

FAIR CAMPAIGN PRACTICES
FOR
THE CAPITAL REGION, INC.

OPERATIONAL
MANUAL

July 2009

**FAIR CAMPAIGN PRACTICES
FOR
THE CAPITAL REGION, INC.**

**OPERATIONAL MANUAL
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FAIR CAMPAIGN PRACTICES FOR THE CAPITAL REGION, INC.

STRUCTURE AND PROCEDURES

- I. Purpose
The purpose of Fair Campaign Practices For the Capital Region, Inc. (FCP) is to promote a climate in which candidates conduct honest campaigns. FCP encourages candidates to conduct campaigns openly and fairly, to discuss issues, to refrain from defamatory attacks on the character of their opponents, and not to use campaign materials that distort the facts.
- II. Board of Directors
 - A. Composition
The board of FCP is composed of four members from the Interfaith Alliance of New York State and eight members from the League of Women Voters, with two from each of the Leagues in Albany, Rensselaer, Saratoga, and Schenectady Counties.
 - B. Duties of FCP
FCP shall appoint a Pool of respected community members, from which Hearing Panels shall be constituted to hear and adjudicate complaints of unfair campaign practices occurring within Albany, Rensselaer, Saratoga, and Schenectady Counties. FCP shall also appoint a Coordinator and four persons to serve as Chairs of the Hearing Panels. FCP shall determine the procedures by which the Hearing Panels conduct their business and shall amend those procedures from time to time as may be necessary for the more efficient functioning of the Hearing Panels. FCP shall periodically solicit funds for the purpose of carrying out its operations and administer funds received.
 - C. President
At its Annual Meeting each year the FCP shall elect one of its members to serve as President for the coming year. The President shall act as spokesperson for FCP.
- III. The Pool and The Hearing Panels
 - A. The Pool
FCP shall appoint thirty-two individuals from of Albany, Rensselaer, Saratoga, and Schenectady Counties to a Pool. To the extent feasible, there should be a comparable number of members from each county. Members of the Pool shall be United States' citizens of voting age, who are respected members of their communities.

They must be individuals who are capable of acting in a nonpartisan fashion and who are perceived by the community as doing so. Former Pool members may serve on Hearing Panels.

B. The Hearing Panels

1. Composition

The Hearing Panel shall be composed of voting and *ex officio* members.

2. Voting Members of the Hearing Panels

The Coordinator shall form Hearing Panels for each day during an election cycle on which a hearing will be held. One Chair, four additional members of the Pool, either past or present, and the Coordinator shall constitute the voting members of the Hearing Panel. As a general matter, voting members of Hearing Panels should not serve in a matter concerning a race in which they could vote.

3. *Ex Officio* Members

a. Each political party that qualifies to appear on the ballot may appoint one *ex officio* member from each county.

b. *Ex Officio* members may attend hearings and participate in discussion. They will be excused when the voting members go into executive session to deliberate and make their decision about the validity of a complaint.

4. Quorum

A quorum shall exist when five voting members of the Hearing Panel are present.

5. Members of the Pool

Members of the Pool, who have not been selected as members of a Hearing Panel for a particular hearing, may attend both the hearing and the executive session as observers. However, they may not participate in the deliberations.

C. Terms of Service – Terms of service shall commence on June 1.

1. Voting Members

Voting members are divided into two classes serving staggered terms of two years. For the first year, FCP shall appoint half of the voting members for one-year terms.

Thereafter members shall be appointed for two-year terms as terms expire. Voting members may be reappointed.

2. Coordinator
The Coordinator serves for a one-year term and may be reappointed.
3. *Ex Officio* Members
Ex Officio members serve for a one-year term and may be reappointed.

D. Selection

1. Voting Members
FCP shall appoint members of the Pool as vacancies arise.
2. Chairs
FCP shall appoint four chairs of the Hearing Panels for one-year terms. In making appointments, the Committee shall be sensitive to county representation. Chairs may be reappointed. The Coordinator shall appoint a chair of each Hearing Panel from among the four chairs, distributing the appointments so that each Chair will preside over an approximately equal number of hearings. Former chairs may serve as chairs in the event that current chairs are unavailable on a particular day. As a general matter, a chair should not serve in a matter concerning a race in which he/she could vote.
3. Coordinator
Every year FCP shall review the performance of the Coordinator over the past year. If FCP is satisfied with the Coordinator's performance and the Coordinator is willing to serve for another year, FCP may reappoint the Coordinator. If FCP wishes to consider other applicants for the position of Coordinator, it shall solicit resumes and interview candidates for the position. Upon completion of the screening process, it shall appoint a Coordinator for the following year.
4. *Ex Officio* Members
Ex Officio members are designated by the political parties. Each year, the Coordinator will contact the political parties in each county, requesting the name of the appointed representative who will serve for the coming year.

5. Vacancies
Vacancies shall be filled in the same manner as regular appointments. Each appointee shall complete the term of the seat vacated.

E. Duties

1. The Chair of each Hearing Panel is expected to:
 - a. Draft a description of each complaint in preparation for the hearing;
 - b. Preside at the hearing and determine the order of speakers, the time allocated to each, and the order of questions;
 - c. Prepare proposed findings and oversee corrections until a majority of the Hearing Panel agrees with the proposed findings. Approve the final version of the findings for distribution;
 - d. Be available the day after the hearing for purposes of drafting and finalizing findings and be generally available the following day to answer questions;
 - e. Act as spokesperson for the Hearing Panel;
 - f. Officiate at approximately one-quarter of the scheduled hearings;
 - g. Find a replacement Chair or adjourn the hearing if the complaint involves a race in which the Chair could vote;
 - h. Participate in determination of emergency complaints, as requested by the Coordinator.
2. Voting Members are expected to:
 - a. Be familiar with the Manual and support the Principles of FCP;
 - b. Attend a training session and organizational meeting for purposes of learning how the Hearing Panel operates;
 - c. Agree to serve on a specified number of Hearing Panels during the election cycle and fulfill other responsibilities as needed;
 - d. Find an alternative Hearing Panel member for each hearing involving a race in which the panel member could vote;
 - e. Communicate immediately when responses are required;

- f. Recognize the Chair as spokesperson for the Hearing Panel, referring all questions to the Chair or, in the Chair's absence, to the Coordinator;
 - g. At hearings, disclose any relationship with either party or the party's representative, with recusal upon request;
 - h. Maintain the confidentiality of deliberations and decisions taken in Executive Session;
 - i. Refrain from taking an active or visible role in the campaign of any candidate or party in Albany, Rensselaer, Saratoga, or Schenectady Counties; (All questions about the nonpartisanship of a particular activity must be directed to FCP.)
 - j. Attend scheduled meetings of other Hearing Panels as time permits;
 - k. Participate in determination of emergency complaints, as requested by the Coordinator.
3. The Coordinator, or designee, is expected to:
- a. Send the Fair Campaign Practices Manual and forms to the Board of Elections and chairs of the political parties in each of the four counties.
 - b. Make arrangements to have the Fair Campaign Practices Manual and forms put on-line and updated as necessary;
 - c. Send the Fair Campaign Pledge and cover letter describing the complaint process to each candidate;
 - d. Receive complaints of unfair campaign practices and fax complaints to all voting members of the Hearing Panel;
 - e. After consultation with members of the Hearing Pool, chose one or more days in the week to schedule hearings;
 - f. Establish a Hearing Panel, appoint a chair, and locate a place to hold the hearing for each day on which a regular hearing may be held;
 - g. In consultation with the Chair of a Hearing Panel, determine whether to schedule a hearing;
 - h. Schedule hearings, notify parties and members of the Panel, and verify service of the complaint;
 - i. Sit as a voting member of each Hearing Panel and keep records of the individuals who attend hearings and the capacities in which they attend;
 - j. Upon receipt of an emergency complaint, immediately attempt to notify both parties and contact a Hearing Panel Chair, the *ex officio* members and four

additional members of the Hearing Pool for purposes of deciding upon an appropriate course of action;

- k. Respond to questions from the Hearing Panel members and discuss questions having policy implications with the Chair;
 - l. Maintain all records of the Hearing Panel;
 - m. Notify parties and Panel members of Hearing Panel decisions and findings;
 - n. Type releases of findings on FCP letterhead and distribute to principals, press, and all members of the Hearing Panel;
 - o. Maintain current press and political party lists, in consultation with FCP;
 - p. Consult with FCP and the Hearing Panel Chairs as is necessary;
 - q. Work with FCP to develop a budget and report to the Committee periodically about disbursement of funds; perform such other functions as the Chairs of the Hearing Panels or FCP may request.
4. *Ex Officio* members are expected to:
- a. Be familiar with the Manual and promote the Principles of FCP;
 - b. Make every effort to attend Panel hearings concerning candidates running for office in a jurisdiction or district within the county. If unable to attend any such meeting, notify the Coordinator, who will attempt to ensure that an *ex officio* member of the party from another county attends;
 - c. Communicate immediately when responses are required;
 - d. Contribute political experience and perspective to the discussion. (**Ex Officio members are not to act as advocates or representatives for members of their parties.**);
 - e. Refer questions to the Chair of the Hearing Panel;
 - f. Share the Principles of FCP with their political party and candidates.

F. Decision After Hearing

The Hearing Panel's decision shall be determined by majority vote of the voting members of the Panel.

- G. Determination of Response to Emergency Complaint
The Hearing Panel shall determine the response to an emergency complaint after consultation, but without formal hearing, by majority vote of the Panel.

**FAIR CAMPAIGN PRACTICES
FOR
THE CAPITAL REGION, INC.**

CANDIDATES'

MANUAL

Amended April 1, 2009

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INTRODUCTION

The League of Women Voters of Albany, Rensselaer, Saratoga, and Schenectady Counties and The Interfaith Alliance of New York State, Capital District Chapter established Fair Campaign Practices for the Capital Region, Inc. (FCP) to hear candidate complaints of unfair campaign practices occurring within a four-county area.

FCP has established a pool of 32 community leaders from Albany, Rensselaer, Saratoga, and Schenectady counties, who represent a wide range of public interests and are recognized as being independent and fair minded. From this pool, the Hearing Panels, which hear evidence and determine when unfair campaign practices have occurred, will be selected. Members representing the recognized political parties serve on the Hearing Panels *ex officio* (without vote); they contribute political perspective and experience to the discussion. During the electoral cycle, the Hearing Panel meets once or twice a week. For the two weeks before an election, it meets on an as-needed basis. Commencing on a Tuesday 2 weeks prior to an election, the Hearing Panel may receive and decide emergency complaints without formal hearings

Five members of the Hearing Panel constitute a quorum for purposes of conducting business, and the Hearing Panel's decision will be by simple majority of the voting members present.

The standards of fairness, which the Hearing Panel seeks to uphold, are contained in FCP's Statement of Principles. The procedures for filing and hearing of complaints are contained in the Operating Procedures. Both documents are included in this manual.

PURPOSE

The Purpose of Fair Campaign Practices for the Capital Region, Inc. (FCP) is to promote a climate in which candidates conduct honest and issue-oriented campaigns. FCP encourages candidates to conduct campaigns openly and fairly, to discuss issues, to refrain from defamatory or misleading attacks on the character of their opponents, and not to use campaign materials that distort the facts.

By creating this mechanism for examining questionable campaign tactics, FCP does not seek to encroach upon First Amendment rights; rather, it seeks to expand the political debate by more fully informing the electorate of unfair campaign practices. It sits neither as a censor of political discussion nor as a body to enforce election law or make legal decisions. Its task is to accept written complaints about alleged unfair campaign practices and to determine whether the actions complained about are unfair. FCP will consider to be unfair any practice that is in violation of its Statement of Principles.

Neither the candidate complaining about the unfair practice nor the candidate complained against need to have signed the fair campaign pledge in order to avail themselves of the hearing process. However, a panel may decline to hear the complaint of a candidate who has not modified campaign behavior found to constitute an unfair campaign practice.

FCP has no power to compel anyone to stop doing what it has found to be unfair. If it considers a complaint, it will release its findings to inform the public, in the belief that a fully informed voting public is best able to make competent electoral decisions.

FAIR CAMPAIGN PRACTICES FOR THE CAPITAL REGION, INC. (FCP)

BOARD OF DIRECTORS

Composed of:

THE INTERFAITH ALLIANCE

4 Directors

THE LEAGUE OF WOMEN VOTERS

Albany County	2 Directors
Rensselaer County	2 Directors
Saratoga County	2 Directors
Schenectady County	2 Directors

APPOINTS

HEARING POOL AND COORDINATOR

The Hearing Pool Includes:

VOTING MEMBERS

Hearing Panel Coordinator
8 Citizens from Albany County
8 Citizens from Rensselaer County
8 Citizens from Saratoga County
8 Citizens from Schenectady County
Former Hearing Pool Members

and

NON-VOTING MEMBERS

Each political party in each county may designate one person to serve as an *ex-officio* member of the Hearing Panel

Six of the Voting Members will be designated by the Board as Chairs of the Hearing Panels.

COORDINATOR

Forms a Hearing Panel consisting of four (4) Voting Members of the Hearing Pool, the Chair, and the Coordinator for each scheduled hearing. A quorum shall exist when five (5) voting members of the Hearing Panel are present. A Non-Voting Member from each political party in each county will be invited to participate in each hearing. Although FCP urges candidates to sign and abide by its fair campaign pledge, neither the complaining candidate nor the candidate

complained about need to have signed the pledge in order to avail themselves of the hearing process.

STATEMENT OF PRINCIPLES

FAIR CAMPAIGN PRACTICES FOR THE CAPITAL REGION, INC. (FCP) believes candidates should conduct their campaigns in accordance with the following principles.

1. The candidate will conduct a campaign for public office openly, fairly, and truthfully. Candidates will discuss the issues and participate in fair debate with respect to their views and qualifications.¹
2. The candidate will not engage in, permit, or condone unfair or misleading attacks upon the character of an opponent, nor will the candidate engage in invasions of personal privacy unrelated to fitness for office.
3. The candidate will not participate in, permit, or condone any appeal to prejudice.
4. The candidate will not use, permit the use of, or condone the use of any campaign material or advertisement that misrepresents, distorts, or otherwise falsifies a fact or the facts regarding either the candidate or an opponent.
5. The candidate will ensure that his/her campaign materials and advertisements, which the candidate disseminates or which are disseminated the candidate's behalf, clearly identify the candidate and contain the name and address, or other contact information, of the sponsor.
6. The candidate will not abuse FCP or its hearing process. The candidate will not misrepresent FCP findings in order to obtain political advantage.
7. The candidate will promptly and publicly disavow support from and the materials/actions of any individual or group whose activities violate this Statement of Principles or whose activities would violate this Statement of Principles if engaged in by the candidate or the candidate's campaign.

¹ This principle is modified for candidates for judicial office as the result of constraints imposed on debate by the Code of Judicial Conduct.

FAIR CAMPAIGN PLEDGE

I PLEDGE to conduct my campaign for public office openly, fairly, and truthfully. I will discuss the issues and participate in fair debate with respect to my views and qualifications.²

I WILL NOT engage in, permit, or condone unfair or misleading attacks upon the character of my opponents, appeals to prejudice, or invasions of personal privacy unrelated to fitness for office.

I WILL NOT use or permit the use of any campaign material or advertisement that misrepresents, distorts, or otherwise falsifies the facts regarding my opponents or myself.

I WILL ensure that my campaign materials and advertisements, which I disseminate or which are disseminated on my behalf, clearly identify me and contain the name and address, or other contact information, of the sponsor.

I WILL promptly and publicly disavow support from and the actions of any individual or group whose activities violate this Fair Campaign Pledge or whose activities would violate this pledge if engaged in by me or my campaign.

I WILL NOT misuse the process of Fair Campaign Practices For The Capital Region, Inc. or misrepresent its findings in order to obtain political advantage.

IN SIGNING this Fair Campaign Pledge, I acknowledge personal control and accept responsibility for the conduct of my campaign.

DATE: _____

SIGNATURE

CANDIDATE FOR: _____

PRINT NAME

E-MAIL

PHONE FAX

ADDRESS

Fair Campaign Practices for the Capital Region, Inc.
86 Alpine Drive, Latham, NY 12110, email: mauricedrown@msn.com

² This pledge is modified for candidates for judicial office as the result of constraints imposed on debate by the Code of Judicial Conduct.

OPERATING PROCEDURES

Fair Campaign Practices For The Capital Region, Inc. (FCP) has adopted the following procedures for the resolution of unfair campaign practices complaints.

INTRODUCTION

- A. An unfair campaign practice is defined as a candidate's failure to abide by one or more of the principles outlined in the Statement of Principles.
- B. A Hearing Panel of the FCP shall hear all regular complaints of unfair campaign practices.
- C. Only official candidates may file complaints. An official candidate is one who has complied with the filing requirements necessary to secure a place on the ballot. In the case of a contested primary, any candidate who claims to have won the primary shall be considered an official candidate until the matter is resolved.
- D. For a complaint to be considered by a Hearing Panel, the unfair practice must have occurred in or the material must have been disseminated in Albany, Rensselaer, Saratoga or Schenectady counties and the political race must be one affecting voters in at least one of the four counties. FCP will not consider complaints arising from campaigns for statewide or national office.
- E. Neither the complaining candidate nor the candidate against whom the complaint is lodged need to have signed the fair campaign pledge prior to filing or responding to the complaint. However, if a candidate who has filed a complaint has been found to have committed an unfair campaign practice and has not ceased in that practice after issuance of a FCP finding, the hearing panel may elect not to hear the offending candidate's complaint.

FILING COMPLAINTS

- A. General Information
 - 1. Candidates may file one of 2 types of complaints – a regular complaint or an emergency complaint. The type of complaint to be filed is determined by when in the electoral cycle it is filed.
 - 2. Candidates wishing to file complaints must complete the Unfair Campaign Practices Complaint Form included in this manual. Procedures for completing and filing the complaint are described in the form *Directions For Pursuing A Complaint*

contained in this manual. Additional copies of the manual and individual Complaint Forms are available from:

Rev. Mick Drown
86 Alpine Drive, Latham, NY 12110
phone: 518-424-8787
fax: 518-783-1074, call first
email: mauricedrown@msn.com On-line:
<http://www.faircampaignpractices.info>

3. All alleged violations arising out of the same advertisement, flyer or set of facts must be brought in the same complaint. Candidates who fail to include all alleged violations in a single complaint will be barred from bringing another complaint about the same advertisement, flyer, or set of facts.
4. A Hearing Panel will act only on the violations alleged in the complaint.
5. To initiate a regular complaint, the complaining candidate must file a complaint by serving a copy of the complaint on the candidate complained against, completing the certificate of service, and filing a copy of the complaint with completed certificate of service with the Coordinator at:

Rev. Mick Drown
86 Alpine Drive, Latham, NY 12110
phone: 518-424-8787
fax: 518-783-1074, call first
email: mauricedrown@msn.com

Filing shall have occurred when the Coordinator receives the complaint with proof of service, whether delivered personally, by FAX, by mail, or by e-mail.

To initiate an emergency complaint, the complaining candidate shall contact the Coordinator and file a written complaint by one of the methods outlined for the filing of regular complaints. In choosing the method by which to file an emergency complaint, the candidate should be aware that time is of the essence and the sooner such a complaint is filed the greater the likelihood will be that the voters will receive notice of the resolution prior to the election.

Filing of an emergency complaint shall have occurred when the Coordinator receives the complaint, either in writing or electronically.

B. Filing and Serving a Regular Complaint

1. Complaints filed on or before the Monday three weeks before an election day shall be considered regular complaints. Complaints filed within one week after an election may be heard as regular complaints if their adjudication would establish a precedent for future campaigns.
2. Regular complaints must be served on the candidate complained against by United States Postal Service Express Mail, with waiver of signature at delivery, overnight delivery service, with waiver of signature at delivery, or personal service on the candidate complained against or his/her designee.
3. Regular complaints shall be scheduled for a hearing. All parties to a regular complaint shall be given at least 48 hours notice of the hearing.

C. Filing and Serving an Emergency Complaint

1. Complaints filed on or after 2 Tuesdays before an election may be heard on an emergency basis.
2. After the complaint has been filed, the complainant must make a reasonable attempt to notify the party complained against about the complaint. The Coordinator shall determine whether a reasonable attempt has been made. Actual service of the complaint or verbal notification of the candidate or his/her campaign manager, combined with electronic service, shall be deemed reasonable.

RESPONDING TO COMPLAINTS AND DELIVERY OF DOCUMENTS TO BE INTRODUCED AT THE HEARING

- A. A candidate who has been complained against may file a written response to a complaint.
- B. In the case of a matter set for a regular hearing, the response must be served on the complainant either by personal service, by United States Postal Service Express Mail, with waiver of signature at delivery or other overnight delivery service, with waiver of signature at delivery, FAX or e-mail. A copy of the response and a completed certificate of service must be filed with the President. Both the complainant and the President must receive their copies of the response at least 24 hours before the hearing.
- C. A party wishing to introduce copies of documents or broadcast materials at the hearing must provide copies of all such materials to his/her opponent at least 24 hours before the hearing by one of the forms for service of responses. Written responses and copies of documents will not be considered by the hearing panel unless they have been provided to the other party at least 24 hours before the hearing. In the event it was impossible for a party to

obtain documents in time to provide 24 hour notice, the hearing panel may at its discretion adjourn the hearing or hold the record open for a period of time to consider the documents and any objection to or explanation of them.

- D. A candidate who is the subject of an emergency complaint may respond either verbally, electronically or in writing by presenting his/her response to the Coordinator. Time is of the essence, so the candidate complained against should elect the most expedient method for submission of a response.

IV. HEARING REGULAR COMPLAINTS

A. Scheduling Hearings

1. When a complaint is received, the Coordinator shall deliver it by FAX, e-mail, or other method of expedited delivery to all members of the Hearing Panel.
2. The Coordinator shall schedule the complaint for a hearing unless the Coordinator and Chair of the Hearing Panel agree that a hearing is inappropriate. A hearing may be inappropriate because the facts stated in the complaint do not rise to the level of an Unfair Campaign Practice, the matter would be better handled in another forum, such as a court, or the complaint cannot be heard until after the election and its resolution would have no instructive value for other candidates.
3. If a hearing is necessary, the Coordinator shall notify the parties of the date, time, and place of the hearing. The Coordinator shall notify the Panel Members parties of the date, time, and place of the hearing. Notice shall be by telephone and in writing, delivered by FAX, e-mail, mail, or delivery to the candidate and Panel members, as time may permit.

B. Postponement of Hearings

Regular hearings may be postponed with the consent of the parties, provided the President is notified of the adjournment at least 24 hours prior to the hearing.

C. Presentation of Complaints

1. Hearings are composed of an open public hearing (open to the public at large and the media), clarification of issues (attended by the entire Hearing Panel), and an executive session (attended by voting members of the Hearing Panel).
2. A quorum of the Hearing Panel is 5 voting members.
3. The Chair of the Hearing Panel shall conduct the hearing.
4. The complainant and the party complained against, and/or representatives, will be permitted to attend and to speak at the open hearing. Each party will be given a total of 10 minutes to present the case. After the parties have presented their cases, voting and *ex officio* members of the Panel may ask questions

of the parties. The question period should be limited to 30 minutes.

5. A hearing may proceed in the absence of the party complained against if the Hearing Panel determines that the party received adequate notice of the hearing.

D. Deliberation and Decision

1. Once the hearing has been concluded, the parties, their representatives, and members of the public will be excused, so that the Hearing Panel may clarify the issues presented by the case. Voting and non-voting (*ex officio*) members of the panel may participate in the discussion.
2. Upon completion of the discussion described in Paragraph 1, the Hearing Panel will go into Executive Session. *Ex officio* members will be excused so that the voting members of the Hearing Panel may deliberate and vote on the merits of the complaint.
3. Hearing Panel decisions will be by majority of the voting members present. After reaching their decision, the voting members will prepare their findings. The chair will draft written findings and circulate them among the hearing panel until a majority has consented to their adoption.

E. Announcing Decisions

1. Within 48 hours after the hearing, the Coordinator shall prepare the written decision on FCP stationery and fax or e-mail it to the panel for approval by the majority. The Coordinator shall then forward the approved decision first to the parties and then to the news media. If a party does not have a FAX, the Coordinator will notify that party of the decision by telephone. A copy of the decision will be sent to each party by first class mail.
2. The Hearing Panel will not delay public release of its findings if the Coordinator is unable to make direct contact with a party.
3. If a candidate or campaign wishes to represent or quote from a decision, FCP requires that the representation or quotation is not misleading. FCP regards misleading representation or quotation of its findings as an unfair campaign practice, in violation of Principle 6.

V. HEARING EMERGENCY COMPLAINTS

A. Receipt of Complaints

1. An emergency complaint is one that has occurred sufficiently close to the election so that it is not possible to convene a regular hearing and that on its face is so egregious that it calls for an immediate response. In determining whether this standard has been met, the hearing panel will consider when

the alleged unfair campaign practice occurred, the nature of the violation, and whether the practice complained of appears to have been for the purpose of obtaining unfair political advantage. As a general matter, complaints about matters occurring prior to 3 Wednesdays before an election will not be considered emergency complaints.

2. When the Coordinator receives notice of a potential emergency complaint, he/she shall advise the candidate to file a complaint form either electronically or in writing in the most expeditious manner possible. The Coordinator shall also advise the complaining candidate of reasonable steps he/she must take to notify the candidate complained against about the complaint.

B. Presentation of Complaints

1. Because time is of the essence in determination of emergency complaints, the Coordinator, in consultation with a Chair of the Hearing Panel, shall determine if sufficient information is available or readily obtainable to present the complaint to a Hearing Panel.
2. When a determination has been made that a hearing is appropriate, the Coordinator shall convene a Hearing Panel and present to it the complaint with all information currently available. Whenever possible, the parties will be given an opportunity for input and *ex officio* members of the Hearing Panel will be given an opportunity to provide their perspectives on the complaint. Given the limited time framework, any hearing and deliberations may be conducted electronically. The Hearing Panel shall then determine an appropriate response to the complaint.

C. Decision

1. Hearing Panel decisions will be by majority vote.
2. If the complaint has been sustained in whole or in part, the Hearing Panel may choose to do one or more of the following: write a formal opinion, write a press release announcing its decision, communicate its findings to the media through a press conference.

D. Announcing Decisions

1. After the Hearing Panel's decision has been reached, the Coordinator will attempt to notify the parties of the decision by the quickest means available. In addition, a copy of any decision will be sent to each party by first class mail.
2. The Hearing Panel will not delay public release of its decision if the Coordinator is unable to make prompt contact with either party.

3. The Coordinator shall proceed immediately to implement the publicity envisioned by the Hearing Panel's determination.
4. Candidates may not misuse the FCP process or mischaracterize FCP decisions to obtain political advantage.
Mischaracterization of a decision may constitute an independent violation.

Questions regarding these procedures or any decisions of the Panel should be addressed to:

Rev. Mick Drown
86 Alpine Drive, Latham, NY 12110
phone: 518-424-8787
fax: 518-783-1074, call first
email: mauricedrown@msn.com

UNFAIR CAMPAIGN PRACTICES COMPLAINT FORM

(Neither you nor your opponent need to have signed the Fair Campaign Pledge in order for you to file a complaint.)

TO: Rev. Mick Drown
86 Alpine Drive, Latham, NY 12110
phone: 518-424-8787
fax: 518-783-1074, call first
email: mauricedrown@msn.com

FROM: Name of Candidate:

Address:

Telephone: Fax: E-mail:

Candidate for:
(office, district, jurisdiction)

I HEREBY MAKE A COMPLAINT FOR UNFAIR CAMPAIGN PRACTICE(S)
AGAINST:

Name of Candidate:

Address:

Telephone: Fax: E-mail:

Candidate for:
(office, district, jurisdiction)

DESCRIPTION OF UNFAIR PRACTICE(S). On a separate piece of paper, briefly and concisely describe what you claim is the unfair practice(s) and the principle(s) in the Statement of Principles, which the described facts violate. Include documentation, such as newspaper ad or campaign brochure, radio or TV script or audio or video tape (station, date, time aired), or public statement. Complaints must be concise enough to be presented during the 10-minute time period allotted at the hearing. They must also list all alleged violations contained in the brochure, advertisement, transmission, or broadcast or set of facts. Failure to list alleged violations arising out of the same document, transmission, or set of facts will prohibit you from raising them in a subsequent complaint. Failure to attach documentation to the complaint or to serve it on your opponent at least 24 hours before the hearing will prohibit its consideration at the hearing. The complaining candidate must sign this complaint.

I have read the attached Description of Unfair Practice(s), and it is true to the best of my knowledge.

CANDIDATE

CERTIFICATE OF SERVICE FOR REGULAR COMPLAINT,
RESPONSE, OR DOCUMENTS

I _____ certify that I delivered a copy of this
(Name of person serving document)

Complaint and attachments / Response (circle appropriate document) on

_____ on _____ by
(Name of candidate served) (Date)

the following method:

Hand delivered _____

U.S. Postal Service Express Mail* , with waiver of signature
at delivery _____

Overnight delivery service, with waiver of signature at
delivery _____

(Check the method of service used)

DATE OF SERVICE
(date documents personally
sent)

TIME OF SERVICE
(time documents personally served or
served or sent)

SIGNATURE OF PERSON WHO MAILED OR DELIVERED DOCUMENT

DATE

* If service is made by Express Mail or Federal Express,
, attach a copy of the Express Mail receipt to the Certificate of Service.

CERTIFICATE OF SERVICE FOR EMERGENCY COMPLAINT

I _____ certify that I delivered a copy of this
(Name of person serving document)

Complaint and attachments / Response (circle appropriate document) on

_____ on _____ by
(Name of candidate served) (Date)

the following method. (This method should be the method discussed by you and the Coordinator.)

Hand delivered _____

FAX _____

E-MAIL _____

SIGNATURE OF PERSON WHO SERVED DOCUMENT

DATE

DIRECTIONS FOR PURSUING A REGULAR COMPLAINT

1. COMPLETE COMPLAINT FORM

Fill out the Complaint Form.

To prepare the Description of Unfair Practice(s), which must be attached to the Complaint Form, describe both the facts that constitute the Unfair Campaign Practice and the applicable principle(s) in the Statement of Principles (p.4) that was/were violated. Be precise about why the facts, publication, or broadcast supports your complaint. In preparing the complaint, you must list all portions of the brochure, advertisement, transmission, or broadcast that may be unfair. Failure to list all potential violations arising out of the same document, transmission, or set of facts will prohibit you from raising them in a subsequent complaint.

If you claim that more than one Unfair Campaign Practice occurred, include the above narrative for each Unfair Campaign Practice.

Sign the Complaint.

2. SERVE COMPLAINT AND COMPLETE CERTIFICATE OF SERVICE INDICATING METHOD OF SERVICE

You may serve a copy the complaint with any attachments on the candidate complained against by hand delivery, overnight express service, with waiver of signature on delivery, or express mail, with waiver of signature on delivery. Complete the Certificate of Service.

3. FILE THE COMPLAINT WITH COMPLETED CERTIFICATE OF SERVICE ON THE COORDINATOR, FAIR CAMPAIGN PRACTICES FOR THE CAPITALREGION, INC.

You may file the complaint by delivering, faxing, e-mailing or mailing it to:

Rev. Mick Drown
86 Alpine Drive, Latham, NY 12110
phone: 518-424-8787
fax: 518-783-1074, call first
email: mauricedrown@msn.com (preferred method of filing)

Filing is complete when the Complaint and attachments and the completed Certificate of Service are received by the Coordinator.

4. PREPARE FOR THE HEARING

It is most important that you familiarize yourself with the entire hearing process by reading the Candidates' Manual, which is available on-line at <http://www.faircampaignpractices.info> or by calling Rev. Mick Drown, 518-424-8787 for a copy of the manual. Especially note that copies of electronic transmissions and documents, which you plan to introduce, must be served on the other party and the Coordinator so that receipt is anticipated in the normal course of business at least 24 hours before the hearing.

DIRECTIONS FOR PURSUING AN EMERGENCY COMPLAINT

1. COMPLETE COMPLAINT FORM

Fill out the Complaint Form.

To prepare the Description of Unfair Practice(s), which must be attached to the Complaint Form, describe both the facts that constitute the Unfair Campaign Practice and the applicable principle(s) in the Statement of Principles (p.4) that was/were violated. Be precise about why the facts, publication, or broadcast supports your complaint. Attach relevant written or electronic documents if possible.

If you claim that more than one Unfair Campaign Practice occurred, include the above narrative for each Unfair Campaign Practice.

Sign the Complaint.

2. FILE THE COMPLAINT ON FAIR CAMPAIGN PRACTICES FOR THE CAPITAL REGION, INC.

You may file the complaint by mailing, faxing, e-mailing (preferred method of filing), or delivering it to:

Rev. Mick Drown
86 Alpine Drive, Latham, NY 12110
phone: 518-424-8787
fax: 518-783-1074, call first
email: mauricedrown@msn.com

Filing is complete when the Complaint and attachments are received by the President. Given the limited period of time within which emergency complaints must be heard, we recommend you call the President at 424-8787 to advise him/her that you will be filing the complaint and advising her of the manner of filing. At that time she will discuss with you the manner you should make service on the candidate complained against.

3. SERVE THE COMPLAINT ON THE CANDIDATE COMPLAINED AGAINST

Once you have served the complaint on the candidate complained against, complete the Certificate of Service for Emergency Complaint and serve it on the Coordinator by personal or electronic delivery, bearing in mind that service should be made by the most expedient method possible.

CANDIDATES' GUIDE

Candidates are responsible for the conduct of their campaigns and the accuracy of literature and media content disseminated in support of their candidacies. If materials are inaccurate or in violation of the Statement of Principles, the candidate should disavow or correct the misleading materials promptly and publicly.

Campaign materials prepared on behalf of a candidate must cite by name and address or other identifying information their source of funding ("Paid for by the Committee to Elect .."). If the materials are not authorized by the candidate and include erroneous, misleading or defamatory statements, the candidate should disavow that material immediately and publicly.

NOTE: Facts can be interpreted in various ways. Differences of opinion are appropriate subjects for campaign debate and should not be brought before Fair Campaign Practices For The Capital Region, Inc. (FCP). It is not the role of FCP to clarify positions or determine definitions. For example, the terms "pro-choice" and "pro-environment" have been used to describe a range of public policy positions. It is the responsibility of the candidates to explain to the public their definitions of terms.

FCP will not resolve complaints involving violation of the law. Such complaints are best resolved by the appropriate administrative or judicial bodies.

Following is a partial listing of types of conduct that have resulted in findings of unfair campaign practices by other fair campaign practices committees. They are meant to serve as examples only and should not be considered all-inclusive.

1. **Refusal to Engage in Debate on the Merits of the Issue(s).** Candidates should make a good faith effort to engage in an open exchange of views on issues of concern to the electorate.
2. **Unsubstantiated Allegations of Personal Misconduct.** Such assertions should never be made recklessly or in the absence of credible evidence to support them.
3. **Creation of the False Impression that the Candidate is an Incumbent.** Examples are bumper stickers and/or palm cards that contain the name and the office without the usual words such as "Elect" or "For" or campaign material that combines the office and name as in "Elect District Attorney John Smith" as distinguished from "Elect John Smith District Attorney." Such shorthand should be avoided even when other accompanying material does make the candidate's incumbent or non-

- incumbent status clear. Candidates' first names should also be included if there is more than one person with the same surname in office or running for office.
4. **Appeals to Prejudice.** Candidates should refrain from using innuendo to malign an opponent. Examples include unnecessary or gratuitous allusions to an individual's race, religion, gender, age, or sexual orientation.
 5. **Hypothetical Characterizations.** Candidates should avoid inviting speculation against opponents by inviting the listener to "imagine" something (Unfair campaign practice found in use of question, "Wouldn't you like to be part of a deal like this one?" because the rhetorical question unfairly implies some type of corruption or official misconduct without any supportive evidence.) Likewise, it is misleading to use audio or visual information that might confuse or mislead voters.
 6. **Exaggerated Claims of Uniqueness or Exclusivity.** Candidates should not use the word "only" when reasonable questions about the truthfulness of the allegation can be raised; for example, it would be unfair to claim, "I am the only candidate endorsed by _____," when the recommending group did not screen all current candidates.
 7. **Use of Half-truths.** Candidates should not make assertions or charges that are partially true or capable of more than one interpretation and therefore misleading if taken out of context. Examples include misrepresentation of personal credentials or exaggerated financial claims ("largest tax cut" in total dollar amount but not largest when stated as a percentage).
 8. **Misrepresentation.** Candidates should not convey a false impression by altering or using materials created under different circumstances (using a photo taken with an elected official to convey the impression of endorsement, for example). Nor should the candidate make statements that are misleading if taken out of context, (for example, quoting only a portion of an opponent's statement in order to distort an intended meaning).
 9. **False Characterizations of an Opponent's Position.** In the absence of publicly stated positions, candidates should avoid attributing such positions to their opponents. For example, it is an unfair practice to say a candidate favors tax increases when the candidate has never taken a position for or against them.
 10. **Manipulation of Data.** Candidates should make any data they present in

campaign literature as specific and detailed as possible. Graphic or written representation of statistical data such as budgetary and tax information must be accurate with regard to detail and context and clearly indicate the time periods and amounts involved as well as the source of the information.

11. **Distortion or Misuse of FCP Findings.** Candidates should not abuse the process of filing complaints to obtain political advantage. Candidates must not misrepresent or distort FCP findings to obtain political advantage.