

<h1>Regulatory Analysis Form</h1> <p>(Completed by Promulgating Agency)</p> <p><i>(All Comments submitted on this regulation will appear on IRRC's website)</i></p>		<p><b>INDEPENDENT REGULATORY REVIEW COMMISSION RECEIVED</b></p> <p>OCT 18 2023</p> <p>Independent Regulatory Review Commission IRRC Number: <b>3385</b></p>	
<p>(1) Agency</p> <p>State Ethics Commission</p>			
<p>(2) Agency Number: 63</p> <p>Identification Number: 08</p>			
<p>(3) PA Code Cite:</p> <p>51 Pa. Code §§ 11.1, 11.3, 13.1—13.3, 13.5, 15.1—15.3, 17.1, 17.4, 17.7, 19.1, 19.3, 19.4, 21.4—21.6, 21.21, 21.23, 21.24, 21.26, 21.29, 23.1, 23.3, 23.4, 23.7, 23.22, 23.23, 25.2</p>			
<p>(4) Short Title:</p> <p>Technical Revisions for Statutory Consistency, Clarity and Modernization</p>			
<p>(5) Agency Contacts (List Telephone Number and Email Address):</p> <p>Primary Contact: Bridget K. Guilfoyle, Chief Counsel, State Ethics Commission, Finance Building, 613 North Street, Room 309, Harrisburg, PA 17120-0400; Phone: (717) 783-1610; Fax: (717) 787-0806; Email: <a href="mailto:bguilfoyle@pa.gov">bguilfoyle@pa.gov</a></p> <p>Secondary Contact: Martin W. Harter, Deputy Chief Counsel, State Ethics Commission, Finance Building, 613 North Street, Room 309, Harrisburg, PA 17120-0400; Phone: (717) 783-1610; Fax: (717) 787-0806; Email: <a href="mailto:mharter@pa.gov">mharter@pa.gov</a></p>			
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input checked="" type="checkbox"/> Final Omitted Regulation</p>		<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p><input type="checkbox"/> Certification by the Governor</p> <p><input type="checkbox"/> Certification by the Attorney General</p>	
<p>(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)</p> <p>The Commission's regulations have not undergone revisions in several decades. This rulemaking (1) removes and adjusts outdated provisions pertaining to Statements of Financial Interests (SFIs) that are no longer utilized, are unclear, or that are superfluous to the statutory requirements in the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. §1101 et seq., (2) revises section 15.2(a) to be consistent with the Ethics Act, (3) adds electronic mail as an appropriate means of filing and service, (4) updates statutory references to Purdon's to the codified version in Pennsylvania Consolidated Statutes, (5) removes the postal address and business hours of the Commission as these are no longer accurate, (6) clarifies the date of election and length of terms of the Commission's Chair and Vice Chair, and (7) makes several grammatical changes such as changing "employe" to the more commonly utilized "employee" and</p>			

revising the terms “Chairman” and “Chairperson” to “Chair.”

(8) State the statutory authority for the regulation. Include specific statutory citation.

This rulemaking is authorized by the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. § 1107(1), which expressly authorizes the Commission to prescribe and publish rules and regulations to carry out the provisions of the Ethics Act.

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

There are no applicable federal or state statutes, regulations or court decisions that mandate the adoption of this rulemaking.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

Section 1101.1(a) of the Ethics Act declares that “clear guidelines are needed in order to guide public officials and employees in their actions. Thus, the General Assembly by this chapter intends to define as clearly as possible those areas which represent conflict with the public trust.” 65 Pa.C.S. § 1101.1(a). Therefore, the Commission considers it important to resolve any ambiguity between the Ethics Act and the Commission’s regulations.

The Commission’s regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the Commission conducts business since that time. In order to help guide the regulated community and to assist the Commission in its ability to regulate the ethical conduct of those subject to the Ethics Act, certain technical changes are necessary. This rulemaking would remedy inconsistencies between the Ethics Act and the Commission’s regulations, modernize the Commission’s practices by allowing for electronic mail as an acceptable means for filing and service of documents, and provide clarity to the Commissioners and those subject to the Ethics Act and the regulations of the Commission.

Specifically, this rulemaking would benefit the regulated community by remedying inconsistencies between the Ethics Act and the Commission’s regulations, thus lessening the chance of confusion and

misunderstanding and removing superfluous SFI reporting requirements that are not required by the Ethics Act.

The rulemaking also would modernize the Commission's practices by adding electronic mail as an acceptable means of filing and service of documents, making it easier for individuals to file their SFIs and other documents with the Commission. At the time the regulations were promulgated, email was not a widely-used means of filing documents, and allowing email filing through this rulemaking would bring the Commission's practices up to date with current technology. These regulatory changes also would utilize more modern terminology.

Further, the rulemaking would provide clarity for the general public and those subject to the Commission's regulations. It would correct statutory references, remove the Commission's incorrect address and business hours, and clarify the timing of the elections of Commission officers, and the length of service for those officers. Accordingly, this rulemaking benefits the Commission, the regulated community and the general public.

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no federal standards applicable to the subject matter of the rulemaking.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

Not applicable.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

No. This rulemaking will not affect any other regulations of the Commission or other state agencies.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

Public notice of the intention to revise the regulations under the procedures set forth in sections 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§ 1201 and 1202, was omitted as authorized under section 204(3) of the Commonwealth Documents Law, 45 P.S. § 1204(3). Public comment is unnecessary under the circumstances because this rulemaking consists of technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

Public officials, public employees, candidates, solicitors, nominees, Commissioners of the State Ethics Commission, and third parties who have involvement with the foregoing individuals. The effect on these persons will be minimal, if at all, because this rulemaking consists of technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001, thus lessening the chance of confusion and misunderstanding.

(16) List the persons, groups or entities, including small businesses, that will be required to comply with the regulation. Approximate the number that will be required to comply.

Public officials, public employees, candidates, solicitors, nominees, Commissioners of the State Ethics Commission, and any other individual subject to the Ethics Act.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

There will be no financial, economic or social impact of this rulemaking on individuals, small businesses, businesses and labor communities and other public and private organizations.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There are no costs or adverse effects associated with this rulemaking, only benefits. These are technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001. As such, this rulemaking benefits both the Commission, the regulated community and the general public with no identifiable costs or adverse effects.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The rulemaking does not impose any additional legal, accounting or consulting procedures on the regulated community.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The rulemaking does not impose any additional legal, accounting or consulting procedures on local governments.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The rulemaking does not impose any additional legal, accounting or consulting procedures on state government.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The rulemaking does not impose any additional legal, accounting or consulting procedures or any additional reporting, recordkeeping or other paperwork.

(22a) Are forms required for implementation of the regulation?

No. There are no forms required for implementation of this rulemaking.

(22b) If forms are required for implementation of the regulation, **attach copies of the forms here**. If your agency uses electronic forms, provide links to each form or a detailed description of the information required to be reported. **Failure to attach forms, provide links, or provide a detailed description of the information to be reported will constitute a faulty delivery of the regulation.**

Not applicable.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
<b>SAVINGS:</b>	\$	\$	\$	\$	\$	\$
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Savings	\$0	\$0	\$0	\$0	\$0	\$0
<b>COSTS:</b>						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	NA	N/A	N/A	N/A	N/A
Total Costs	\$0	\$0	\$0	\$0	\$0	\$0
<b>REVENUE LOSSES:</b>						
Regulated Community	N/A	N/A	N/A	N/A	N/A	N/A
Local Government	N/A	N/A	N/A	N/A	N/A	N/A
State Government	N/A	N/A	N/A	N/A	N/A	N/A
Total Revenue Losses	\$0	\$0	\$0	\$0	\$0	\$0

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3 2020-2021 (actual)	FY -2 2021-2022 (actual)	FY -1 2022-2023 (actual)	Current FY 2023-2024 (budgeted)
State Ethics Commission	\$2,932,00.00	\$3,015,000.00	\$3,197,000.00	\$3,369,000.00

(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (d) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

There is no small business impact. These are technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001. In that the rulemaking impacts public officials, public employees, candidates, solicitors, nominees, and Commissioners of the State Ethics Commission, there are no direct costs associated with this rulemaking that would be passed on to employers.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

No groups with particular needs have been identified.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

Given that these are technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001, no alternatives have been considered as the revisions in this rulemaking are not burdensome.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performance standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.



Not applicable in that there is no small business impact.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

Not applicable.

(29) Include a schedule for review of the regulation including:

- |                                                                                               |                                                                                         |
|-----------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| A. The length of the public comment period:                                                   | <u>Not applicable</u>                                                                   |
| B. The date or dates on which any public meetings or hearings will be held:                   | <u>Not applicable</u>                                                                   |
| C. The expected date of delivery of the final-form regulation:                                | <u>4<sup>th</sup> Quarter of 2023</u>                                                   |
| D. The expected effective date of the final-form regulation:                                  | <u>Upon publication of final-omitted regulation in the <i>Pennsylvania Bulletin</i></u> |
| E. The expected date by which compliance with the final-form regulation will be required:     | <u>Upon publication of final-omitted regulation in the <i>Pennsylvania Bulletin</i></u> |
| F. The expected date by which required permits, licenses or other approvals must be obtained: | <u>Not applicable</u>                                                                   |

**(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.**

**These are technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001. After taking effect, these regulatory changes will be reviewed and revised as necessary.**

**FISCAL NOTE FOR DOCUMENTS  
FILED WITH THE LEGISLATIVE REFERENCE BUREAU**

July 20, 2023

**Agency:** State Ethics Commission

**Agency Identification Number:** 63-08

**Subject of Regulation:** Technical Revisions for Statutory Consistency, Clarity and Modernization

Pursuant to Section 612 of the act of April 9, 1929 (P.L. 177, No. 175), known as the Administrative Code of 1929, I am submitting the following fiscal note for publication in the *Pennsylvania Bulletin* to accompany this notice of regulatory action or administrative procedure.

**FISCAL NOTE AS REQUIRED BY SECTION 612**

**Administrative Code of 1929**

*(See also 4 Pennsylvania Code § 7.231, et seq. [9 Pennsylvania Bulletin])*

This action will not result in a loss of revenue or an increase in program costs to the commonwealth or its political subdivisions.

The Secretary of the Budget recommends adoption of this regulatory action or administrative procedure.

 *for*

\_\_\_\_\_  
Secretary of the Budget

CDL-1

**FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU**



**(Pursuant to Commonwealth Documents Law)**

**RECEIVED**

OCT 18 2023

Independent Regulatory  
Review Commission

DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>BY: _____ (DEPUTY ATTORNEY GENERAL)</p> <p>_____ DATE OF APPROVAL</p> <p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>	<p>Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:</p> <p><u>Pennsylvania State Ethics Commission</u> (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>63-08</u></p> <p>DATE OF ADOPTION: <u>Upon Publication</u></p> <p> BY: _____</p> <p>TITLE <u>Michael A. Schwartz</u> <u>Chair</u></p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies.</p> <p>BY:  <u>Bridget K. Guilfoyle</u> Chief Counsel</p> <p><u>October 18, 2023</u> DATE OF APPROVAL</p> <p><input type="checkbox"/> (Chief Counsel, Independent Agency)</p> <p>Check if applicable. No Attorney General approval or objection within 30 days after submission.</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## **FINAL-OMITTED RULEMAKING**

### **COMMONWEALTH OF PENNSYLVANIA STATE ETHICS COMMISSION**

**51 PA. CODE, CHAPTERS 11, 13, 15, 17, 19, 21, 23 AND 25  
§§ 11.1, 11.3, 13.1—13.3, 13.5, 15.1—15.3, 17.1, 17.4, 17.7, 19.1, 19.3, 19.4, 21.4—  
21.6, 21.21, 21.23, 21.24, 21.26, 21.29, 23.1, 23.3, 23.4, 23.7, 23.22, 23.23, 25.2**

### **TECHNICAL REVISIONS FOR STATUTORY CONSISTENCY, CLARITY AND MODERNIZATION**

The State Ethics Commission proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25, §§ 11.1, 11.3, 13.1—13.3, 13.5, 15.1—15.3, 17.1, 17.4, 17.7, 19.1, 19.3, 19.4, 21.4—21.6, 21.21, 21.23, 21.24, 21.26, 21.29, 23.1, 23.3, 23.4, 23.7, 23.22, 23.23, 25.2, to read as set forth in Annex A.

#### *Effective Date*

The final-omitted rulemaking will be effective upon final publication in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

The State Ethics Commission issues this final-omitted rulemaking under the authority provided by section 1107(1) of the Public Official and Employee Ethics Act (Ethics Act), 65 Pa.C.S. § 1107(1), which provides the Commission with the general authority to establish rules and regulations to carry out the provisions of the Ethics Act and section 204(3) of the Commonwealth Documents Law, 45 P.S. § 1204(3), which authorizes final-omitted rulemaking when public comment is unnecessary.

#### *Omission of Proposed Rulemaking*

Public notice of the intention to revise the regulations under the procedures set forth in sections 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§ 1201 and 1202, was omitted as authorized under section 204(3) of the Commonwealth Documents Law, 45 P.S. § 1204(3). Public comment is unnecessary under the circumstances because this rulemaking consists of technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001.

### *Purpose and Background*

Section 1101.1(a) of the Ethics Act declares that “clear guidelines are needed in order to guide public officials and employees in their actions. Thus, the General Assembly by this chapter intends to define as clearly as possible those areas which represent conflict with the public trust.” 65 Pa.C.S. § 1101.1(a). Therefore, the Commission considers it important to resolve any ambiguity between the Ethics Act and the Commission’s regulations.

The Commission’s regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the Commission conducts business since that time. In order to help guide the regulated community and to assist the Commission in its ability to regulate the ethical conduct of those subject to the Ethics Act, certain technical changes are necessary. This rulemaking would remedy inconsistencies between the Ethics Act and the Commission’s regulations, modernize the Commission’s practices by allowing for electronic mail as an acceptable means for filing and service of documents, and provide clarity to the Commissioners and those subject to the Ethics Act and the regulations of the Commission.

Specifically, this rulemaking would benefit the regulated community by remedying inconsistencies between the Ethics Act and the Commission’s regulations, thus lessening the chance of confusion and misunderstanding and removing superfluous SFI reporting requirements that are not required by the Ethics Act.

The rulemaking also would modernize the Commission’s practices by adding electronic mail as an acceptable means of filing and service of documents, making it easier for individuals to file their SFIs and other documents with the Commission. At the time the regulations were promulgated, email was not a widely-used means of filing documents, and allowing email filing through this rulemaking would bring the Commission’s practices up to date with current technology. These regulatory changes also would utilize more modern terminology.

Further, the rulemaking would provide clarity for the general public and those subject to the Commission’s regulations. It would correct statutory references, remove the Commission’s incorrect address and business hours, and clarify the timing of the elections of Commission officers, and the length of service for those officers. Accordingly, this rulemaking benefits the Commission, the regulated community and the general public.

### *Description of Proposed Regulations*

This rulemaking seeks to amend various sections of the regulations for clarity, consistency and modernization.

#### *Clarity*

This rulemaking amends section 11.1 (relating to definitions) by clarifying the definition of the term “Advice” to reflect that it is written advice from the Chief Counsel rather than a written

directive. Sections 11.1, 13.1, 13.3, 21.5, 23.4, 23.22, and 25.2 correct the statutory references to Purdon's to the codified version in Pennsylvania Consolidated Statutes. Additionally, section 19.1 (relating to forms and filing) removes the postal address of the State Ethics Commission as it is no longer accurate or necessary, while section 19.4 removes the business hours of the Commission for the identical reason. Section 19.4 also adds clarification to the timeframe in which SFIs shall be kept on file by specifying that the forms shall be maintained for 5 years after the governmental body receives the SFIs. This rulemaking also removes the phrase "For cases to which the act applies" from section 21.21 because it is unnecessary given that the Commission's jurisdiction obviously is limited to those cases to which the Ethics Act is applicable.

For further clarification, this rulemaking modifies section 23.7 (relating to election of chair and vice chair) to clarify the date of election and the length of the terms of the Commission's Chair and Vice Chair. Section 21.23 (relating to scope of hearing) reorganizes the types of hearings that may be conducted by the Commission to better reflect the order of complexity of hearings. Section 21.24 of this rulemaking revises the term "Insure" to "Ensure" to accurately characterize that the Hearing Officer makes certain that various duties occur, rather than protects against loss or damage which is the common definition of "insure."

#### *Consistency*

Also proposed are numerous technical changes to make the regulations consistent with the Ethics Act. This rulemaking updates section 13.2(k) to add the word "working" to the time limitation in which the Chief Counsel shall issue a written advice to the requester. This change makes the timeframe consistent with the time period prescribed earlier in the same subparagraph. In Section 15.2 of this rulemaking, the word "for" is replaced with "of" to be consistent with the requirements of the Ethics Act and to eliminate confusion as to what years an individual is required to file an SFI. The rulemaking at section 15.3 corrects the description of local officials to include the term "level" or "public" to be consistent with the Ethics Act and other subparagraphs in section 15.3 which refer to "local level public officials."

This rulemaking also amends section 17.7 to state that a "person required to file a Statement of Financial Interests" rather than delineating the specific individuals required to file, such as public officials and public employees, because this section is inconsistent with the Ethics Act and other sections of the regulations insofar as it failed to include a number of individuals required to file an SFI. A similar change in terminology is included in section 19.1 of this rulemaking.

The word "deficient" is added to section 19.3 of this rulemaking to reflect that an SFI may be delinquent or deficient, which is consistent with the Ethics Act and other provisions of the regulations. Section 21.5 replaces the phrase "subject of the investigation" with the word "respondent" as this is a more accurate description of the individual responding to a findings report, and it also makes this section consistent with the language of the Ethics Act. To be consistent with the other provisions of the regulations, the term "Commission" is capitalized in section 21.6. Section 21.24 changes the word

“presiding” officer to “hearing” officer to be consistent with the Ethics Act and other provisions of the regulations.

### *Modernization*

To further the goal of modernization, this rulemaking updates the terms “Filed” and “Service” to include electronic mail as an appropriate means of filing and serving documents with the Commission in an effort to update the Commission’s practices with today’s technology. Section 11.3 of the rulemaking (relating to statute of limitations) removes the grandfather clause from the regulations because it is obsolete. Sections 11.1, 21.5, 21.21, 21.26, 23.1, 23.3, and 23.7 revise the terms “Chairperson” and “Vice Chairperson” to “Chair” and “Vice Chair” while sections 11.1, 15.1, 15.2, 17.1, 21.4, and 23.23 update the term “employe” to the more commonly utilized “employee.” Sections 11.1, 13.1, 13.2, and 21.29 revise the term “Requestor” to the common vernacular “Requester” and update the term “chief counsel” to begin with capital letters. Section 13.5 (relating to public access) contains revisions to the various names of associations and professional groups to reflect their current proper names.

Section 17.1 of the rulemaking relating to SFIs removes the requirement that a person required to file an SFI include his county of reference as this is superfluous and not required by the Ethics Act, and renumbers the subparagraphs to reflect this deletion. Section 17.4 (relating to income) is amended to correct a simple grammatical error. Section 19.1 is amended to specifically authorize electronic filing as an appropriate means by which to file an SFI. It also removes the requirement that an individual who files an SFI by facsimile shall also provide to the Commission the signed original document via regular mail.

### *Paperwork Requirements*

The final-omitted rulemaking will not result in an increase in paperwork for the Commission or any individuals or entities.

### *Fiscal Impact*

The final-omitted rulemaking will not result in any fiscal impact to the Commonwealth, its political subdivisions or the general public.

### *Sunset Date*

The Commission continuously monitors the effectiveness of its regulations. Therefore, no sunset date has been assigned.



### *Public Comment*

Public notice of the intention to revise the regulations under the procedures set forth in sections 201 and 202 of the Commonwealth Documents Law, 45 P.S. §§ 1201 and 1202, was omitted as authorized under section 204(3) of the Commonwealth Documents Law, 45 P.S. § 1204(3). Public comment is unnecessary under the circumstances because this rulemaking consists of technical revisions necessary for statutory consistency, clarity and modernization to regulations that have not been updated since 2001.

### *Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act, 71 P.S. § 745.5a(c), on October 18, 2023, the State Ethics Commission submitted a copy of the final-omitted rulemaking and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Judiciary Committee and the Senate Committee on State Government. A copy of this material is available to the public upon request.

On the same day, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act, 71 P.S. §§ 732-101—732-506. The Attorney General approved the final-omitted rulemaking on \_\_\_\_\_, 2023. Under section 5(c) of the Regulatory Review Act, 71 P.S. § 745.5(c), the rulemaking was deemed approved by the House Judiciary Committee and the Senate Committee on State Government on \_\_\_\_\_, 2023. At a hearing held on \_\_\_\_\_, 2023, IRRC approved the rulemaking.

### *Contact Person*

Individuals interested in further information may contact Bridget K. Guilfoyle, Chief Counsel, State Ethics Commission, Finance Building, 613 North Street, Room 309, Harrisburg, PA 17120-0400, by telephone (717) 783-1610, by fax (717) 787-0806, or via email at [etlegaldivision@pa.gov](mailto:etlegaldivision@pa.gov).

Michael A. Schwartz  
Chair

**Annex A**  
**TITLE 51. PUBLIC OFFICERS**  
**PART I. STATE ETHICS COMMISSION**

**CHAPTER 1. [Reserved]**

§ 1.1. [Reserved].

**CHAPTER 2. [Reserved]**

§ 2.1. [Reserved].

§ 2.2. [Reserved].

§ 2.3. [Reserved].

§ 2.4. [Reserved].

§ 2.5. [Reserved].

§ 2.6. [Reserved].

§ 2.11. [Reserved].

§ 2.12. [Reserved].

§ 2.13. [Reserved].

§ 2.14. [Reserved].

§ 2.16. [Reserved].

§§ 2.21-2.24. [Reserved].

§§ 2.31-2.33. [Reserved].

§§ 2.34-2.38. [Reserved].

§§ 2.39-2.41. [Reserved].

§ 2.51. [Reserved].

**CHAPTER 3. [Reserved]**

§ 3.1. [Reserved].

**CHAPTER 4. [Reserved]**

§§ 4.1-4.7. [Reserved].

§ 4.8. [Reserved].

§ 4.9. [Reserved].

§ 4.10. [Reserved].

§ 4.11. [Reserved].

**Chapter 5. [Reserved]**

§§ 5.1-5.9. [Reserved].

§ 5.10. [Reserved].

§ 5.11. [Reserved].

§§ 5.12-5.15. [Reserved].

**APPENDIX A. [Reserved]**

**APPENDIX B. [Reserved]**

**CHAPTER 7. [Reserved]**

§§ 7.1-7.3. [Reserved].

§§ 7.11-7.18. [Reserved].

**APPENDIX A. [Reserved]**

**CHAPTER 11. GENERAL PROVISIONS**

Sec.

- 11.1. Definitions
- 11.2. Construction
- 11.3. Statute of Limitations

## § 11.1. Definitions.

The following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise. Additional definitions are set forth in the act.

*Act*—The act of June 26, 1989 (P. L. 26, No. 9) [65 P.S. § § 401 – 413], known as the Public Official and Employee Ethics [Law ]Act (65 Pa.C.S. § § [401]1101—[413]1113).

*Administering or monitoring grants*—Directing, supervising or approving the expenditure or reimbursement of grant funds or monitoring another person’s or organization’s administering of grant funds. The term does not include compiling expenditures, comparing actual to planned expenditures or reimbursements, preparing comparative reports or completing grant proposals or reimbursement forms under specific direction.

*Advice*—[A directive]Written advice of the Chief Counsel of the Commission issued under section 1107(11) of the act (65 Pa.C.S. § [4]1107(11)) and based exclusively on prior Commission opinions, the act, regulations promulgated under the act and court opinions which interpret the act. See section [4]1102 of the act (65 Pa.C.S. § [4]1102).

*Appointing authority*—The person who is vested with the power to appoint, hire or terminate; if the power is vested in a governmental body, a majority vote of a quorum of that body constitutes the appointing authority.

*Audit*—A review of statements of financial interests to determine compliance with the act and to provide technical assistance in its administration.

*Chair[person]*—The Chair[person] of the Commission.

*Child*—The term includes adopted and biological children.

*Clear and convincing proof*—To a degree which requires more than a preponderance of the evidence but less than beyond a reasonable doubt.

*Commission*—The State Ethics Commission of the Commonwealth.

*Commissioner*—An appointed and seated member of the Commission.

*Confirmation*—The power vested in a person or governmental body to approve the nomination of persons.

*Contracting or procurement*—Awarding a contract or making a decision to purchase by the

preparation of requests for bids and proposals, the solicitation and evaluation of proposals or the selection of a vendor. The term does not include contracting or purchasing through master contracts or purchasing schedules already awarded.

*De minimis economic impact*—An economic consequence which has an insignificant effect.

*Director*—An officer acting as an agent for a business who is authorized to regulate, manage and direct alone or in conjunction with other officers.

*Docket*—The official assignment of a file number to a matter submitted to the Commission.

*Election*—The term includes primary, special or general elections.

*Employed by*—Used in any capacity, with or without compensation. This definition is only used in the context of section 1106(d)(5) of the act (65 Pa.C.S. § [4]1106(d)(5)).

*Employer*—One who uses the services of others and pays their wages, salaries or other compensation.

*Filed*—Official papers are filed on the date they are physically received at the Commission [O]ffice whether delivered by United States mail, express carrier, hand delivery, [or by Facsimile Service (FAX). See § 19.1 (relating to forms; filing) for additional requirements when filing a Statement of Financial Interests by Facsimile Service (FAX).] electronic mail, facsimile, or any other method approved by the Commission.

*Governing authority*—The body empowered to enact ordinances, appropriations and resolutions or to otherwise govern a subordinate body.

*Gross negligence*—The failure to perform a manifest duty in reckless disregard of the consequences or a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness.

*Inspecting, licensing, regulating or auditing*—The normal meanings of the terms apply, but the terms do not include activities which are exclusively internal in nature, such as auditing the internal process of an organization, and clerical and procedural activities in issuing permits and licenses.

*Local*—Governmental units other than the Commonwealth or counties.

*Office*—The position of president, vice president, secretary, treasurer and other positions designated as an office in the bylaws of the business.

*Opinion*—A directive of the Commission issued pursuant to section 1107(10) of the act setting forth a public official's or public employee's duties under the act.

*Planning or zoning*—An action which is directed by a planning commission, zoning board, department, agency or governmental body which involves the regulation of real property.

*Political subdivision*—A county, city, borough, incorporated town, township, school district, vocational school, county institution district and an authority, entity or body organized by the aforementioned.

*Public employe*—

(i) The term includes an individual who is employed by the Commonwealth or a political subdivision and who is responsible for taking or recommending official action of a nonministerial nature with regard to one or more of the following:

- (A) Contracting or procurement.
- (B) Administering or monitoring grants or subsidies.
- (C) Planning or zoning.
- (D) Inspecting, licensing, regulating or auditing a person.
- (E) Other activities in which the official action has greater than a de minimis economic impact.

(ii) The following criteria will be used, in part, to determine whether an individual is within the definition of "public employe":

- (A) The individual normally performs his responsibility in the field without onsite supervision.
- (B) The individual is the immediate supervisor of a person who normally performs his responsibility in the field without onsite supervision.
- (C) The individual is the supervisor of a highest level field office.
- (D) The individual has the authority to make final decisions.
- (E) The individual has the authority to forward or stop recommendations from being sent to the person or body with the authority to make final decisions.
- (F) The individual prepares or supervises the preparation of final recommendations.
- (G) The individual makes final technical recommendations.
- (H) The individual's recommendations or actions are an inherent and recurring part of his position.
- (I) The individual's recommendations or actions affect organizations other than his own organization.

(iii) The term does not include individuals who are employed by the Commonwealth or a political subdivision of the Commonwealth in teaching as distinguished from administrative duties.

(iv) Persons in the following positions are generally considered public employes:

(A) Executive and special directors or assistants reporting directly to the agency head or governing body.

(B) Commonwealth bureau directors, division chiefs or heads of equivalent organization elements and other governmental body department heads.

(C) Staff attorneys engaged in representing the department, agency or other governmental bodies.

(D) Engineers, managers and secretary-treasurers acting as managers, police chiefs, chief clerks, chief purchasing agents, grant and contract managers, administrative officers, housing and building inspectors, investigators, auditors, sewer enforcement officers and zoning officers in all governmental bodies.

(E) Court administrators, assistants for fiscal affairs and deputies for the minor judiciary.

(F) School superintendents, assistant superintendents, school business managers and principals.

(G) Persons who report directly to heads of executive, legislative and independent agencies, boards and commissions except clerical personnel.

(v) Persons in the following positions are generally not considered public employees:

(A) City clerks, other clerical staff, road masters, secretaries, police officers, maintenance workers, construction workers, equipment operators and recreation directors.

(B) Law clerks, court criers, court reporters, probation officers, security guards and writ servers.

(C) School teachers and clerks of the schools.

*Public official*—A person elected by the public or elected or appointed by a governmental body, or an appointed official in the Executive, Legislative or Judicial Branch of the Commonwealth or a political subdivision thereof. The term does not include members of advisory boards that have no authority to expend public funds other than reimbursement for personal expense, or to exercise otherwise the power of the Commonwealth or a political subdivision thereof.

(i) The following criteria will be used to determine if the exception in this paragraph is applicable:

(A) The body will be deemed to have the power to expend public funds if the body may commit funds or may otherwise make payment of moneys, enter into contracts, invest funds held in reserves, make loans or grants, borrow money, issue bonds, employ staff, purchase, lease, acquire or sell real or personal property without the consent or approval of the governing body and the effect of the power to expend public funds has a greater than de minimis economic impact on the interest of a person.

(B) The body will be deemed to have the authority to otherwise exercise the power of the Commonwealth or a political subdivision if one of the following exists:

(I) The body makes binding decisions or orders adjudicating substantive issues which are appealable to a body or person other than the governing authority.

(II) The body exercises a basic power of government and performs essential governmental functions.

(III) The governing authority is bound by statute or ordinance to accept and enforce the rulings of the body.

(IV) The body may compel the governing authority to act in accordance with the body's decisions or restrain the governing authority from acting contrary to the body's decisions.

(V) The body makes independent decisions which are effective without approval of the governing authority.

(VI) The body may adopt, amend and repeal resolutions, rules, regulations or ordinances.

(VII) The body has the power of eminent domain or condemnation.

(VIII) The enabling legislation of the body indicates that the body is established for exercising public powers of the Commonwealth or a political subdivision.

(ii) The term does not include judges and inspectors of elections, notary publics and political party officers.

(iii) The term generally includes persons in the following offices:

(A) Incumbents of offices filled by nomination of the Governor and confirmation of the Senate.

(B) Heads of executive, legislative and independent agencies, boards and commissions.

(C) Members of agencies, boards and commissions appointed by the General Assembly or its officers.

(D) Persons appointed to positions designated as officers by the Commonwealth or its political subdivisions.

(E) Members of municipal, industrial development, housing, parking and similar authorities.

(F) Members of zoning hearing boards and similar quasi-judicial bodies.

(G) Members of the public bodies meeting the criteria in paragraph (i)(A).

*Request[or]er*—The person seeking an advice or opinion from the Commission.

*Respondent*—The person who is the subject of a complaint, inquiry or investigation.

*Service*—Official papers are deemed served on the date of United States postmark if delivered by United States mail, the pickup date if delivered by express carrier or the date received from the Commission if hand delivered or transmitted by electronic mail or FAX.

*Staff*—The Executive Director, the [c]Chief [c]Counsel, investigators and other personnel as

may be employed by or assigned to assist the Commission.

*Sworn complaint*—A complaint on a form promulgated by the Commission or its equivalent which is notarized and contains the provision that the complaint is signed under the penalty of perjury.

*Unannounced write-in-candidate*—An individual who is not a “candidate” as defined in the act and who received sufficient write-in votes on election day to be elected to or nominated for an office.

*Vice Chair[person]*—The Vice Chair[person] of the Commission.

### **§ 11.2. Construction.**

Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials, this title shall be liberally construed to promote complete financial disclosure as specified in the act.

### **§ 11.3. Statute of limitations.**

The Commission may investigate a violation of the act within 5 years of its occurrence. The occurrence transpires when an act is complete or requires no further action. [This title does not apply to violations committed prior to the effective date of the act, and causes of action initiated for the violations shall be governed by the prior law and title, which are continued in effect for that purpose as if this title were not in force. For the purposes of this title, a violation was committed prior to the effective date of the act if any elements of the violation occurred prior thereto.]

## **CHAPTER 13. OPINIONS AND ADVICES OF COUNSEL**

Sec.

- 13.1. General Provisions.
- 13.2. Advices of Counsel.
- 13.3. Opinions.
- 13.4. Intervention.
- 13.5. Public Access.

### **§ 13.1. General provisions.**

(a) An advice or an opinion may be requested by a public official or public employee as to his own conduct or by the authorized representative of the person, his present employer, or appointing authority of the person through majority action of the appointing authority, if applicable.

(b) The request[or] shall provide the following information in writing:



(1) The name, address and phone number of the person who is the subject of the request and if different, the name, address and phone number of the person initiating the request.

(2) The name of the governmental body with which the subject serves and the name or title of the person's public office or position.

(3) If the request[or] is the appointing authority, employer or representative of the subject of the request, the nature of the relationship.

(4) The nature and duties of the subject's office or job. Include an organization chart, bylaws of the organization, if available, and a job description.

(5) List the relevant facts and circumstances surrounding the request.

(c) The request[or] may ask that an opinion or advice be issued under either section 1107(10) or (11) of the act (65 Pa.C.S. § 1107(10) and (11)).

(d) The Commission will decide, within 14 days, whether an opinion or advice should be issued and will so advise the request[or].

(e) If a request[or] seeks an opinion and is advised that an advice should be issued or if the request[or] seeks an advice and is advised that an opinion should be issued, the request[or] may either withdraw the request by notifying the Commission within 14 days of the date of receiving notice under subsection (d) or may elect to have the opinion or advice issued as docketed by the Commission.

(f) Advices and opinions are matters of public record except as provided in this section.

(g) A request[or] may seek a confidential advice or opinion in writing at the time of the request or within 7 days of notification of docketing as an advice or opinion.

(h) A confidential advice or opinion will be publicly filed but will contain deletions and changes to preserve the confidentiality of the request[or]'s or subject's identity.

(i) The files relating to a confidential advice or opinion will not be public and will so remain unless released by the request[or] or the public official or public employee who is the subject of the advisory.

(j) If a Petition for Review or other legal pleading is filed in a court of law regarding a confidential advice or opinion, the files will become public on the date that the Commission record is transmitted to court or on the date the responsive pleading, motion, application or other legal document is filed by the Commission, whichever date comes first, unless the court directs otherwise.

(k) Documents and submissions to the Commission relating to a request for an opinion or an appeal of an advice shall be made at least 7 days prior to the meeting of the Commission during which the appeal or opinion will be reviewed.

### § 13.2. Advice of counsel.

(a) Advice of counsel will be based exclusively on one or more of the following authorities:

(1) Prior Commission opinions.

(2) The act.

(3) This title.

(4) Court opinions interpreting the act.

(b) The Chief Counsel will issue the advice on behalf of the Commission within 21 working days after receipt of the request, but the time may be extended for good cause.

(c) Clarification of an advice may be requested in cases where the original advice was incomplete, inconsistent or unclear.

(d) Requests for clarification shall be filed within the 30-day period normally applicable for appealing an advice to the Commission.

(e) The timely filing of a request for clarification will toll the applicable period for appealing an advice to the Commission.

(f) Supplemental advice may be requested in cases in which additional facts are present or circumstances have changed from those in the original request.

(g) An advice of counsel may be appealed to the Commission by the requestor or the subject of the request.

(h) An appeal from an advice to the Commission shall be in writing and filed within 30 days of the issuance of the advice.

(i) An appeal from an advice will be considered by the Commission after which an opinion will be issued either affirming, modifying or reversing the original advice.

(j) Reconsideration may be requested under § 21.29 (relating to finality; reconsideration) of an opinion disposing of an appeal of an advice if the request is filed within 30 days of the issuance of the opinion.

(k) An advice shall be a complete defense in an enforcement proceeding initiated by the Commission, and evidence of good faith conduct in another civil or criminal proceeding, if the requestor, at least 21 working days prior to the alleged violation, requested written advice from the Commission in good faith, disclosed truthfully the material facts and committed the acts complained of either in reliance on the advice or because of the failure of the Commission to provide advice within 21 working days of the request or the later extended time.

### § 13.3. Opinions.

(a) Opinions shall be issued under the provisions in section 1107(10) of the act (65 Pa.C.S. § 1107(10)).

(b) Requests for Commission opinions will be considered in accordance with the procedures outlined in §§ 23.1—23.6.

(c) A party may request that the Commission reconsider an opinion in accordance with § 21.29 (relating to finality; reconsideration). The request shall be filed within 30 days of the service of the opinion and contain a detailed explanation of the reasons in support of the request.

(d) Reconsideration may be granted in the discretion of the Commission under § 21.29(e).

(e) A person who acts in good faith on an opinion issued to him by the Commission will not be subject to criminal or civil penalties for so acting, if the material facts are as stated in the opinion request.

#### **§ 13.4. Intervention.**

(a) A person who is not a party in an advice or opinion request or reconsideration thereof, may file a petition to intervene if the person has an interest. One or more of the following criteria will be utilized to determine whether a person has an interest:

- (1) A right conferred by Federal or State law.
- (2) An interest which may be affected and which is not adequately represented.
- (3) An issue of public importance.

(b) A person shall apply for intervention within 14 days prior to the Commission meeting if the opinion will be reviewed or decided. The Commission may grant an application at any time prior to the meeting, but only for good cause shown.

(c) An application for intervention shall include the facts which establish the nature of the alleged right or interest and the grounds for intervention. The application shall also address the facts if they are deficient or incorrectly stated, and the relevant issues of law. The application may cite authority in support of the advocated position.

(d) The Commission will review applications for intervention to determine whether a grant of intervention is appropriate.

(e) A person may file an amicus brief which shall be received within 14 days prior to the Commission meeting.

#### **§ 13.5. Public access.**

(a) Subject to § 13.1(h) and (i) (relating to general provisions), the Commission's advisories, letters requesting advisories, files and information submitted to the Commission relating to a request are public records and will be available for public inspection and reproduction during normal business hours.

(b) The Commission will transmit, free of charge, copies of each order, advice and opinion which has become a matter of public record quarterly to the law library of each county, one public library in each county, the State Library, the State Senate Library, each authority appointing Commission members under this act, the [Pennsylvania Association of] County Commissioners Association of Pennsylvania, the Pennsylvania State Association of Boroughs, the Pennsylvania State Association of Township Supervisors, the Pennsylvania State Association of Township Commissioners, the Pennsylvania School Boards Association and the Pennsylvania League of Cities and Municipalities.

(c) The Commission may charge a fee for additional copies at a rate not to exceed actual cost.

(d) A digest and index of Commission opinions may be published and disseminated annually.

## CHAPTER 15. STATEMENTS OF FINANCIAL INTERESTS, APPLICABILITY

Sec.

- 15.1 Federal officials, employees and candidates.
- 15.2 Public officials and public employees.
- 15.3 Candidates/nominees.

### § 15.1. Federal officials, employees and candidates.

(a) Federal officials, employees and candidates are not required to file the Statement of Financial Interests with regard to their Federal position.

(b) Federal officials, employees and candidates who serve with the Commonwealth or a political subdivision as part of an exchange or comparable program are required to file a Statement of Financial Interests.

### § 15.2. Public officials and public employees.

(a) Public officials and employees shall file a Statement of Financial Interests for the preceding calendar year by May 1 of each year during which they hold office or a position and by May 1 ~~{for}~~ of the year after they leave the position.

(b) A public official may not take the oath of office, continue upon his duties or receive compensation for holding office unless a Statement of Financial Interests has been filed.

(c) Public officials in State level offices shall file with the Commission and as follows:

(1) Executive branch public officials, board and commission members shall file with the Governor's office.

(2) Legislative branch public officials shall file with either the Chief Clerk of the House of Representatives or the Secretary of the Senate, depending upon in which body the official serves.

(3) Independent agency public officials and other public officials shall file with their agency.

(d) Public employees of the Commonwealth shall file with the State agency with which they are employed.

(e) County and local officials, and employees, shall file with the governing body of the political subdivision in which they serve or are employed.

(f) In an election year, public officials~~[.]~~ and public employees who are also candidates, shall, in addition, file at the times and locations required by candidates.

(g) Full- or part-time solicitors are required to file Statements of Financial Interests.

(h) If a law firm or engineering firm is designated solicitor or engineer, the persons primarily responsible for providing the services in the firm are responsible for filing a Statement of Financial Interests.

### **§ 15.3. Candidates/nominees.**

(a) A candidate for State level public office shall file a Statement of Financial Interests with the Commission on or before the last day for filing a petition to appear on the ballot and a copy of the Statement shall be appended to the petition.

(b) A candidate for county ~~[and]or~~ local level public office shall file a Statement of Financial Interests with the governing authority of the political subdivision wherein the candidate is seeking office on or before the last day for filing a petition to appear on the ballot and a copy of the Statement shall be appended to the petition.

(c) A candidate running for office as a substitute nominee shall file a Statement of Financial Interests on or before the last day for filing a substitute nomination certificate as follows:

(1) A nominee for State level office shall file the Statement with the Commission and a copy shall be appended to the substitute nomination certificate.

(2) A nominee for county or local level public office shall file the Statement with the governing authority of the political subdivision wherein the person is seeking office and a copy of the Statement shall be appended to the substitute nomination certificate.

(d) An independent candidate not running in a primary election shall file a Statement of Financial Interests on or before the last day for filing a petition to appear on the ballot for election. The filing shall be made in accordance with subsections (a) and (b).

(e) A write-in-candidate shall file a Statement of Financial Interests within 30 days of having been nominated or elected unless the person declines the nomination or office within that period of time.

(1) The Statement shall be filed with the Commission for State level public office and with the governing authority of the political subdivision wherein the person has been elected or nominated for county or local level public office.

(2) For the purposes of calculating the 30-day period during which the Statement of Financial Interests shall be filed, the time shall commence on the date that the appropriate board of elections certifies the individual as the winner of a nomination or election.

(f) A petition to appear on the ballot will not be accepted unless a copy of the Statement of Financial Interests is attached thereto.

(g) A nominee for public office shall file a Statement of Financial Interests for the preceding calendar year at least 10 days prior to the date of approval or rejection by the confirming body.

(1) A nominee for Commonwealth positions requiring Senate confirmation shall file with the Commission and the Secretary of the Senate.

(2) A nominee for county or local level public office shall file with the governing authority of the political subdivision in which the person is a nominee and, if different, with the official or body vested with the power of confirmation.

## CHAPTER 17. STATEMENTS OF FINANCIAL INTERESTS, CONTENT

Sec.

- 17.1. General.
- 17.2. Real Estate.
- 17.3. Creditors.
- 17.4. Income.
- 17.5. Gifts.
- 17.6. Expense reimbursement.
- 17.7. Office, directorship and employment.
- 17.8. Financial business interest.
- 17.9. Transferred business interests.
- 17.10. Reporting in multiple categories.
- 17.11. Application of lobbying disclosure regulations.

### § 17.1. General.

The person required to file shall list the following general identification information:

- (1) The full name and address of the public official, public employee or candidate
- (2) [The county of residence.]
- (~~3~~)<sup>2</sup> The position sought or held, and name of the governmental body associated with the position sought or held.
- (~~4~~)<sup>3</sup> An occupation or profession.

### § 17.2. Real estate.

- (a) The person required to file shall list direct or indirect interests in real estate as follows:
  - (1) Real estate sold or leased to the Commonwealth or its agencies or political subdivisions.
  - (2) Real estate purchased or leased from the Commonwealth, or its agencies or political subdivisions.
  - (3) Real estate which is subject to condemnation proceedings by the Commonwealth or its agencies or political subdivisions.
- (b) Real estate interests include ownership in the form of title, as fiduciary, by option agreement, partnership or corporate share, easement, trustee-beneficiary type interests or other forms of interest in realty.
- (c) An indirect interest in real estate constitutes any business entity, the assets of which are 80% or more in real property.

### § 17.3. Creditors.

(a) Each creditor to whom is owed in excess of \$6,500 or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to statement of financial interests) and § 19.5 (relating to reporting threshold adjustments) shall be reported.

(b) Mortgages, home equity loans or other loans secured by a primary or secondary residence of the person filing need not be reported.

(c) A joint obligation with other persons, for which the filer is responsible only for a proportional share that is less than the reporting threshold, is not required to be reported.

(d) The joint obligation of a husband and wife shall be reported if within the reporting threshold.

(e) An obligation within the reporting threshold for which a person acts as a guarantor for the person required to file shall be reported.

(f) Loans or credit between the person required to file and the person's spouse, parents, children, brothers or sisters are excluded.

(g) No dollar amounts are required.

(h) The interest rate for a reportable obligation shall be indicated.

(i) A reportable creditor shall be identified by name and address.

#### **§ 17.4. Income.**

(a) The name and address of a direct or indirect source of income, including employers, in the aggregate of \$1,300 or more or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to statement of financial interests) and § 19.5 (relating to reporting threshold adjustments) shall be reported, unless the disclosure would require the divulgence of confidential information protected by statute or existing professional codes of ethics or common law privileges.

(b) Income from the securities of a particular business equaling or exceeding the reporting threshold, capital gains and dividends equaling or exceeding the reporting threshold shall be listed.

(c) If the income generated equals or exceeds the reporting threshold, mutual funds and other financial plans for individuals may be reported as a single source if the individual has no authority to buy or sell particular assets in the fund.

(d) An individual or an individual and a spouse who has an investment portfolio, with a broker, other than a mutual fund, shall list individually the income from each asset to which subsection (b) applies if the asset may be bought and sold by the individual or by the individual and a spouse.

#### **§ 17.5. Gifts.**

(a) The name and address of the source of a gift valued in the aggregate at \$250 or more or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to statement of financial interests) and § 19.5 (relating to reporting threshold adjustments) shall be reported.

(b) The amount of the gift as well as the circumstances surrounding it shall be reported.

(c) A gift from a spouse, parent, parent by marriage, sibling, child, grandchild, other family member or friend is not required to be reported when the circumstances surrounding the gift indicate the motivation for the action was a personal or family relationship.

(d) The term "friend," under this section, does not include a registered lobbyist or an employee thereof.

#### **§ 17.6. Expense reimbursement.**

(a) The name and address of the source and the amount of a payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where the actual expenses for transportation and lodging or hospitality exceed \$650, or the amount as adjusted under 65 Pa.C.S. § 1105(d) (relating to statement of financial interests) and § 19.5 (relating to reporting threshold adjustments), in the course of a single occurrence shall be reported.

(b) This subsection does not apply to expenses reimbursed by a governmental body, or to expenses reimbursed by an organization or association of public officials or employees of political subdivisions which the public official or employee serves in an official capacity.

(c) The reporting requirement shall be based upon the actual expense amount.

#### **§ 17.7. Office, directorship and employment.**

A [public official, public employee or candidate] person required to file a Statement of Financial Interests shall disclose the name and address of the business entity with which he is associated and the position held, and whether the person required to disclose is an officer, director, fiduciary or partner—limited or general.

#### **§ 17.8. Financial business interest.**

(a) A financial interest in a legal entity engaged in business for profit shall be reported. Financial interest means more than either 5% of the equity of the business, or 5% of the assets of the economic interest in indebtedness.

(b) A financial interest in a business and employment by the same business shall be listed in both categories of the Statements of Financial Interests.

#### **§ 17.9. Transferred business interests.**

(a) A financial interest in a business with which the reporting person is or has been associated during the preceding calendar year which has been transferred to a member of the person's immediate family; that is, a parent, spouse, child, brother or sister, shall be reported.



(b) Financial interests comprise more than 5% of the equity of the business or more than 5% of the assets of the economic interest in indebtedness.

(c) Transfer includes a conveyance whether or not written or otherwise recorded.

#### **§ 17.10. Reporting in multiple categories.**

The required disclosure of information in one category does not excuse the nondisclosure of that information in other categories when so required. Therefore, the same information may be required in more than one category.

#### **§ 17.11. Application of lobbying disclosure regulations.**

See, lobbying disclosure regulations, Chapters 31 and 35 (relating to general provisions; and reporting), as to the differentiation between "gift" and "transportation and lodging or hospitality received in connection with public office or employment" and the determination of the amounts for reporting.

### **CHAPTER 19. STATEMENTS OF FINANCIAL INTERESTS, MISCELLANEOUS**

Sec.

- 19.1. Forms.
- 19.2. Period covered.
- 19.3. Late or deficient filings.
- 19.4. Availability of statements of financial interests.
- 19.5. Reporting threshold adjustments.

#### **§ 19.1. Forms; filing.**

(a) [Public officials, public employees and candidates] A person required to file a Statement of Financial Interests shall file Form SEC-1, as published and revised by the Commission.

(b) **The Statement of Financial Interests form is available at the Commission, the State Board of Elections, the County Board of Elections and other locations as conditions warrant.** [The postal address of the Commission is: State Ethics Commission, Post Office Box 11470, Harrisburg, Pennsylvania 17108-1470. The office of the Commission is located in Room 309, Finance Building, Capitol Complex, Harrisburg, Pennsylvania, (717) 783-1610, (800) 932-0936.]

(c) **Additional sheets may be attached to the Statement of Financial Interests form if more space is required.**

(d) **A Statement of Financial Interests sent by [FAX] a form of electronic transmission that has been approved by the Commission is considered to be filed on the date the Commission receives the [faxed] electronic copy, [if the Commission receives the signed original within 5 business days thereafter. If the Commission does not receive the signed original within 5 business days**

from the date of receiving the faxed copy, the Statement of Financial Interests is filed on the date the Commission receives the signed original.]

### **§ 19.2. Period covered.**

The Statement of Financial Interests requires information for the full calendar year immediately preceding the year in which the Statement of Financial Interests is filed.

### **§ 19.3. Late or deficient filings.**

(a) If an audit or inspection determines that a required filing is deficient or that a required filing has not been made, the Commission will provide written notice to the individual required to file, detailing the deficiency and the penalties for deficient filing or failure to file.

(b) If a complaint is received alleging that a required filing is deficient or has not been made, the Commission may elect to proceed in the matter under this section rather than through the investigative procedures of Chapter 21 (relating to investigations).

(1) Upon election, the complainant will be notified of the decision as well as the final resolution of the matter.

(2) In determining whether to proceed under this section, the Commission may consider whether:

- (i) The deficient filing or failure to file was intentional.
- (ii) The filer had prior notice of the requirements of the act.
- (iii) The filer has in the past complied with the act.

(c) The individual notified in accordance with subsection (a) has 20 days from the mailing date of the notice to correct deficiencies or to file a Statement of Financial Interests. If ~~[an]~~the individual fails to file or to correct his statement within that time, the Commission will review the matter to determine whether a civil penalty is appropriate under the act.

(d) If the Commission determines that a penalty is appropriate, it will issue a rule to show cause, notifying the individual of his deficiency under the act and of the grounds for the rule and of his opportunity to respond in writing to the rule. If cause is not shown, the rule and penalty therein become absolute.

(e) The Commission may assess a penalty of not more than \$25 per day for the time a Statement of Financial Interests remains delinquent or deficient, up to a maximum of \$250 total.

(f) The penalty in subsection (d) is in addition to other penalties provided by law and the filing of a Statement of Financial Interests in accordance with subsection (a) does not otherwise vitiate the failure to comply with the act.

### **§ 19.4. Availability of Statements of Financial Interests.**

(a) Statements of Financial Interests filed with the Commission under the act are available for public inspection and copying at a charge not to exceed actual cost at the office of the

Commission in Harrisburg, Pennsylvania [between the hours of 8 a.m. and 5 p.m., weekdays] during the Commission's regular business hours.

(b) A governmental body required to maintain Statements of Financial Interests shall make them available for public inspection and copying during regular business hours.

(c) Statements of Financial Interests more than 1 year old will be made available for public inspection and copying within 2 working days after the request has been made for the Statements. The Statements [will]shall be kept on file for 5 years after the Commission or governmental body receives the Statements.

#### **§ 19.5. Reporting threshold adjustments.**

(a) On a biennial basis commencing in January 1991, the Commission will review and may increase the threshold dollar amounts in § § 17.3(a), 17.4(a), 17.5(a) and 17.6(a).

(b) The Commission will base the increases upon a review of the National Consumer Price Index as published by the United States Department of Labor or other relevant indices.

(c) The Commission may hold a hearing to receive testimony or information regarding the appropriate rate of increases.

(d) Upon final determination of the appropriate reporting increases, the Commission will publish a schedule of the increases in the *Pennsylvania Bulletin* in 2 successive months and take other action deemed necessary to disseminate the information.

(e) The effective date of threshold increases shall be delayed a sufficient period of time to allow publication of the information to afford affected individuals the opportunity to comply therewith and relevant Commission forms shall be revised accordingly.

### **CHAPTER 21. INVESTIGATIONS GENERAL**

Sec.

- 21.1. Complaints.
- 21.2. Initiation of investigation by the Commission.
- 21.3. Preliminary inquiries.
- 21.4. Frivolous complaints; complaints without probable cause; disclosure of complaints.
- 21.5. Conduct of investigations.
- 21.6. Confidentiality.

### **HEARINGS**

- 21.21. General.
- 21.22. Discovery.
- 21.23. Scope of hearing.
- 21.24. Hearing officer.
- 21.25. Conduct of the hearing.
- 21.26. Motions.

- 21.27. Briefs.
- 21.28. Decision.
- 21.29. Finality; reconsideration.
- 21.30. Effect of order.

## **GENERAL**

### **§ 21.1. Complaints.**

(a) A complaint alleging a violation of the act shall contain the name, position or office held by the respondent and the basis of the complaint which would delineate the facts and circumstances of the alleged violation.

(b) A complaint shall be sworn and signed by the complainant.

(c) The identity of the complainant will remain confidential unless there is a wrongful use of the act.

(d) The Commission will acknowledge, in writing, the receipt of the complaint.

(e) The Commission through its Executive Director will review complaints and proceed only if the complaint:

(1) Contains sufficient information.

(2) Is sworn and signed.

(3) Is within the Commission's jurisdiction.

(4) Concerns an alleged violation of the act having a greater than de minimis economic impact.

(f) A complaint not meeting the requirements of subsection (e) will be dismissed without prejudice to refile if the requirements are satisfied.

(g) Upon the receipt of a complaint which satisfies the criteria of subsection (e), the Commission, through its Executive Director, will initiate a preliminary inquiry. If the preliminary inquiry establishes reason to believe that the act was violated, the Commission, through its Executive Director, may initiate a full investigation.

(h) A complainant will be notified of the dismissal of a complaint under subsection (f).

(i) In the case of sworn complaints alleging a violation of the Statements of Financial Interests filing requirements, the Commission may elect to proceed under § 19.3 (relating to late or deficient filings), in which event this chapter does not apply.

(j) This section supersedes 1 Pa. Code § 35.9 (relating to formal complaints generally).

### **§ 21.2. Initiation of investigation by the Commission.**

The Commission through its Executive Director may, on its own motion, conduct a preliminary inquiry regarding an alleged violation of the act.

### **§ 21.3. Preliminary inquiries.**

(a) A preliminary inquiry will be terminated or opened as a full investigation within 60 days of the initiation thereof. A preliminary inquiry is considered initiated at the time when it is officially docketed.

(b) The Commission will keep information, records and proceedings relating to a preliminary inquiry confidential. The Commission will, however, have the authority to refer the case to law enforcement officials during a preliminary inquiry or any time thereafter without providing notice to the subject of the inquiry.

(c) If, after preliminary inquiry, there is reason to believe that the act has been violated, the Executive Director will commence an investigation. An investigation will be considered commenced when the respondent is notified under § 21.5(b) (relating to conduct of investigations).

(d) The Commission, through its Executive Director, will close the preliminary inquiry if:

(1) The occurrence giving rise to the complaint is not within the purview of the act as having been committed and completed prior to the act.

(2) The occurrence giving rise to the complaint is clearly not within the purview of the act.

(3) The respondent is not a person subject to the act.

(4) There is no reason to believe that the act has been violated.

(5) The violation complained of has a de minimis economic impact.

(e) If the preliminary inquiry is closed, the Commission will notify the complainant and the respondent.

### **§ 21.4. Frivolous complaints; complaints without probable cause; disclosure of complaints.**

(a) If a public official or public employee has reason to believe a complaint is frivolous due to its having been filed in a grossly negligent manner without basis in law or fact, or without probable cause and made primarily for a purpose other than that of reporting a violation of the act, or that a person has publicly disclosed or caused to be disclosed that a complaint against the public official or public employee has been filed with the Commission, the public official or public employee shall notify the Commission and the Commission, through its Executive Director, will conduct an investigation.

(b) These matters will be processed by the Commission in accordance with Chapter 25 (relating to wrongful use of the act).

### **§ 21.5. Conduct of investigations.**

(a) Within 72 hours of the commencement of an investigation, the complainant will be provided notification thereof by first class mail.

(b) The respondent will be provided with a general statement of the alleged violation of the act and other applicable statutes under investigation. Service of the notice is complete upon mailing which will be by certified or registered mail.

(c) The complainant and respondent will be notified of the status of the investigation every 90 days until it is complete.

(d) The Commission may employ or be assigned staff, including attorneys, investigators and hearing officers, as may be required to properly investigate, review and dispose of complaints and investigations.

(e) The Executive Director, staff counsel, director of investigations and special investigators have the authority to conduct interviews, take statements, receive and inspect documents and records and otherwise obtain evidence and gather information by lawful means.

(f) Commission staff members identified in subsection (e) are designated to administer oaths or affirmations for the purpose of obtaining voluntary sworn statements with regard to matters which may properly come before the Commission.

(g) A person having possession or control of documents or records deemed relevant to an investigation that the Commission is authorized to conduct may be required to produce the materials for inspection by subpoena served by the members of the Commission staff designated in subsection (e). These Commission staff members have the right to retain or have access to subpoenaed documents and records for a reasonable period, and to make copies thereof.

(h) The Commission may authorize one or more members of the Commission staff designated in subsection (e) to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the Commission is authorized to conduct.

(1) Sworn statements may be conducted by and before one or more of the staff members in subsection (e).

(2) Testimony received in the preparation of a sworn statement will be under oath or affirmation administered and recorded by a stenographer.

(3) The authority to question a witness appearing for a sworn statement will be limited to staff members taking the sworn statement, the hearing officer and counsel for the witness.

(4) Persons permitted to be in attendance at the preparation of a sworn statement will be limited to staff members of the Commission, the hearing officer, the witness, counsel for the witness and a stenographer.

(5) A witness giving a sworn statement may object to a question if it is irrelevant or privileged.

(6) A witness subpoenaed by the Commission is entitled to compensation as fixed by 42 Pa.C.S. § 5903 (relating to compensation and expenses of witnesses).

(i) Subpoenas issued under subsection (g) or (h) will be authorized by the Commission and signed by the Chair[person] or Vice Chair[person]. Subpoenas may be served by a person empowered to do so or as designated by the Executive Director.

(j) Within 180 days of commencing the investigation, the Commission will do one of the following:

(1) Terminate the investigation and notify the complainant and respondent.

(2) Rule upon a request for an extension by the Executive Director, upon a showing of need, not to exceed 90 days.

(i) The granting of or denial of a request for an extension requires a majority vote of a quorum of the Commission.

(ii) A maximum of two extensions may be granted.

(iii) A findings report will be issued within 180 days after the commencement of an investigation or within the time period of a granted extension.

(3) Issue a findings report which sets forth the pertinent facts, and affords the [subject of the investigation]respondent an opportunity to respond to the findings and to request an evidentiary hearing.

(k) The respondent shall file a response to the findings report of the Commission within 30 days, unless an application for an extension is made to the Commission and granted for good cause shown.

(1) The respondent shall admit or deny the allegations in the findings report by number. Anything not specifically denied or general denials will be deemed an admission of the individual factual finding.

(2) New matter raised by a respondent in his answer does not require a reply by the Commission.

(l) Investigations by the Commission and the information gained therein will be confidential subject to the exceptions in section 1108(k)(1)–(8) of the act (65 Pa.C.S. § ~~4~~1108(k)(1)–(8)).

(m) If an investigation conducted under the act indicates that no violation has been committed, the Commission will immediately terminate the investigation and send written notice of the determination to the complainant and the person who was the subject of the investigation.

(n) Subsection (h) supersedes 1 Pa. Code §§ 35.142–35.145 (relating to subpoenas; and depositions).

## **§ 21.6. Confidentiality.**

(a) As a general rule, a person may not disclose or acknowledge, to another person, any information relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which is before the Commission. However, a person may disclose or acknowledge to another person matters held confidential in accordance with this chapter or 65 Pa.C.S. § 1108 (relating to investigations by ~~the~~ Commission), when the matters pertain to any of the following:

(1) Final orders of the Commission as provided in 65 Pa.C.S. § 1108(h).

(2) Hearings conducted in public under 65 Pa.C.S. § 1108(g).

(3) For the purpose of seeking advice of legal counsel.

- (4) Filing an appeal from a Commission order.
- (5) Communicating with the Commission or its staff, in the course of a preliminary inquiry, investigation, hearing or petition for reconsideration by the Commission.
- (6) Consulting with a law enforcement official or agency for the purpose of initiating, participating in or responding to an investigation or prosecution by the law enforcement official or agency.
- (7) Testifying under oath before a governmental body or a similar body of the United States of America.
- (8) Information, records or proceedings relating to a complaint, preliminary inquiry, investigation, hearing or petition for reconsideration which the person is the subject of.
- (9) The publication or broadcast of information legally obtained by the news media regarding a confidential Commission proceeding.
- (10) The divulgence by individuals who are interviewees or witnesses as to confidential Commission proceedings regarding information that was already in their possession or the disclosure of their own statements.

## HEARINGS

### § 21.21. General.

(a) The Commission will conduct hearings upon the request of a respondent. A respondent shall request a hearing in his answer to the findings report or separately within 30 days of the issuance of the findings report. Failure to request a hearing within the time period will be deemed a waiver.

(1) The respondent may be granted an extension for filing an answer upon application to the Chief Counsel and for good cause shown. The Chief Counsel may grant an extension up to 30 days.

(2) Further requests shall be made to the Chair[person] 2 weeks prior to the extended deadline. The Chair[person] may grant a second extension if extraordinary circumstances are demonstrated in writing.

(3) Extensions granted will correspondingly advance other deadlines provided for in the act.

(4) A hearing will be held within 45 days after the respondent's answer to the [F]indings [R]eport unless the time is extended upon application for good cause shown.

(5) A notice of hearing will be issued to the respondent unless represented by counsel in which case to counsel within a reasonable period of time prior thereto. The notice will advise of the date, time and location of the hearing, and of the hearing rights, privileges, process and procedures in this section.

(6) Hearings will be conducted in Harrisburg, Pennsylvania. [For cases to which the act applies, a]A request for a hearing in Philadelphia or Pittsburgh will be granted, if filed with the



Commission within 7 days after the notice of hearing is mailed. Failure to request a hearing in those locations within the time period will be deemed a waiver of the right.

(b) Hearings will be conducted before one or more members of the Commission. The Commission may appoint a hearing officer for the conduct of the hearings.

#### **§ 21.22. Discovery.**

(a) The respondent will be given access to evidence intended to be used by the Commission at the hearing, as well as exculpatory evidence developed during the investigation.

(b) Access to evidence does not include the original complaint or the name of the complainant, information which is otherwise privileged or information not within subsection (a).

#### **§ 21.23. Scope of hearing.**

(a) Hearings may be conducted as follows based upon the express agreement of the parties:

(1) Full evidentiary hearing.

(2) Limited hearing based on partially stipulated facts.

~~(3) Oral argument based on stipulated findings.~~

~~(4) Submission on briefs.~~

~~(4) Limited hearing based on partially stipulated facts.~~

(b) The respondent has the right to a full hearing, if so requested.

(c) The Commission and the respondent may stipulate one or more of the facts.

(d) Motions for dismissal made by the respondent will be deferred to the full Commission for consideration.

(e) This section supersedes 1 Pa. Code § 35.126 (relating to presentation by the parties).

#### **§ 21.24. Hearing officer.**

(a) It is the duty of the hearing officer and he has the power to do one or more of the following:

(1) Schedule and conduct a hearing as required to resolve the matter and to provide the parties with proper notice of the hearing.

(2) Administer oaths or affirmations to witnesses.

(3) Rule on motions, objections or other matters arising during the hearing.

(4) [1] Ensure that all parties have a full and fair opportunity to be heard.

(5) [1] Ensure that a record of the proceedings is available for review by the Commission.

(6) Advise witnesses and parties to the hearing of the confidentiality requirements of the act.

(7) Advise witnesses or the respondents, when not represented by counsel, of their rights as witnesses.

(8) Issue subpoenas upon written request for the production of documents, records and persons needed for the proceeding. The hearing officer will be provided with the name and addresses of the persons and a description of the documents or records involved, and will be satisfied that the documents, records or testimony are relevant and are not protected by privilege.

(9) Arrange for the payment of witness fees and mileage expenses or pay other related expenses as required by law.

(b) The [presiding]hearing officer will make the following available to the Commission to the extent applicable:

(1) A transcript of the hearing, including exhibits.

(2) Motions, briefs, memorandums or documents filed by a party to the proceeding.

(c) Subsection (a) supersedes 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers).

#### **§ 21.25. Conduct of the hearing.**

(a) The formal rules of evidence will not apply to hearings. Relevant probative evidence except properly objected-to hearsay will be admitted.

(b) Testimony shall be given under oath or affirmation and witnesses shall be subject to cross-examination.

(c) The investigative staff of the Commission will present its case followed by the case of the respondent.

(d) Each party may make an opening and closing statement.

(e) Parties to the proceeding will be afforded a full and fair opportunity to be heard and may be represented by counsel.

(f) The hearing will be closed to the public unless the respondent requests an open hearing.

(g) Witnesses summoned for hearings shall receive reimbursement for expenses under 42 Pa.C.S. § 5903 (relating to compensation and expenses of witnesses).

(h) Subpoenas may be issued at the request of the parties to the hearing on the approval of the Commission or hearing officer. Information subpoenaed shall be relevant and not privileged.

(i) The hearing and papers, records and disclosures therein will be confidential except for the contents of the final order as provided in § 21.29 (relating to finality; reconsideration).

(j) If one or more of the participants in a hearing become disrespectful, disorderly or disruptive, the hearing officer may continue the hearing to allow the full Commission to rule on the proper limitations or sanctions for the person whose behavior does not conform to minimum standards required for an orderly proceeding.

(k) Subsection (a) supersedes 1 Pa. Code § 35.161 (relating to form and admissibility of evidence). Subsection (b) supersedes 1 Pa. Code § 35.137 (relating to oral examination). Subsection (c) supersedes 1 Pa. Code § 35.125 (relating to order of procedure).

#### **§ 21.26. Motions.**

(a) A motion filed prior to the issuance of a notice of hearing will be submitted to the Chair[person], Vice Chair[person] or designated hearing officer who will rule on the matter unless in the exercise of his discretion the motion should be submitted to the Commission for a determination at the next scheduled executive session of the Commission.

(b) A motion filed will correspondingly advance other deadlines provided for in the act by an amount of time equal to the period between the date of filing of the motion and the date of disposition.

(c) A motion filed immediately prior to or at hearing will be submitted to the hearing officer. The hearing officer will rule on the motion except that which would involve a final determination which will be deferred and submitted to the Commission as part of the record for final disposition of the case.

(d) This section supersedes 1 Pa. Code § 35.177 (relating to scope and contents of motions).

#### **§ 21.27. Briefs.**

(a) The hearing officer or the parties may request that briefs, proposed findings of fact and conclusions of law be presented. The hearing officer will establish a schedule for the presentation of this material. The parties have the right to request a schedule for the filing of briefs. Failure to comply with this schedule without reasonable excuse, as determined by the hearing officer, shall operate as a waiver of the opportunity to present this material.

(b) The hearing officer will provide the specifications for briefs which will be in conformity with 1 Pa. Code Chapter 35 (relating to formal proceedings).

(c) Subsection (a) supersedes 1 Pa. Code § 35.191 (relating to proceedings in which briefs are to be filed).

#### **§ 21.28. Decision.**

At the conclusion of a hearing concerning an alleged violation and in a timely manner, the Commission will deliberate on the evidence to determine whether there has been a violation of the act.

(1) At least four members of the Commission present at a meeting must find a violation of the act by clear and convincing proof.

(2) The names of the members finding a violation and the names of those dissenting and abstaining will be listed in the order.

(3) The determination of the Commission, in the form of a final order and findings of fact, will be a matter of public record.

### **§ 21.29. Finality; reconsideration.**

(a) An order disposing of an investigation will be a final order when issued. Public release of the order will occur 30 days after the date of issuance, unless reconsideration is requested within that 30-day time period.

(b) Any party may ask the Commission to reconsider an order or opinion within 30 days of service of the order or opinion. The request[er] shall present a detailed explanation setting forth the reason why the order or opinion should be reconsidered.

(c) A request for reconsideration filed with the Commission will delay the public release of an order, but will not suspend the final order unless reconsideration is granted by the Commission.

(d) A request for reconsideration may include a request for a hearing before the Commission.

(e) Reconsideration may be granted at the discretion of the Commission if:

(1) A material error of law has been made.

(2) A material error of fact has been made.

(3) New facts or evidence are provided which would lead to reversal or modification of the order or opinion and if these could not be or were not discovered by the exercise of due diligence.

(f) If the Commission grants reconsideration the Commission may do one or more of the following:

(1) Order new hearings.

(2) Schedule and conduct oral argument.

(3) Take other action or issue an order or opinion in final disposition of the case.

(g) Pending reconsideration or request for reconsideration, an order will remain confidential.

(h) An order which becomes final in accordance with this section will be available as a public document, but the files and records relating thereto will remain confidential.

(i) This section supersedes 1 Pa. Code § 35.231—35.233 and 35.241 (relating to reopening of record; and application for rehearing or reconsideration).

### **§ 21.30. Effect of order.**

In addition to deciding the case before it, the Commission may take one or more of the following actions, if appropriate. The Commission may:

(1) Order the respondent to make restitution or impose a monetary penalty in accordance with the act.

(2) Order the respondent to cease and desist from engaging in a particular activity deemed to be in contravention of the act.

- (3) Order the respondent to take specified action to bring himself in compliance with the act.
- (4) Refer the matter for review or with a specific recommendation for action to law enforcement, regulatory or other authorities with jurisdiction over the matters.
- (5) Institute restitution order enforcement proceedings through the Office of Attorney General or the Commission's legal staff.

## **CHAPTER 23. COMMISSION**

### **GENERAL PROVISIONS**

Sec.

- 23.1 Meetings.
- 23.2. Quorum.
- 23.3. Presiding officer.
- 23.4. Conduct of meetings.
- 23.5. Records of meetings.
- 23.6. Supplemental procedures.
- 23.7. Election of Chairperson and Vice Chairperson.

### **CODE OF CONDUCT**

- 23.21. Code of conduct.
- 23.22. Prohibited activities.
- 23.23. Limitations on voting/recusal.

### **GENERAL PROVISIONS**

#### **§ 23.1. Meetings.**

Meetings of the Commission will be held at the call of the Chair[person] or any four members, at a time and location and for a purpose as may be determined by the Chair[person] or the four other members.

#### **§ 23.2. Quorum.**

A minimum of four members of the Commission will constitute a quorum. In a meeting, the majority vote of the quorum will constitute official action, except as provided in §§ 21.28 and 23.22(e) (relating to decision; and prohibited activities).

#### **§ 23.3. Presiding officer.**

(a) The Commission will elect a Chair[person] and Vice Chair[person]. The Chair[person] will preside over Commission meetings. If the Chair[person] is absent or that position is vacant, the Vice[-]Chair will preside.

(b) If the Chair[person] and Vice Chair[person] will be absent from a Commission meeting, the Chair[person], or the Vice Chair[person] if presiding, may designate a Commission member to preside for a scheduled meeting.

(c) If no designation is made under subsection (b), the Commission will elect from among its members, a presiding officer by a majority vote.

(d) The presiding officer will rule upon matters at the meeting and take action as may be necessary to ensure that the meeting proceeds in an orderly and proper manner.

#### **§ 23.4. Conduct of meetings.**

(a) *Statements.* Persons in attendance before the Commission may be given a reasonable time in which to make relevant commentary. A person may be questioned during the presentation. The presentation may be terminated by the presiding officer if a reasonable time has expired or if the statement is irrelevant.

(b) *Questioning.* The authority to question an individual making a statement will be limited to the presiding officer, other members of the Commission and to the extent permitted by the presiding officer, staff members and the parties.

(c) *Public meetings.* Meetings of the Commission will be open to the general public at a time and place announced in advance under the Sunshine Act (65 Pa.C.S. § § [271]701—[286]716).

(d) *Executive session.* Executive sessions of the Commission will be announced at public meetings of the Commission, including the time and reason for holding of an executive session.

#### **§ 23.5. Records of meetings.**

Records of public meetings will be kept by the Executive Director and filed within a reasonable time following each Commission meeting. These records will be made available for public inspection during office hours.

#### **§ 23.6. Supplemental procedures.**

The Commission may adopt supplemental procedures or guidelines to govern the administrative and internal operations of the Commission in its discretion by resolution of a majority of a quorum.

#### **§ 23.7. Election of Chair[person] and Vice Chair[person].**

(a) At the first meeting of every odd calendar year, [after the expiration of the term of office of the Chairperson and Vice Chairperson.] a quorum of the Commission will elect a Chair[person] and Vice Chair[person]. Commission members who are nominated for these positions are not precluded from voting.

(b) The term of office for the Chair[person] and Vice Chair[person] is 2 years or until the election of the Chair and Vice Chair as set forth in paragraph (a). [The officers will remain in

office during the interim period between the date when the term of office expires and the next regularly scheduled election.]

- (c) The Chair[person] and Vice Chair[person] are eligible to serve successive terms.
- (d) Notice of the election will be public and announced during the final meeting of the Commission in the year preceding the year in which the terms of office of the serving officers expire.
- (e) In the event of the completion of the term of office and non-reappointment, resignation, removal or incapacity of the Chair[person], the Vice Chair[person] will serve the unexpired term of the Chair[person] or will serve during the period of incapacity of the Chair[person].
- (f) Upon the resignation, removal, completion of the term and non-reappointment, or in the event that the Vice Chair[person] must assume the duties of the Chair[person], a majority of the quorum of the Commission may schedule a special election to elect a Vice Chair[person].
- (g) Notice of a special election will be publicly announced at least 30 days prior to the election. Notice will be forwarded to the members of the Commission.
- (h) The Chair[person], or Vice Chair[person] may be removed as officers, but not as Commissioners, for just cause upon a majority vote of the Commission.
- (i) A motion to remove a member of the Commission from the offices mentioned in subsection (h) may be made by a Commission member.
- (j) A member may not be removed unless given reasonable notice and an opportunity to be heard.

## **CODE OF CONDUCT**

### **§ 23.21. Code of conduct.**

- (a) Due to their special position, Commissioners have a higher duty than other public officials to avoid conflicts of interests. Respect for the act can be maintained only if Commission members are models of ethical behavior. The purpose of this section and § § 23.22 and 23.23 (relating to prohibited activities; and limitations on voting/recusal) is to guide the Commissioners so that their behavior meets the highest of ethical standards.
- (b) The provisions of this section and § § 23.22 and 23.23 are in addition to the duties, responsibilities or obligations imposed upon the Commission members as public officials under the act.

### **§ 23.22. Prohibited activities.**

- (a) A Commissioner may not be employed by the Commonwealth or a political subdivision of the Commonwealth in a capacity with or without compensation, including holding another public office or position.

(b) A Commissioner may not hold an office in a political party during his tenure or for 1 year prior to his appointment to the Commission, nor may a member hold office in a political committee during his tenure.

(c) A Commissioner, a spouse of a Commissioner or a member of a Commissioner's immediate family residing in the Commissioner's household may not actively participate in or contribute to a political campaign.

(1) Active participation in a campaign includes attempting to assist a candidate or nominee to obtain public office, soliciting support or information, distributing campaign materials or advertisements, fundraising, publicly supporting a candidate, participating in an organized effort for the purpose of helping a candidate or nominee or attending a fundraiser or dinner on behalf of a candidate.

(2) This section does not abridge the right of a Commissioner to vote or attend a debate, speech or similar event that is held primarily for the purpose of communicating a candidate's platform or position on issues of public concern.

(d) A Commissioner may not directly or indirectly attempt to influence a decision by a governmental body, other than a court of law or as a representative of the Commission on a matter within the jurisdiction of the Commission.

(e) If a Commissioner violates section 1106(d) of the act (65 P.S. § ~~4~~1106(d)), a majority of the Commission may declare the seat vacant.

(1) A motion to remove a Commissioner will be made by a Commission member.

(2) A Commissioner may not be removed prior to notice and an opportunity to be heard.

### **§ 23.23. Limitations on voting/recusal.**

(a) A Commissioner is required to recuse himself from a matter which involves persons with whom the Commissioner has a direct involvement, personally or financially.

(1) A Commissioner is deemed to have a direct personal involvement with members of his immediate family as defined in the act, in-laws and close friends.

(2) A Commissioner has a direct financial involvement with an individual who owns a part of or is employed by a business with which the Commissioner is associated within the 2 years prior to the Commission's review of a matter in question if the financial involvement was of more than a de minimis nature.

(3) If a Commissioner recuses himself from a matter he will:

(i) Remove himself from that segment of the Commission meeting wherein the matter is to be discussed and avoid casual discussion of the matter with other Commissioners.

(ii) Receive no further information from the Commission or the Commission staff regarding the matter.

(iii) Receive copies of minutes of the meeting containing deletions so as to not disclose the matter to the Commissioner.



(b) A Commissioner who has a potential conflict not addressed in subsection (a) will take one of the following courses of action:

(1) Disclose the matter to the Commission and seek its guidance as to whether it would be proper to participate and vote in a matter before the Commission.

(2) Disclose to the parties his potential conflict and solicit their express agreement that he may continue in his official capacity, subject to the approval of the Commission.

(3) Recuse himself.

(c) A Commissioner who recuses himself or is recused by the Commission or at the suggestion of one of the parties is subject to subsection (a)(3).

(d) A Commissioner's participation involving parties with whom the Commissioner has had substantial prior contact may present a conflict under subsection (b) depending on the totality of the circumstances. Circumstances to be considered include whether the matter involves one or more of the following:

(1) A relative of the Commissioner.

(2) A former employer or employee.

(3) A person or business with which a Commissioner has or had financial dealings of more than a de minimis nature within the 2 years prior to the Commissioner's review of the matter in question.

(4) A source of income reportable on the Statement of Financial Interests.

(5) The individual appointing authority of the Commissioner is a respondent.

(6) A person providing the Commissioner with funds, goods or services without compensation.

(7) A person with whom the Commissioner has a fiduciary relationship.

(8) A debtor or creditor of the Commissioner.

(e) A Commissioner recused from a matter shall direct that the individual recording the minutes at the meeting enter into the minutes the recusal and the reasons therefor.

(f) If the Commission cannot achieve a quorum because recusals reduce the number of Commissioners available to vote, the matter in question will be deferred until a meeting at which a quorum may be achieved.

## **CHAPTER 25. WRONGFUL USE OF THE ACT**

Sec.

25.1. Wrongful use of the act.

25.2. Initiation of proceedings.

25.3. Disposition.

25.4. Appeal of determination.

### **§ 25.1. Wrongful use of the act.**

Wrongful use of the act is established by one or more of the following elements:

- (1) The filing of a frivolous complaint which is a complaint filed in a grossly negligent manner without basis in law or fact.
- (2) The filing of a complaint without probable cause, primarily for a purpose other than reporting a violation of the act.
- (3) Disclosing publicly or causing to be publicly disclosed the fact that an individual is the subject of a complaint or Commission investigation.

### **§ 25.2. Initiation of proceedings.**

(a) The Commission may initiate proceedings to determine whether there has been a wrongful use of the act through the filing of a notification by a public official/public employee as provided for in section 1108(1) of the act (65 Pa.C.S. § [4]1108(1)), which notification shall contain the following:

- (1) A reference identifying the complaint/investigation involved.
  - (2) A detailed explanation as to the reasons, information, facts or evidence establishing the elements of wrongful use of act as outlined in § 25.1 (relating to wrongful use of the act).
  - (3) If applicable, identification of the person publicly disclosing the existence of Commission proceedings and the specific nature of the disclosure.
  - (4) Additional information necessary to the resolution of the matter.
- (b) Failure to provide information as outlined in this section will be cause for dismissal of the notification.

### **§ 25.3. Disposition.**

(a) Pursuant to a notification containing the requisite information outlined in § 25.2 (relating to initiation of proceedings), the Commission will initiate proceedings by conducting an investigation to determine whether there has been a wrongful use of act.

- (b) The investigation will be conducted in a confidential manner.
- (c) The investigation may incorporate information which the Commission has already obtained.

(1) If the Commission determines a complaint has been filed in violation of the act, it will release the name and address of the complainant to the respondent after giving the complainant notice and an opportunity to be heard on the issue of whether the complainant wrongfully used the act.

(2) If the Commission determines that a complaint was proper, it will so notify the respondent who may appeal that determination and the Commission will schedule a hearing.

(d) Upon completion of the investigation, the Commission will make a preliminary determination as to wrongful use of the act. The Commission will notify the complainant and subject of the preliminary determination.

#### **§ 25.4. Appeal of determination.**

(a) Both the complainant and the subject have standing and either may appeal the preliminary determination to the Commission.

(1) Any appeal shall be filed with the Commission within 30 days of service of the preliminary determination.

(2) If there is no timely appeal filed, the Commission's initial determination will become absolute and will become the final determination of the Commission in the matter as to wrongful use of the act.

(b) The issuance of Orders to Show Cause is governed by the following:

(1) If a subject appeals, the Commission will issue an Order to Show Cause requiring the respondent to set forth reasons why the rule should not be made absolute as to a finding of no wrongful use of the act. The answer to the rule shall contain specific factual averments which establish a basis for believing the act was wrongfully used. One or more of the following are inadequate to establish wrongful use:

- (i) Dismissal of the complaint.
- (ii) Dismissal for lack of probable cause.
- (iii) Dismissal on jurisdictional grounds.

(2) The Commission will schedule a hearing for the subject's appeal at which the subject shall bear the burden of proving wrongful use of the act by clear and convincing evidence. The investigative staff of the Commission will present the case opposing the subject's appeal.

(c) If the complainant appeals, the Commission will issue a Rule to Show Cause requiring the complainant to file an answer to the averments in the Rule as to why the Rule should not be made absolute as to a finding of wrongful use of the act. The Commission will schedule a hearing for the complainant's appeal. The investigative staff of the Commission will present the Commission's case and will have the burden of proving wrongful use of the act by clear and convincing evidence.

(d) If the Commission makes a final determination that the act has been wrongfully used, it will release to the subject the name and address of the complainant solely for the purpose of initiating an action for wrongful use of the act. The complainant's identity will not otherwise be publicly released.

(e) If the Commission makes a final determination that the act was not wrongfully used, it will issue a final determination setting forth the reasons and evidence for its finding.

(f) The procedures of §§ 21.21—21.29 will apply to the hearing to the extent applicable.



PHONE: 717-783-1610  
TOLL FREE: 1-800-932-0936

**STATE ETHICS COMMISSION**  
FINANCE BUILDING  
613 NORTH STREET, ROOM 309  
HARRISBURG, PA 17120-0400

FACSIMILE: 717-787-0806  
WEBSITE: [www.ethics.pa.gov](http://www.ethics.pa.gov)

October 18, 2023

David Sumner  
Executive Director  
Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg, PA 17120

**Re: Final-Omitted Regulation No. 63-08**

Dear Executive Director Sumner:

Please find enclosed a copy of the Final-Form Regulation Packet for the State Ethics Commission's Final-Omitted Regulation No. 63-08. The Final-Form Regulation Packet includes the following:

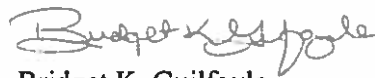
1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Preamble;
5. Annex A – Final-Form Regulation; and
6. Transmittal Sheet with Receipt Confirmations.

This final-omitted rulemaking proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code* to provide for statutory consistency, clarity and modernization. The State Ethics Commission's regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the State Ethics Commission conducts business since that time. In order to help guide the regulated community and to assist the State Ethics Commission in its ability to regulate the conduct of those subject to the Ethics Act, certain technical changes are necessary. This final-omitted rulemaking would remedy inconsistencies between the Ethics Act and the State Ethics Commission's regulations, provide clarity to the Commissioners and those subject to the Ethics Act and the regulations, and modernize the State Ethics Commission's practices by allowing for electronic mail as an acceptable means for filing and service of documents.

Accordingly, the State Ethics Commission is submitting the final-omitted regulations to the Independent Regulatory Review Commission for review pursuant to the provisions of the Regulatory Review Act.

Thank you for your time and consideration. I am available to discuss this final-form rulemaking package with you and your staff at your convenience.

Respectfully,

A handwritten signature in cursive script, appearing to read "Bridget K. Guilfoyle".

Bridget K. Guilfoyle  
Chief Counsel

BKG/  
Enclosures

**TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT**

**I.D. NUMBER:** 63-08

**SUBJECT:** Technical Revisions for Statutory Consistency, Clarity and Modernization

**AGENCY:** State Ethics Commission

**TYPE OF REGULATION**

- Proposed Regulation
- Final Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor
- Delivery of Tolled Regulation
  - With Revisions       Without Revisions

**RECEIVED**

OCT 18 2023

Independent Regulatory  
Review Commission

**FILING OF REGULATION**

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<u>HOUSE COMMITTEE - Judiciary</u>
10/18/23	Electronic Service	MAJORITY CHAIR <u>Tim Briggs</u>
10/18/23	Electronic Service	MINORITY CHAIR <u>Rob W. Kauffman</u>
		<u>SENATE COMMITTEE - State Government</u>
10/18/23	Electronic Service	MAJORITY CHAIR <u>Cris Dush</u>
10/18/23	Electronic Service	MINORITY CHAIR <u>Amanda M. Cappelletti</u>
10/18/23	Electronic Service	<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u>
10/18/23	Electronic Service	<u>ATTORNEY GENERAL (for Final Omitted only)</u>
		<u>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</u>

## Guilfoyle, Bridget

---

**From:** Clawges, Timothy <TClawges@pahouse.net>  
**Sent:** Wednesday, October 18, 2023 12:18 PM  
**To:** Guilfoyle, Bridget  
**Subject:** RE: Final-Omitted Regulation 63-08

RECEIVED

Got it

OCT 18 2023

---

**From:** Guilfoyle, Bridget <bguilfoyle@pa.gov>  
**Sent:** Wednesday, October 18, 2023 12:15 PM  
**To:** Clawges, Timothy <TClawges@pahouse.net>  
**Subject:** FW: Final-Omitted Regulation 63-08  
**Importance:** High

Independent Regulatory  
Review Commission

Dear Mr. Clawges:

Please see the below email sent to Representative Briggs this morning. Due to the time constraints, would you please confirm receipt of this rulemaking package on behalf of the House Judiciary Committee. Your assistance is greatly appreciated. Please do not hesitate to contact me in the event you have any questions.

Sincerely,

**Bridget K. Guilfoyle** | Chief Counsel  
Pennsylvania State Ethics Commission  
Finance Building  
613 North Street, Room 309 | Harrisburg, PA 17120  
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | [bguilfoyle@pa.gov](mailto:bguilfoyle@pa.gov)  
[www.ethics.pa.gov](http://www.ethics.pa.gov)

**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you are not the intended recipient, any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

---

**From:** Guilfoyle, Bridget  
**Sent:** Wednesday, October 18, 2023 10:21 AM  
**To:** [tbriggs@pahouse.net](mailto:tbriggs@pahouse.net)  
**Subject:** Final-Omitted Regulation 63-08

Dear Representative Briggs:

In your capacity as Chair of the House Judiciary Committee, please find attached a copy of the Final-Form Regulation Packet for the State Ethics Commission's Final-Omitted Regulation No. 63-08. The Final-Form Regulation Packet includes the following:

1. Regulatory Analysis Form;

2. Fiscal Note;
3. Face Sheet;
4. Preamble; and
5. Annex A – Final-Form Regulation.

This final-omitted rulemaking proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code* to provide for statutory consistency, clarity and modernization. The State Ethics Commission's regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the State Ethics Commission conducts business since that time. In order to help guide the regulated community and to assist the State Ethics Commission in its ability to regulate the conduct of those subject to the Ethics Act, certain technical changes are necessary. This final-omitted rulemaking would remedy inconsistencies between the Ethics Act and the State Ethics Commission's regulations, provide clarity to the Commissioners and those subject to the Ethics Act and the regulations, and modernize the State Ethics Commission's practices by allowing for electronic mail as an acceptable means for filing and service of documents. Accordingly, the State Ethics Commission will be submitting this final-omitted regulation to the Independent Regulatory Review Commission for review pursuant to the provisions of the Regulatory Review Act.

Thank you for your time and consideration. I am available to discuss this final-form rulemaking package with you and your staff at your convenience.

In order to satisfy the notice requirements of the Independent Regulatory Review Commission, please confirm via email receipt of this rulemaking package.

Sincerely,

**Bridget K. Guilfoyle** | Chief Counsel  
Pennsylvania State Ethics Commission  
Finance Building  
613 North Street, Room 309 | Harrisburg, PA 17120  
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | [bguilfoyle@pa.gov](mailto:bguilfoyle@pa.gov)  
[www.ethics.pa.gov](http://www.ethics.pa.gov)

**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you are not the intended recipient, any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

**RECEIVED**

OCT 18 2023

Independent Regulatory  
Review Commission



## Guilfoyle, Bridget

---

**From:** Rob Kauffman <Rkauffma@pahousegop.com>  
**Sent:** Wednesday, October 18, 2023 1:50 PM  
**To:** Guilfoyle, Bridget  
**Subject:** RE: [EXTERNAL]: Final-Omitted Regulation 63-08

Received

Best regards,

Rob

Rob Kauffman  
State Representative  
89th Legislative District

RECEIVED

OCT 18 2023

Independent Regulatory  
Review Commission

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this information in error, please contact the sender and delete the message and material from all computers.

**From:** Guilfoyle, Bridget <bguilfoyle@pa.gov>  
**Sent:** Wednesday, October 18, 2023 10:21 AM  
**To:** Rob Kauffman <Rkauffma@pahousegop.com>  
**Subject:** [EXTERNAL]: Final-Omitted Regulation 63-08

Dear Representative Kauffman:

In your capacity as Republican Chair of the House Judiciary Committee, please find attached a copy of the Final-Form Regulation Packet for the State Ethics Commission's Final-Omitted Regulation No. 63-08. The Final-Form Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Preamble; and
5. Annex A – Final-Form Regulation.

This final-omitted rulemaking proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code* to provide for statutory consistency, clarity and modernization. The State Ethics Commission's regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the State Ethics Commission conducts business since that time. In order to help guide the regulated community and to assist the State Ethics Commission in its ability to regulate the conduct of those subject to the Ethics Act, certain technical changes are necessary. This final-omitted rulemaking would remedy inconsistencies between the Ethics Act and the State Ethics Commission's regulations, provide clarity to the Commissioners and those subject to the Ethics Act and the regulations, and modernize the State Ethics Commission's practices by allowing for electronic mail as an acceptable means for filing and service of documents. Accordingly, the State Ethics Commission will be submitting this final-omitted

regulation to the Independent Regulatory Review Commission for review pursuant to the provisions of the Regulatory Review Act.

Thank you for your time and consideration. I am available to discuss this final-form rulemaking package with you and your staff at your convenience.

In order to satisfy the notice requirements of the Independent Regulatory Review Commission, please confirm via email receipt of this rulemaking package.

Sincerely,

**Bridget K. Guilfoyle** | Chief Counsel  
Pennsylvania State Ethics Commission  
Finance Building  
613 North Street, Room 309 | Harrisburg, PA 17120  
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | [brguilfoyle@pa.gov](mailto:brguilfoyle@pa.gov)  
[www.ethics.pa.gov](http://www.ethics.pa.gov)

RECEIVED

OCT 18 2023

Independent Regulatory  
Review Commission

**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you are not the intended recipient, any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

*The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this information in error, please contact the sender and delete the message and material from all computers.*

**Guilfoyle, Bridget**

---

**From:** Bellock, Julianne <jbellock@pasen.gov>  
**Sent:** Wednesday, October 18, 2023 1:35 PM  
**To:** Guilfoyle, Bridget  
**Cc:** Burnett, David; Dush, Cris  
**Subject:** RE: Final-Omitted Regulation 63-08

**RECEIVED**

OCT 18 2023

Independent Regulatory  
Review Commission

Bridget,

Please accept this email as confirmation of receipt of the below email by Senator Dush and Mr. Burnett.  
I have cc both the Senator and David.

Thank you,

*Julie Bellock*

Administrative Assistant  
Senator Cris Dush  
9 East Wing  
Harrisburg, PA 17120  
717-787-7084  
[www.senatorcrisdushpa.com](http://www.senatorcrisdushpa.com)



---

**From:** Guilfoyle, Bridget <bguilfoyle@pa.gov>  
**Sent:** Wednesday, October 18, 2023 1:27 PM  
**To:** Bellock, Julianne <jbellock@pasen.gov>  
**Subject:** FW: Final-Omitted Regulation 63-08  
**Importance:** High

Ⓢ CAUTION : External Email Ⓢ

Dear Ms. Bellock – Thank you for your assistance with the confirmation of receipt of the below email by Senator Dush and Mr. Burnett.

~Bridget

Bridget K. Guilfoyle | Chief Counsel  
Pennsylvania State Ethics Commission  
Finance Building  
613 North Street, Room 309 | Harrisburg, PA 17120  
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | [bguilfoyle@pa.gov](mailto:bguilfoyle@pa.gov)  
[www.ethics.pa.gov](http://www.ethics.pa.gov)

**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you are not the intended recipient, any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

**RECEIVED**

OCT 18 2023

Independent Regulatory  
Review Commission

**From:** Guilfoyle, Bridget  
**Sent:** Wednesday, October 18, 2023 10:21 AM  
**To:** [cdush@pasen.gov](mailto:cdush@pasen.gov)  
**Cc:** [dburnett@pasen.gov](mailto:dburnett@pasen.gov)  
**Subject:** Final-Omitted Regulation 63-08

Dear Senator Dush:

In your capacity as Chair of the Senate Committee on State Government, please find attached a copy of the Final-Form Regulation Packet for the State Ethics Commission's Final-Omitted Regulation No. 63-08. The Final-Form Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Preamble; and
5. Annex A – Final-Form Regulation.

This final-omitted rulemaking proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code* to provide for statutory consistency, clarity and modernization. The State Ethics Commission's regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the State Ethics Commission conducts business since that time. In order to help guide the regulated community and to assist the State Ethics Commission in its ability to regulate the conduct of those subject to the Ethics Act, certain technical changes are necessary. This final-omitted rulemaking would remedy inconsistencies between the Ethics Act and the State Ethics Commission's regulations, provide clarity to the Commissioners and those subject to the Ethics Act and the regulations, and modernize the State Ethics Commission's practices by allowing for electronic mail as an acceptable means for filing and service of documents. Accordingly, the State Ethics Commission will be submitting this final-omitted regulation to the Independent Regulatory Review Commission for review pursuant to the provisions of the Regulatory Review Act.

Thank you for your time and consideration. I am available to discuss this final-form rulemaking package with you and your staff at your convenience.

In order to satisfy the notice requirements of the Independent Regulatory Review Commission, please confirm via email receipt of this rulemaking package.

Sincerely,

**Bridget K. Guilfoyle | Chief Counsel**  
Pennsylvania State Ethics Commission  
Finance Building

**Guilfoyle, Bridget**

---

**From:** Cappelletti, Senator Amanda <Amanda.Cappelletti@pasenate.com>  
**Sent:** Wednesday, October 18, 2023 10:23 AM  
**To:** Guilfoyle, Bridget  
**Subject:** Re: Final-Omitted Regulation 63-08

**RECEIVED**

OCT 18 2023

Thank you, Bridget. Received.

Amanda M. Cappelletti  
State Senator  
Pronouns: she/her  
Sent from a mobile device, please excuse typos

Independent Regulatory  
Review Commission

---

**From:** Guilfoyle, Bridget <bguilfoyle@pa.gov>  
**Sent:** Wednesday, October 18, 2023 10:20:41 AM  
**To:** Cappelletti, Senator Amanda <amanda.cappelletti@pasenate.com>  
**Subject:** Final-Omitted Regulation 63-08

---

Dear Senator Cappelletti:

In your capacity as Minority Chair of the Senate Committee on State Government, please find attached a copy of the Final-Form Regulation Packet for the State Ethics Commission's Final-Omitted Regulation No. 63-08. The Final-Form Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Preamble; and
5. Annex A – Final-Form Regulation.

This final-omitted rulemaking proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code* to provide for statutory consistency, clarity and modernization. The State Ethics Commission's regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the State Ethics Commission conducts business since that time. In order to help guide the regulated community and to assist the State Ethics Commission in its ability to regulate the conduct of those subject to the Ethics Act, certain technical changes are necessary. This final-omitted rulemaking would remedy inconsistencies between the Ethics Act and the State Ethics Commission's regulations, provide clarity to the Commissioners and those subject to the Ethics Act and the regulations, and modernize the State Ethics Commission's practices by allowing for electronic mail as an acceptable means for filing and service of documents. Accordingly, the State Ethics Commission will be submitting this final-omitted regulation to the Independent Regulatory Review Commission for review pursuant to the provisions of the Regulatory Review Act.

Thank you for your time and consideration. I am available to discuss this final-form rulemaking package with you and your staff at your convenience.

In order to satisfy the notice requirements of the Independent Regulatory Review Commission, please confirm via email receipt of this rulemaking package.

Sincerely,

**Bridget K. Guilfoyle | Chief Counsel**  
Pennsylvania State Ethics Commission  
Finance Building  
613 North Street, Room 309 | Harrisburg, PA 17120  
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | [brguilfoyle@pa.gov](mailto:brguilfoyle@pa.gov)  
[www.ethics.pa.gov](http://www.ethics.pa.gov)

**RECEIVED**

OCT 18 2023

Independent Regulatory  
Review Commission

**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you are not the intended recipient, any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

This message and any attachment may contain privileged or confidential information intended solely for the use of the person to whom it is addressed. If the reader is not the intended recipient then be advised that forwarding, communicating, disseminating, copying or using this message or its attachments is strictly prohibited. If you receive this message in error, please notify the sender immediately and delete the information without saving any copies.

## Guilfoyle, Bridget

---

**From:** Elliott, Amy M. <aelliott@attorneygeneral.gov>  
**Sent:** Wednesday, October 18, 2023 11:39 AM  
**To:** Guilfoyle, Bridget  
**Cc:** Trotter, Carolyn  
**Subject:** RE: [ EXTERNAL ] Final-Omitted Regulation 63-08

You don't often get email from aelliott@attorneygeneral.gov. [Learn why this is important](#)

Good morning,

I can confirm receipt of this rulemaking packet.

Thanks, Amy

Amy M. Elliott  
Chief Deputy Attorney General  
Legal Review Section  
717-783-6316 (w)  
717-941-0523 (c)  
aelliott@attorneygeneral.gov

RECEIVED

OCT 18 2023

Independent Regulatory  
Review Commission

---

**From:** Guilfoyle, Bridget <bguilfoyle@pa.gov>  
**Sent:** Wednesday, October 18, 2023 10:23 AM  
**To:** Elliott, Amy M. <aelliott@attorneygeneral.gov>  
**Subject:** [ EXTERNAL ] Final-Omitted Regulation 63-08

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chief Deputy Elliott:

Please find attached a copy of the Final-Form Regulation Packet for the State Ethics Commission's Final-Omitted Regulation No. 63-08. The Final-Form Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Preamble; and
5. Annex A – Final-Form Regulation.

This final-omitted rulemaking proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code* to provide for statutory consistency, clarity and modernization. The State Ethics Commission's regulations have not undergone a wholesale review since they were promulgated in 1993. Many changes have been made in the manner in which the State Ethics Commission conducts business since that time. In order to help guide the regulated community and to assist the State Ethics Commission in its ability to regulate the conduct of those subject to the Ethics Act, certain technical changes are necessary. This final-omitted rulemaking would remedy inconsistencies between the Ethics Act and the State Ethics Commission's regulations, provide clarity to the Commissioners and those subject to the Ethics Act and

the regulations, and modernize the State Ethics Commission's practices by allowing for electronic mail as an acceptable means for filing and service of documents. Accordingly, the State Ethics Commission will be submitting this final-omitted regulation to the Independent Regulatory Review Commission for review pursuant to the provisions of the Regulatory Review Act.

Thank you for your time and consideration. I am available to discuss this final-form rulemaking package with you and your staff at your convenience.

In order to satisfy the notice requirements of the Independent Regulatory Review Commission, please confirm via email receipt of this rulemaking package.

Sincerely,

**Bridget K. Guilfoyle | Chief Counsel**  
Pennsylvania State Ethics Commission  
Finance Building  
613 North Street, Room 309 | Harrisburg, PA 17120  
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | [bguilfoyle@pa.gov](mailto:bguilfoyle@pa.gov)  
[www.ethics.pa.gov](http://www.ethics.pa.gov)

RECEIVED

OCT 18 2023

Independent Regulatory  
Review Commission

**PRIVILEGED AND CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION  
ATTORNEY WORK PRODUCT**

*The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you are not the intended recipient, any disclosure, copying, distribution, or any action taken or omitted to be taken in reliance on it, is prohibited and may be unlawful. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of the attorney-client or any other privilege.*

Click [here](#) to report this email as spam.

The information transmitted is intended only for the person or entity to whom it is addressed and may contain confidential and/or privileged material. Any use of this information other than by the intended recipient is prohibited. If you receive this message in error, please send a reply e-mail to the sender and delete the material from any and all computers. Unintended transmissions shall not constitute waiver of any applicable attorney-client or any other applicable privilege. PA-OAG

This message has been scanned for malware by Websense. [www.websense.com](http://www.websense.com)