stage of disposition if the Commission determines that it would not serve the public interest to proceed further. Currently, Rule 34-12.750(3) requires these matters to proceed to a probable cause hearing, and states these types of matters can only be dismissed based on a finding of no probable cause. The rulemaking would update this portion of the Rule to account for the statutory change.



SUMMARY: An addition will be made to Rule 34-12.750(3) to indicate that the Commission on Ethics may dismiss a complaint concerning a violation of Section 112.3215 at any stage of disposition if it determines that the public interest will not be served by proceeding further. The addition will also indicate, tracking the language in Chapter 2023-49, that the Commission's dismissal order will state with particularity its reasons for the dismissal.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: based on past experience, the adverse impact or regulatory costs, if any, do not exceed and would not be expected to exceed any one of the economic criteria set forth in Section 120.541, FS.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: Sections 112.3215 and 112.322(9), Florida Statutes

LAW IMPLEMENTED: Section 112.3215(8)(d), Florida Statutes

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 1, 2023, 8:30 a.m.

PLACE: First District Court of Appeal, Third Floor Courtroom, 2000 Drayton Drive, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Diana Westberry, Office Manager, Florida Commission on Ethics, (850)488-7864. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Steven J. Zuilkowski, General Counsel, or Gray Schafer, Assistant General Counsel, Florida Commission on Ethics, (850)488-7864

THE FULL TEXT OF THE PROPOSED RULE IS:

**34-12.750 Probable Cause Hearing.**

(1) No change.

(2) No change.

(3) Disposition of Complaint. At the probable cause hearing the Commission may find that there is probable cause to believe that the Respondent committed one or more violations of Section 112.3215, F.S.; may find that there is no probable cause to believe that the Respondent violated Section 112.3215, F.S., and dismiss the complaint; or may continue the hearing to allow further investigation. The Commission may also dismiss a complaint at any stage of disposition if it determines that the public interest is not served by proceeding futher, in which case the Commission must issue a public report stating with particularity its reasons for the dismissal.

PROPOSED EFFECTIVE DATE January 4, 2024.

Rulemaking Authority 112.3215, 112.322(9) FS. Law Implemented 112.3215 FS. History—New 10-12-89, Amended 7-2-00,\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

Gray Schafer, Assistant General Counsel, Florida Commission on Ethics, (850)488-7864

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Kerrie J. Stillman, Executive Director, Florida Commission on Ethics

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: October 25, 2023

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAR: October 5, 2023

**DEPARTMENT OF HEALTH**

**Board of Speech-Language Pathology and Audiology**

RULE NO.: RULE TITLE:

64B20-3.0001 Fees

PURPOSE AND EFFECT: If the license is placed in retired status at any time other than at the time of renewal, the licensee must pay the retired status fee of \$50.00 and the change of status fee of \$50.00.

SUMMARY: If the license is placed in retired status at any time other than at the time of renewal, the licensee must pay the retired status fee of \$50.00 and the change of status fee of \$50.00.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

8. Public censure and reprimand.

(c) In the case of a candidate who violates this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.
2. Public censure.
3. Reprimand.
4. A civil penalty not to exceed \$20,000 ~~\$10,000~~.


(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the officer's or employee's leaving public office or employment:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.

(e) In the case of a person who is subject to the standards of this part, other than a lobbyist or lobbying firm under s. 112.3215 for a violation of s. 112.3215, but who is not a public officer or employee:

1. Public censure and reprimand.
2. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the person or to the General Revenue Fund.

Section 8. Present paragraph (d) of subsection (8) of section 112.3215, Florida Statutes, is redesignated as paragraph (e), a new paragraph (d) is added to that subsection, and paragraph (c) of subsection (8) and subsection (9) of that section are amended, to read:

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.— 

(8)

(c) The commission shall investigate any lobbying firm, lobbyist, principal, agency, officer, or employee upon receipt of information from a

sworn complaint or from a random audit of lobbying reports indicating that the entity or individual has intentionally failed to disclose any material fact or has knowingly submitted false information in any report required by this section or by rules adopted pursuant to this section ~~a possible violation other than a late-filed report.~~

(d) Notwithstanding paragraphs (a), (b), and (c), the commission may dismiss any complaint or investigation resulting from a random audit of lobbying reports at any stage of disposition if it determines that the public interest is not served by proceeding further, in which case the commission must issue a public report stating with particularity its reasons for the dismissal.

(9) If the commission finds no probable cause to believe that a violation of this section occurred, it must ~~shall~~ dismiss the complaint, whereupon the complaint, together with a written statement of the findings of the investigation and a summary of the facts, becomes ~~shall become~~ a matter of public record, and the commission must ~~shall~~ send a copy of the complaint, findings, and summary to the complainant and the alleged violator. If, after investigating information from a random audit of lobbying reports, the commission finds no probable cause to believe that a violation of this section occurred, a written statement of the findings of the investigation and a summary of the facts becomes ~~shall become~~ a matter of public record, and the commission must ~~shall~~ send a copy of the findings and summary to the alleged violator. If the commission finds probable cause to believe that a violation occurred, it must ~~shall~~ report the results of its investigation to the Governor and Cabinet and send a copy of the report to the alleged violator by certified mail. Such notification and all documents made or received in the disposition of the complaint ~~shall then~~ become public records. Upon a request submitted to the Governor and Cabinet in writing, any person whom the commission finds probable cause to believe has violated ~~any provision of~~ this section shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification. However, the Governor and Cabinet may on its own motion require a public hearing and may conduct such further investigation as it deems necessary.

Section 9. Paragraph (a) of subsection (11) of section 112.324, Florida Statutes, is amended to read:

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(11)(a) Notwithstanding subsections (1)-(8), the commission may dismiss any complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the commission shall consider whether the interests of the public were protected despite the violation. ~~This subsection~~

## **Schafer, Grayden**

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**From:** Jones, Sharon  
**Sent:** Wednesday, November 01, 2023 10:05 AM  
**To:** Schafer, Grayden  
**Subject:** Rules 34-7.025 and 34-12.750

Good morning.

I just wanted to let you know that your rules have been reviewed and the committee has no comment. I hope you have a great day.

Thank you,  
Sharon

### **Sharon Jones**

Chief Attorney  
Joint Administrative Procedures Committee  
680 Pepper Building  
111 West Madison Street  
Tallahassee Florida 32399-1400  
(850)488-9110