

DRAFT - NOT FOR FILING

1301:13-3-01 Complaint procedure.

~~(A) Within twenty days after a person files a signed written complaint against a registered cemetery, the superintendent shall acknowledge receipt of the complaint and within seven days of receiving such complaint the superintendent shall send written notice of the complaint to the respondent, including a copy of the complaint.~~

(A) When a signed written complaint against a cemetery is filed, the registration status of the cemetery will be determined by the division:

(1) If it is determined that the cemetery is not registered because it is exempt from cemetery registration, the superintendent will return the complaint with a letter explaining that the division has no jurisdiction over a cemetery that is not required to be registered;

(2) If it is determined that the cemetery is not registered but is required to be registered, the superintendent will, within fourteen days, after a person files a signed written complaint acknowledge receipt of the complaint and shall send written notice of the complaint to the respondent, including a copy of the complaint. The division will also send a cemetery registration application to the cemetery operator. The operator shall have thirty days after the mailing of the registration application to respond to the division.

(3) If it is determined that the cemetery is registered, the superintendent will, within seven days, after a person files a signed written complaint acknowledge receipt of the complaint and shall send written notice of the complaint to the respondent, including a copy of the complaint.

(B) The respondent shall have thirty days after the mailing of the notice to respond to the division with respect to the complaint. Upon receipt of a response from the respondent, or if no response is received, the division may proceed to investigate the complaint and, if appropriate, attempt to resolve the matter using informal techniques of mediation, conciliation and persuasion. Notice of any offers to resolve a dispute that is the subject of a complaint and any responses to such offers, when communicated to the commission or division, shall be given to the other parties in person, by telephone, by electronic mail or by mail.

(C) The commission shall hear each complaint filed within one hundred eighty days after its filing with the division, unless it has been resolved by the parties to the complaint. If the division is notified in writing by both parties that a resolution was reached prior to being heard by the commission, the complaint file shall be closed. A hearing may be continued for good cause shown to a date certain.

If the hearing is pursuant to a complaint, notice shall be given to the parties not less than thirty days prior to the hearing. If the hearing is in connection with an ~~investigation by the commission, on its own motion, notice shall be given as the commission determines~~ audit, not less than fourteen days prior to the hearing.

(D) At the hearing, the chairperson or vice-chairperson of the commission, or a member of the commission appointed by the chairperson or vice-chairperson, shall preside. The division shall submit to the commission a report identifying the status of the investigation or the complaint filed, any responses, and the results of any investigations or attempts to resolve a complaint.

Hearings are to be conducted on an informal basis and shall be recorded by electronic devices. References may be made to rules of evidence but the commission shall not be bound by them. Parties and those giving testimony may be represented by counsel. Those subpoenaed to give testimony and others wishing to present testimony are to be sworn.

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The commission may conduct nonpublic hearings and maintain commission proceedings and records of those proceedings as confidential when the commission determines that public disclosure of the nature of the complaint would cause severe emotional distress to the complainants or other persons, exclusive of the cemetery registrant.

(E) At the conclusion of the hearing, the commission may:

- (1) Order further investigation or initiate additional attempts to resolve the complaint by using informal techniques of mediation, conciliation and persuasion;
- (2) Make findings of fact and or recommendations;
- (3) Dismiss the complaint in accordance with section 4767.08 of the Revised Code;
- (4) Order referrals or a review of financial records in accordance with section 4767.08 of the Revised Code.

(F) All notices, findings, and recommendations issued pursuant to this rule shall be mailed via regular mail.