

Independent Ethics Commission

Complaint Form Instructions

Notice about complaints:

The Independent Ethics Commission (IEC) cannot assess criminal penalties, award injunctive relief, or award damages to complainants. Rather, a covered individual found to have breached the public trust for private gain is liable for double the amount of the financial equivalent of any benefits obtained by such actions. The manner of recovery and additional penalties may be provided by law.

The IEC's personal and subject matter jurisdiction is limited and is generally described in the [IEC's Handbook](#), which is available on the IEC website.

How do I file a complaint?

- The IEC complaint form is attached below.
- The complaint form should be downloaded and completed electronically or by hand (electronic completion and filing is preferred).
- All complaint form fields are required. Provide as much relevant information and answer all questions as completely as you can.
- Additional information about filing complaints may be found in [IEC Rule 7](#), the [Complaint FAQ](#), and the [IEC's Handbook](#).
- The complainant's signature is required. As such, anonymously submitted complaints are discouraged and, in the IEC's discretion, may not be accepted.
- Completed complaint forms may be printed or scanned and may be hand-delivered, mailed, faxed, or e-mailed. The use of e-mail is encouraged. All relevant attachments must be included.
- The IEC's contact information is:
 - E-mail: iecinfo@state.co.us
 - Mail: 1300 Broadway, Suite 240, Denver, CO 80203
 - Fax: (303) 501-1143

What happens when I file a complaint?

- The IEC will determine if the complaint is timely, whether it has jurisdiction over the complaint, and whether the complaint is frivolous or non-frivolous. The IEC must treat the complaint as confidential unless it rules the complaint is non-frivolous.
- The IEC may conduct a preliminary investigation prior to making the determinations above.
- If the IEC determines that a complaint is timely, jurisdictional, and non-frivolous, the IEC will notify the respondent and provide a copy of the complaint. The respondent has a right to file a response within 30 days. The IEC's staff will also conduct an investigation.
- The IEC will hold a hearing, during which the complainant and respondent may present evidence, examine and cross-examine witnesses, and make legal arguments.
- The IEC will issue a written decision.

Am I entitled to be represented by counsel?

- Yes. Both parties have the right to be represented by legal counsel of their choosing. Parties must obtain legal counsel at their own expense.

Independent Ethics Commission – Formal Complaint Form

Before the Independent Ethics Commission
of the State of Colorado

For Commission Use Only

Received date: _____

Case. No.: _____

The Complainant is: Sara Loflin, ProgressNow Colorado
(name)

Mailing Address: 1536 Wynkoop Street #224
Denver, CO 80202

Daytime telephone number: 303-349-1617

Email address: sara@progressnowcolorado.org

The Respondent is: John Kellner
(name)

Mailing Address: 18th Judicial District of Colorado
6450 S. Revere Parkway
Centennial, CO 80111

Daytime telephone number: 720-874-8500

Email address: _____

When did the alleged violation occur: October 25, 2021

Describe the specific acts or things complained of, with facts that provide a full understanding of the alleged violation(s). If possible, cite the specific ethical standards alleged to have been violated and describe how the violation(s) occurred. Use additional pages if necessary. Attach any documentary evidence you wish to submit.

On December 28, 2021, Denver 9News first reported that in 2021 Jefferson County investigators recommended charges of first- and second-degree official misconduct against Holly Kluth, a Republican candidate for Douglas County Sheriff who was found through an internal investigation to have ordered an employee to alter her personnel files. In October 2021, Kellner received campaign donations from Kluth.

On October 25, 2021, Kellner refused to prosecute Kluth stating two reasons: First, the statute of limitations has run on any potential charges, and second, the evidence is insufficient. Both of these claims are false.

Description of acts or things complained of (continued):

As for Kellner ' s statute of limitations claim, Kellner misstates the timeline. The alleged conduct happened in April 2019 and wasn ' t investigated until the summer of 2021. The timeline for the statute of limitations is not based on when the conduct occurred but instead on when it was discovered – which was just a few months before Kellner ' s refusal to prosecute.

As for Kellner ' s insufficient evidence claim, a formal investigation and report by Jefferson County sheriff investigators discovered Kluth had accessed her personnel file six days before a subordinate deleted the file. Investigators interviewed the sheriff ' s office employee who deleted the file, and claimed he had been ordered to delete the file by Kluth. And Jefferson County investigators recommended charges of first- and second-degree official misconduct against Kluth.

In addition -- and what has not yet been publicly reported -- is that between the time of the alleged conduct in 2019 and the release of Kellner ' s letter refusing to prosecute in October 2021, Kellner received campaign donations from Kluth.

Kellner ' s failure to disclose that he had received multiple donations from Kluth during the investigation period combined with his false claims for refusing to prosecute, raise serious questions about Kellner ' s engagement in misconduct that is prejudicial to the administration of justice and appears to be a violation of the Colorado Rules of Professional Conduct.

On behalf of the citizens of Colorado who expect that our state ' s prosecutors abide by the rules of professional conduct and we ask that you investigate Kellner for what clearly appears more than a clear violations of ethics, but also his prejudicial administration of justice and hold him accountable to the full degree of the law.

Advisement regarding remedies and penalties: Pursuant to Colo. Const. art. XXIX, § 6, a covered individual found to have breached the public trust for private gain is liable for double the amount of the financial equivalent of any benefits obtained by such actions. The manner of recovery and additional penalties may be provided by law. The Commission does not assess criminal penalties, award injunctive relief, or award damages to complainants.

I hereby acknowledge that the facts presented herein are true to the best of my knowledge, and I will cooperate in the process regarding this complaint and will appear at any proceeding of the Independent Ethics Commission if the complaint is scheduled for a hearing.

Signature: SL

Attorney (if applicable): _____

Dated at Erie (City), Colorado, this 31 day of March, 2022 .

Created by Article XXIX of the Colorado Constitution, the Independent Ethics Commission may review and hold hearings on matters falling within its jurisdiction as outlined in Article XXIX.