

<h1 style="margin: 0;">Regulatory Analysis Form</h1> <p style="margin: 0;">(Completed by Promulgating Agency)</p> <p style="margin: 0;">(All Comments submitted on this regulation will appear on IRRC's website)</p>		<p><i>INDEPENDENT REGULATORY REVIEW COMMISSION</i></p> <p style="font-size: 24pt; font-weight: bold; margin: 10px 0;">RECEIVED</p> <p style="font-size: 10pt; margin: 5px 0;">Independent Regulatory Review Commission</p> <p style="font-size: 14pt; margin: 5px 0;">April 6, 2026</p>
<p>(1) Agency</p> <p>State Ethics Commission</p>		
<p>(2) Agency Number: 63</p> <p style="padding-left: 20px;">Identification Number: 09</p>	<p>IRRC Number: 3482</p>	
<p>(3) PA Code Cite:</p> <p>51 Pa. Code §§ 11.1—11.3, 13.1—13.5, 15.2, 17.3, 17.7, 17.9, 17.11, 19.1, 19.3—19.5, 21.1—21.6, 21.21—21.30, 23.1—23.5, 23.7, 23.21—23.23, 25.1—25.4</p>		
<p>(4) Short Title:</p> <p>General Revisions Necessitated by Court Opinions and Alignment with Modern Practices</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 304, Harrisburg, PA 17120-0400; Phone: (717) 783-1610; Fax: (717) 787-0806; Email: bguilfoyle@pa.gov</p> <p>Secondary Contact: Martin W. Harter, Deputy Chief Counsel, State Ethics Commission, Finance Building, 613 North Street, Room 304, Harrisburg, PA 17120-0400; Phone: (717) 783-1610; Fax: (717) 787-0806; Email: mharter@pa.gov</p>		
<p>(6) Type of Rulemaking (check applicable box):</p> <p><input checked="" type="checkbox"/> Proposed Regulation</p> <p><input type="checkbox"/> Final Regulation</p> <p><input type="checkbox"/> Final Omitted Regulation</p>	<p><input type="checkbox"/> Emergency Certification Regulation;</p> <p style="padding-left: 20px;"><input type="checkbox"/> Certification by the Governor</p> <p style="padding-left: 20px;"><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 substantive revisions in 30 years during which judicial precedent and modernization have transformed the way the Commission operates. This rulemaking (1) outlines the separation of powers of Commission staff, (2) deletes and revises certain provisions pertaining to wrongful use of the Ethics Act, (3) clarifies procedures for reconsideration of a final order, (4) removes judicial employees from the definitions of “public employee” and “public official,” (5) updates obsolete definitions and adds definitions necessary to interpret the act, (6) describes considerations for the imposition of treble penalties, (7) sets forth discovery, subpoena, investigative, and hearing processes, (8) removes the requirement that a complaint be notarized, and (9) makes several technical edits such as revising language to be gender neutral, correcting statutory references, requiring the provision of an</p>		

email address with advisory opinion requests, and changing the title of “hearing officer” to “presiding officer.”

(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. There are, however, a number of relevant court decisions pertaining to Commission practices. Part of this rulemaking is designed to ensure that Commission practices align with relevant case law. These court decisions are set forth and explained in more detail in the Preamble.

(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.

The State Ethics Commission’s primary mission is to strengthen public faith and confidence in state and local government through enforcement of the Ethics Act to assure the public of the honesty and impartiality of public officials and public employees. 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.” 65 Pa.C.S. § 1101.1(a). Therefore, the Commission considers it imperative to keep abreast of relevant court opinions and align the Commission’s practices to conform with applicable case law.

The Commission’s regulations have not undergone any substantive revisions in 30 years. During that timeframe, several significant court opinions have been issued which speak directly to provisions of the Ethics Act and the regulations. In order to be in conformity with judicial precedent and to help guide the regulated community by ensuring that the Commission’s practices align with relevant case law, certain substantive changes are necessary. This rulemaking would outline the separation of powers of Commission staff, delete certain provisions pertaining to wrongful use of the Ethics Act, clarify the Commission’s procedures for reconsideration of a final order, and remove judicial employees from the definition of “public employee” and “public official” – all changes necessitated by court opinions.

In addition to revisions dictated by the changing legal landscape, the Commission recognizes that after 30 years, many of its regulations require clarification, refinement, and simple edits for transparency and consistency with current practices and procedures. Although the Commission revised its regulations in 2024 through the final-omitted rulemaking process, those changes were limited to technical revisions necessary for statutory consistency, clarity and modernization to regulations that had not been updated for decades. The changes proposed herein primarily involve substantive matters.

Specifically, this rulemaking would provide clarity to those subject to the Commission’s regulations, the general public, and legal advisors by updating obsolete definitions, adding definitions of terms necessary to interpret the Ethics Act and the regulations, and delineating considerations for the imposition of treble penalties in cases involving conflicts of interest.

The rulemaking also would focus on refining due process rights to improve transparency and better inform the regulated community and legal counsel. It would explain the discovery, subpoena, investigative, and hearing processes unique to the Commission, thus providing increased transparency of the Commission’s activities. It also adds a provision instructing the parties how to raise potential conflicts of interest of a Commissioner during a proceeding to ensure fair and equitable treatment of all parties. In addition, the rulemaking would remove the requirement that a complaint be notarized, easing the burden of the general public while still allowing the Commission to best encourage compliance by the regulated community through investigations of those suspected of violating the Ethics Act.

Further, the rulemaking would offer additional clarity edits not included in the technical revisions to the regulations accomplished through the final-omitted rulemaking process in 2024. These include revising language throughout the regulations to be gender neutral, removing certain outdated classifications of people from the definition of “public employee”, correcting statutory references, requiring individuals requesting advisory opinions to provide an email address if available, consolidating familial designations under the statutory definition of “immediate family”, changing the title of “hearing officer” to “presiding officer” and permitting the Commission’s Chief Counsel to serve as the presiding officer for a hearing. Accordingly, this rulemaking, while comprehensive and wide-ranging, benefits the Commission, the regulated community and the general public by aligning Commission practices with case law and providing increased transparency and clarity.

(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.)

The Commission sought comments and suggestions on a draft rulemaking by releasing an exposure draft for public comment on April 22, 2025. The exposure draft was posted on the Commission's website and was sent directly to the following individuals and organizations:

1. Mary W. Fox, Executive Director, State Ethics Commission
2. Sandra Stoner, Deputy General Counsel, Governor's Office of General Counsel
3. Amber J. Sizemore, Deputy General Counsel, Governor's Office of General Counsel
4. Addie A. Abelson, Deputy General Counsel, Governor's Office of General Counsel
5. Danielle Baker-Papinchak, Director of Training Operations, Pennsylvania State Association of Boroughs
6. Ronald Grutza, Senior Director of Government Affairs, Pennsylvania State Association of Boroughs
7. Logan Stover, Director of Policy and Legislative Affairs, Pennsylvania State Association of Boroughs
8. Josh Ehrman, Deputy Executive Director, Pennsylvania State Association of Boroughs
9. Krystle Baker, Deputy Chief-Integrity Office, City of Philadelphia
10. Emily Markos, Senior Legislative Counsel and Chief Ethics Officer, City of Philadelphia
11. Scott Coburn, General Counsel and Education Director, Pennsylvania State Association of Township Supervisors
12. Rodney Corey, Chief Counsel, House Republican Caucus
13. Shannon Sollenberger, Chief Counsel, Senate Democratic Caucus
14. Crystal Clark, General Counsel, Senate Republican Caucus
15. Tara Hazelwood, Chief Counsel, House Democratic Caucus
16. Sasha Sacavage, Ethics Counsel, Pennsylvania House Committee on Ethics

17. Katherine Testa, Senior Counsel, House Republican Caucus
18. Michael Baer, Director of Education, Pennsylvania Municipal Authorities Association
19. Jordana Greenwald, General Counsel, City of Philadelphia Board of Ethics
20. Leanne Davis, Executive Director, City of Pittsburgh Ethics Hearing Board
21. Feige Grundman, Senior Legislative Counsel, Philadelphia City Council
22. Christopher Lin, Staff Attorney, Philadelphia City Council
23. Tom Klemm, Senior Staff Attorney, City of Philadelphia Board of Ethics
24. Cade Hepner, Executive Director, Pennsylvania Senate State Government Committee
25. Derek A. Kirsopp
26. Ronald Preston Harper

The Commission received written and verbal comments from several of the above-listed stakeholders. The Commission then hosted approximately 20-25 interested stakeholders at the Commission's public meeting on July 23, 2025, during which the Commission reviewed all relevant comments and heard additional suggestions for revisions to the exposure draft. Prior to the Commission's next meeting on September 18, 2025, the Commission provided to all stakeholders an updated list of outstanding regulatory topics and invited interested stakeholders to attend the Commission's September 18, 2025, meeting, either in person or by way of videoconference, to add any further comments or concerns. Those comments were considered when preparing the proposed rulemaking. The Commission voted to release the proposed rulemaking for publication and comment at its January 14, 2026, meeting.

(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 even though this proposed rulemaking is extensive, it largely consists of revisions necessitated by court opinions and alignment with modern practices and procedures that have been utilized by the Commission and its employees for many years, thus, minimizing the effect on the foregoing individuals.

(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 general revisions necessitated by court opinions and alignment with modern practices and procedures that have been in place for a number of years without an official update to the regulations. As such, this rulemaking benefits the Commission, the regulated community and the general public by improving transparency and better informing the 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?

Yes. An Advice of Rights form will be attached to each subpoena for testimony issued by the commission so that subpoenaed witnesses are aware of their rights.

(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.**

A copy of the Advice of Rights form is attached.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
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
COSTS:						
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
REVENUE LOSSES:						
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 2022-2023 (actual)	FY -2 2023-2024 (actual)	FY -1 2024-2025 (actual)	Current FY 2025-2026 (budgeted)
State Ethics Commission	\$3,197,000.00	\$3,356,000.00	\$3,730,000.00	\$3,776,000.00

(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 general revisions necessitated by court opinions and alignment with modern practices that are already in place but have not been memorialized in regulations, which have not had any substantive updates in 30 years. 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.

No alternative regulatory schemes were considered. These amendments are necessitated by court opinions and alignment with modern practices and procedures of the Commission. As such, the revisions in this rulemaking are the least burdensome acceptable option.

(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:

30 days

B. The date or dates on which any public meetings or hearings will be held:

The Commission discussed its proposed rulemaking with stakeholders at its meetings on June 18, 2024, July 23, 2025, and September 18, 2026. The Commission also discussed its regulatory proposal at regularly scheduled meetings on April 9, 2024, September 10, 2024, January 8, 2025, April 9, 2025, and January

14, 2026.

C. The expected date of delivery of the final-form regulation: 3rd or 4th Quarter of 2026

D. The expected effective date of the final-form regulation: Upon publication of final-form regulation in the *Pennsylvania Bulletin*

E. The expected date by which compliance with the final-form regulation will be required: Upon publication of final-form regulation in the *Pennsylvania Bulletin*

F. The expected date by which required permits, licenses or other approvals must be obtained: Not applicable

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

The Commission continually reviews the efficacy of its regulations and reviews its regulatory proposals at regularly scheduled public meetings. The Commission is scheduled to meet on the following remaining dates in 2026: April 16, 2026, July 23, 2026, and October 15, 2026. More information as to any regulatory proposals can be found on the Commission's website.

ADVICE OF RIGHTS

The State Ethics Commission (“Commission”) is conducting a hearing to determine whether (name of public official/public employee) (“Respondent”) violated the Public Official and Employee Ethics Act, 65 Pa.C.S. § 1101 et seq. This document is to inform you of your rights as a witness testifying before the Commission.

1. You are entitled to be represented by an attorney when you appear as a witness before the Commission. While you have a right to be represented by an attorney should you so choose, you are responsible for any costs associated with representation by an attorney.
2. Should you wish to obtain an attorney, please do so well in advance of the scheduled hearing date(s). If you have obtained counsel, you will be permitted a reasonable opportunity to step outside of the hearing room during the proceedings to consult with counsel if you so desire.
3. When you are a witness before the Commission, you may refuse to answer any question if a truthful answer to the question could tend to incriminate you in a criminal proceeding. For the record, this is to inform you that the allegation(s) that are being considered by the Commission in the instant matter are not in reference to your conduct, but rather, the alleged conduct of the Respondent.
4. All testimony will be under oath. There are criminal penalties under Pennsylvania law for any person willfully affirming or swearing falsely in regard to any material matter in relation to a Commission proceeding.
5. You are entitled to witness fees and mileage when you appear as a witness pursuant to a subpoena. Witnesses subpoenaed by the Investigative Division of the Commission shall be paid the same fees and mileage as are paid for like services in the courts of common pleas.
6. The Whistleblower Law accords a witness certain protection as to their employment:

(b) **Discrimination prohibited** -- No employer may discharge, threaten or otherwise discriminate or retaliate against an employee regarding the employee's compensation, terms, conditions, location or privileges of employment because the employee is requested by an appropriate authority to participate in an investigation, hearing or inquiry held by an appropriate authority or in a court action.

43 P.S. § 1423(b).

7. If you have any questions regarding your rights as a witness, you have the right to ask such questions of the presiding officer prior to or after your testimony.

FISCAL NOTE FOR DOCUMENTS FILED WITH THE LEGISLATIVE REFERENCE BUREAU

January 26, 2026

Agency: State Ethics Commission

Agency Identification Number: 63-09

Subject of Regulation: General Revisions Necessitated by Court Opinions and Alignment with Modern Practices

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.

Eric A. Dice for Sec. Reber

Secretary of the Budget

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

(Pursuant to Commonwealth Documents Law)

RECEIVED

Independent Regulatory
Review Commission

April 6, 2026

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General

BY: **Amy M Elliott**
Digitally signed by Amy M Elliott
Date: 2026.03.31 11:43:09 -04:00'
(DEPUTY ATTORNEY GENERAL)

3/31/2026

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached.

Copy below is here by certified to be a true and correct copy of a document issued, prescribed or promulgated by:

Pennsylvania State Ethics Commission
(AGENCY)

DOCUMENT/FISCAL NOTE NO. 63-09


DATE OF ADOPTION: March 26, 2026



BY: Michael A. Schwartz

TITLE: CHAIR

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

BY: 
Bridget K. Guilfoyle
Chief Counsel

March 26, 2026

DATE OF APPROVAL

(Chief Counsel, Independent Agency)
Check if applicable. No Attorney General approval or objection within 30 days after submission.

PROPOSED 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—13.5, 15.2, 17.3, 17.7, 17.9, 17.11, 19.1, 19.3—19.5, 21.1—
21.6, 21.21—21.30, 23.1—23.5, 23.7, 23.21—23.23, 25.1—25.4

GENERAL REVISIONS NECESSITATED BY COURT OPINIONS AND ALIGNMENT WITH MODERN PRACTICES

The State Ethics Commission proposes to amend Chapters 11, 13, 15, 17, 19, 21, 23 and 25, §§ 11.1—11.3, 13.1—13.5, 15.2, 17.3, 17.7, 17.9, 17.11, 19.1, 19.3—19.5, 21.1—21.6, 21.21—21.30, 23.1—23.5, 23.7, 23.21—23.23, 25.1—25.4, to read as set forth in Annex A.

Effective Date

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

Statutory Authority

The State Ethics Commission issues this proposed 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 1201 of the Commonwealth Documents Law, 45 P.S. § 1201, which authorizes proposed rulemaking.

Purpose and Background

The State Ethics Commission's primary mission is to strengthen public faith and confidence in state and local government through enforcement of the Ethics Act to assure the public of the honesty and impartiality of public officials and public employees. 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." 65 Pa.C.S. § 1101.1(a). Therefore, the Commission considers it imperative to keep abreast of relevant court opinions and align the Commission's practices to conform with applicable case law.

The Commission's regulations have not undergone any substantive revisions in 30 years. During that timeframe, several significant court opinions have been issued which speak directly to provisions of the Ethics Act and the regulations. In order to be in conformity with judicial precedent and to help guide the regulated community by ensuring that the Commission's practices

align with relevant case law, certain substantive changes are necessary. This rulemaking would outline the separation of powers of Commission staff, delete certain provisions pertaining to wrongful use of the Ethics Act, clarify the Commission’s procedures for reconsideration of a final order, and remove judicial employees from the definition of “public employee” and “public official” – all changes necessitated by court opinions.

In addition to revisions dictated by the changing legal landscape, the Commission recognizes that after 30 years, many of its regulations require clarification, refinement, and simple edits for transparency and consistency with current practices and procedures. Although the Commission revised its regulations in 2024 through the final-omitted rulemaking process, those changes were limited to technical revisions necessary for statutory consistency, clarity and modernization to regulations that had not been updated for decades. The changes proposed herein primarily involve substantive matters.

Specifically, this rulemaking would provide clarity to those subject to the Commission’s regulations, the general public, and legal advisors by updating obsolete definitions, adding definitions of terms necessary to interpret the Ethics Act and the regulations, and delineating considerations for the imposition of treble penalties in cases involving conflicts of interest.

The rulemaking also would focus on refining due process rights to improve transparency and better inform the regulated community and legal counsel. It would explain the discovery, subpoena, investigative, and hearing processes unique to the Commission, thus providing increased transparency of the Commission’s activities. It also adds a provision instructing the parties how to raise potential conflicts of interest of a Commissioner during a proceeding to ensure fair and equitable treatment of all parties. In addition, the rulemaking would remove the requirement that a complaint be notarized, easing the burden of the general public while still allowing the Commission to best encourage compliance by the regulated community through investigations of those suspected of violating the Ethics Act.

Further, the rulemaking would offer additional clarity edits not included in the technical revisions to the regulations accomplished through the final-omitted rulemaking process in 2024. These include revising language to be gender neutral removing certain outdated classifications of people from the definition of “public employee”, correcting statutory references, requiring individuals requesting advisory opinions to provide an email address if available, consolidating familial designations under the statutory definition of “immediate family”, changing the title of “hearing officer” to “presiding officer” and permitting the Commission’s Chief Counsel to serve as the presiding officer for a hearing. Accordingly, this rulemaking, while comprehensive and wide-ranging, benefits the Commission, the regulated community and the general public by aligning Commission practices with case law and providing increased transparency and clarity.

The Commission sought comments and suggestions on a draft rulemaking by releasing an exposure draft for public comment on April 22, 2025. Written comments were received from five commentators, while verbal commentary was received from two interested stakeholders. The Commission hosted approximately 20-25 interested stakeholders at its meeting on July 23, 2025, during which the Commission reviewed all relevant comments and heard additional suggestions for revisions to the exposure draft. Prior to the Commission's next meeting on September 18, 2025, the Commission provided to all stakeholders an updated list of outstanding regulatory topics and invited interested stakeholders to attend the Commission's meeting, either in person or by way of videoconference, to add any further comments or concerns. Those comments were considered when preparing the proposed rulemaking. The Commission voted to release the proposed rulemaking for publication and comment at its January 14, 2026, meeting. The proposed rulemaking will become effective 60 days after publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

Description of Proposed Regulations

This rulemaking seeks to amend various sections of the regulations to comport with judicial precedent and for clarification, refinement, transparency, and simple edits necessary for consistency with current practice and procedures.

Judicial Precedent

This rulemaking amends sections 11.1, 13.1, 19.3, 21.1, 21.2, 21.3, 21.5, 21.6, 21.22, 21.23, 21.25, 21.30, 25.2, 25.3 and 25.4 to comport with the Pennsylvania Supreme Court's decision in *Lyness v. State Board of Medicine*, 605 A.2d 1204 (Pa. 1992). The Supreme Court in *Lyness* concluded that an administrative licensing board violated a physician's due process rights by commingling prosecutorial and adjudicative functions in the same board, and that "the appearance of nonobjectivity is sufficient to create a fatal defect under the Pennsylvania Constitution." *Id.*, 605 A.2d at 1210. The Court further determined that a single administrative agency may exercise both prosecutorial and adjudicative functions if the "walls of division" are constructed within an agency that clearly separate those two functions. *Id.*, 605 A.2d at 1209-1210.

Following the *Lyness* decision, the Commission took the appropriate steps to bifurcate its investigative, administrative, and adjudicative divisions; however, the regulations did not reflect this necessary separation of roles. Section 11.1 adds definitions for each division under the Commission's umbrella, as well as for the Executive Director and the Chief Counsel, while removing the all-encompassing definition of "staff." Section 13.1 identifies the Chief Counsel as the decision maker as to whether an advice of counsel or an advisory opinion is issued, while section 19.3 is revised to identify the duties of the Administrative Division, Investigative Division, and Executive Director in the Statement of Financial Interests (SFI) process.

Chapter 21 (Investigations) contains the most extensive revisions designed to ensure the walls of division contemplated in *Lyness* are clearly delineated by placing the prosecutorial functions in a group of individuals distinct from the Commission. Sections 21.1 through 21.3 identify the Executive Director as responsible for shepherding a complaint through the preliminary process and for deciding whether to open a complaint on their own motion. Section 21.4 has been amended to clearly identify the Executive Director as responsible for conducting investigations into frivolous complaints. Section 21.5 removes the terms “Commission” and “hearing officer” from the investigative process and replaces them with “Investigative Division” as defined in section 11.1.

Similarly, section 21.22 replaces “Commission” with “Investigative Division” and describes the Investigative Division’s discovery obligations, including the time period to turn over exculpatory evidence and evidence to be used at a hearing. Lastly, sections 21.23 and 21.25 identify the Investigative Division as the prosecuting party to a complaint and the Legal Division as the advisor to the Commission during hearings, respectively, while sections 25.2 and 25.3 remove the Commission from the prosecutorial role in favor of establishing a screening committee of one designated Commissioner to make the preliminary determination in a wrongful use of act proceeding.

This rulemaking amends sections 21.4, 25.1, 25.2 and 21.6 to address the court’s decision in *Stilp v. Contino*, 629 F.Supp.2d 449 (M.D. Pa. 2009), *affirmed and remanded* 613 F.3d 405 (3rd Cir. Pa. 2010), *on remand* 743 F.Supp.2d 460 (M.D. Pa. 2010), in which the court permanently enjoined the prohibition of public disclosure of Ethics Act complaint filings as an unconstitutional restraint on free speech. This rulemaking would delete public disclosure of Ethics Act complaints as a basis for wrongful use proceedings and investigations, and identification of the person disclosing the existence of Commission proceedings as part of the wrongful use of act notification. This rulemaking also would provide an exception to the confidentiality regulations to allow a complainant to disclose the filing of a complaint with the Commission.

In addition, this rulemaking would revise the Commission’s procedures for reconsideration of a final order to address concerns expressed by the court in *Seropian v. State Ethics Comm’n*, 20 A.3d 534 (Pa. Cmwlth. 2011). In *Seropian*, the court concluded that an administrative breakdown justified *nunc pro tunc* relief where the Commission’s regulations relating to reconsideration procedures were unclear and inconsistent so as to unintentionally mislead the appellant into believing that the Commission had granted reconsideration and suspended finality of the Commission’s final order; thereby, leading to the untimely filing of a petition for review. *Id.*, 20 A.3d at 542.

Consequently, this rulemaking would amend section 21.29 to specify the essential information necessary for a reconsideration request. It also would reduce the days within which to file a request for reconsideration and require the Legal Division to provide a copy of a reconsideration request to the Commission within three working days so as to allow sufficient time to review and act on the request before the expiration of the 30-day appeal period. This rulemaking would advise the regulated community and legal advisors that filing a request for reconsideration does not toll the 30-day appeal

period so that an individual's appellate rights are protected. Further, section 21.29 would be revised to include a 30-day period for the Commission to act on a request for reconsideration or the request will be deemed denied by operation of law.

Lastly, this rulemaking removes judicial employees from the definitions of "public employee" and "public official" set forth in section 11.1 to align with the court's opinion in *L.J.S. v. State Ethics Comm'n*, 744 A.2d 798 (Pa. Cmwlth. 2000) (Commission lacks jurisdiction to enforce the Ethics Act as to judicial officers and judicial employees because the Pennsylvania Supreme Court has exclusive jurisdiction over such individuals). Also, this rulemaking would add nonprofit organizations to the definition of "director" in section 11.1, as well as section 17.7 regarding the office, directorship and employment required to be listed on an SFI. The addition of nonprofit organizations is necessitated by the Pennsylvania Supreme Court's decision in *Rendell v. State Ethics Commission*, 983 A.2d 708 (Pa. 2009), in which the court concluded that the term "business" as defined in the Ethics Act includes nonprofit corporations and other nonprofit entities.

Clarification

This rulemaking would provide clarity to the regulated community and legal advisors by amending section 11.1 to update the definitions of "clear and convincing proof" and "gross negligence" to be consistent with case law. *See, In Re: Charles E.D.M.*, 550 Pa. 595, 601, 708 A.2d 88, 91 (1998) (clear and convincing proof is "so 'clear, direct, weighty, and convincing as to enable the trier of fact to come to a clear conviction, without hesitance, of the truth of the precise facts in issue'"); *Ratti v. Wheeling Pittsburgh Steel Corporation*, 758 A.2d 695, 704 (Pa. Super. 2000), *appeal denied*, 785 A.2d 90 (2001) (gross negligence constitutes conduct more egregious than ordinary negligence but does not rise to the level of intentional indifference to the consequences of one's acts).

In addition, this rulemaking would revise section 11.1 (definitions) to include a definition of "private pecuniary benefit" that aligns with Commission precedent. *See, Shirn*, Order No. 1835 (private pecuniary gain not only includes personal gain related to the receipt of actual payment but also the avoidance of a loss or expense). *See also, Friedman v. State Ethics Commission*, (Pa. Cmwlth., No. 1220 C.D. 2023, filed November 8, 2024) (unpublished memorandum) (the avoidance of expense, as well as receipt of actual payment, constitutes a pecuniary benefit under the Ethics Act). This rulemaking would add definitions for a wrongful use of act notification, as well as the parties in a wrongful use of act proceeding to remedy confusion due to the reversal of roles in wrongful use proceedings. These definitions would then be incorporated into chapter 25 (relating to wrongful use of the act). In addition, a definition of "directive" would be included to aid in interpreting the definition of "advice."

The criteria for determining whether an individual falls within the definition of “public employee” set forth in section 11.1 would be clarified to include any individual that has responsibility over tangible economic benefits of the individual’s subordinates.

Further, this rulemaking would add a new section to chapter 21 (relating to investigations). Section 21.28a would reiterate the Commission’s ability to impose treble penalties pursuant to 65 Pa.C.S. § 1109 (relating to penalties) and would set forth the criteria utilized by the Commission in determining whether to impose treble penalties in conflict of interest cases. Section 23.22 would clarify that in addition to not being employed by the Commonwealth, a Commissioner also may not act on behalf of the Commonwealth.

Refinement

Also proposed are numerous refinement edits designed to improve awareness of due process rights and increase transparency of the Commission’s activities. Specifically, this rulemaking would make several revisions to definitions set forth in section 11.1. A definition of an advice of rights form would be added to advise subpoenaed witnesses of their rights prior to testifying before the Commission. The definition of “Commissioner” would remove the requirement that a Commissioner be seated in favor of a Commissioner taking the oath of office as this has long been the Commission’s practice as to when a Commissioner’s term officially begins. The definition of “sworn complaint” would be updated to eliminate the need for a complaint to be notarized in favor of a complaint being signed under penalty of perjury. This definition would, in turn, be incorporated into section 21.1 (relating to complaints).

In addition to identifying the distinctive functions of each of the Commission’s divisions in the investigative and hearing processes as required by *Lyness*, this rulemaking would modify several other provisions in section 21.5 (relating to conduct of investigations), including placing the power to issue investigative subpoenas with the Executive Director, removing the hearing officer from the investigative process of taking sworn statements, requiring an advice of rights form be provided to all subpoenaed witnesses, and setting a good cause standard for the granting of extensions of time to complete investigations and that only procedural facts be included in an application to extend an investigation. This rulemaking would also remove the superseding of 1 Pa. Code § 35.145 (relating to depositions) in section 21.5 so as to permit the parties to take witness testimony by deposition under the conditions set forth in section 21.23. These amendments are designed to enhance the public’s knowledge of the due process rights afforded to the regulated community and increase awareness of Commission procedures.

Similarly, this rulemaking includes several amendments to chapter 11 (definitions) and chapter 21 (relating to hearings). A definition for “presiding officer” would be added to identify the individual responsible for overseeing the conduct of hearings, and this definition would be inserted throughout chapter 21 in place of “hearing officer.” Section 21.5 would be revised to

include a provision advising respondents that failure to file a timely answer to an investigative complaint may result in the allegations being deemed admitted. A good cause standard would be established for granting a second request for extension to file an answer to be consistent with other types of extension requests. Section 21.21 would be further amended to permit the Commission to designate its Chief Counsel as the presiding officer for the conduct of a hearing.

This rulemaking would amend section 21.22 to designate the time period in which the respondent must be given access to the evidence intended to be used by the Investigative Division at the hearing, as well as the time period in which exculpatory evidence shall be provided to the respondent. This rulemaking would revise or delete several duties of the presiding officer set forth in section 21.24, including advising witnesses of the confidentiality requirements of the Ethics Act and of their rights if not represented by counsel since this information will be included on the new advice of rights form provided to witnesses with hearing subpoenas. Arranging for payment of witness fees and mileage expenses also would be removed as a responsibility of the hearing officer in favor of the Administrative Division. Finally, section 21.24 would be amended to advise the parties that they may obtain a copy of the hearing transcript upon payment of the fee to the court reporting service.

In addition, section 21.25 would be revised to give the Commission or a presiding officer the ability to exclude a hearing participant if their conduct becomes disrespectful, disorderly or disruptive. Section 21.25 also would be modified to add a procedure by which a party may request a hearing subpoena so as to allow the presiding officer to properly evaluate whether the requester has demonstrated relevance, general materiality, and the scope of testimony or documentary evidence sought prior to issuing a hearing subpoena. This rulemaking would also add a provision to section 21.25 describing the Legal Division's role at hearings.

Section 23.5 (relating to records of meetings) would add a new subsection to address the content of meeting minutes for internal consistency and to advise the general public of the information contained in the Commission's meeting records. This rulemaking also would add a provision to section 23.23 (relating to limitations on voting/recusal) describing the procedure by which a party may raise a potential conflict of interest of a Commissioner.

Section 25.3 (relating to the disposition of a wrongful use of act notification) would be amended to include a more detailed description of the Executive Director's role in the wrongful use of act process, including providing the Commission with a memorandum outlining the findings, analysis, and position of the Investigative Division. This section also would add a provision outlining the Commission's responsibilities in wrongful use of act cases. Most notably, section 25.3 would provide for the designation of a committee to screen the investigative findings and make a preliminary determination as to wrongful use of the act. A provision would be added to section 25.4 providing that the designated screening Commissioner(s) would then be recused from further participation to avoid running afoul of *Lyness*.

Technical Edits

The Commission completed a series of technical revisions of its regulations in 2024. After final promulgation, the Commission discovered additional technical edits that were not, but could have been, addressed in the prior rulemaking. This rulemaking proposes to address those items.

This rulemaking proposes a number of technical changes to chapter 11 (relating to general provisions). The phrase “of the Commonwealth” would be removed from the definition of “Commission” in section 11.1, as it is superfluous, while a definition of “Commonwealth” would be added to clarify that any reference to “Commonwealth” means the Commonwealth of Pennsylvania. The definition of “director” would be modified so that all directors are included, not simply officers. The term “office” would be revised to “officer” since the Ethics Act applies to individuals rather than entities. The redundancy of the words “planning” and “zoning” would be deleted from the definition of “planning or zoning.” Executives in police departments would be added to the definition of “public employee” as their job duties and responsibilities are consistent with those of a public employee. Similarly, road masters, recreation directors, and other outdated job classifications would be removed from the definition of “public employee” since their duties generally do not fall within the definition of “public employee.” Also, a grammatical error in the definition of “public official” would result in the reversal of the words “exercise otherwise” to “otherwise exercise.” Lastly, the word “unannounced” would be removed as unnecessary from the definition of “write-in candidate” since a write-in candidate is by its very nature unannounced. Section 11.3 would add the applicable statutory reference for the statute of limitations of Commission investigations.

Chapter 13 (relating to opinions and advices of counsel) also contains several proposed technical revisions. This rulemaking would amend section 13.1 by requiring an individual requesting an advisory opinion to include an email address if available and removing the necessity of including an organization’s bylaws with the request. The word “made” would be replaced by the legally correct term “filed” in section 13.1, while the names of specific legal documents would be consolidated into the term “legal filing” and the term “advisory opinion” would be changed to “confidential advice or opinion” to be consistent with the act. The number of days for requesting reconsideration of an advisory opinion pursuant to sections 13.2 and 13.3 would be lessened to 15 days so as to be consistent with the time period in section 21.29 (relating to finality; reconsideration). Likewise, the deadline for requesting to intervene or file an amicus brief would be changed from 14 days to 7 days prior to the Commission meeting, thus allowing individuals an additional week to file an intervention petition. Section 13.5 would be revised to include the Commission’s website as a manner in which the public may view information related to advisory opinions. This rulemaking would delete the provision pertaining to the publication of an annual digest and index of Commission opinions since they are available on the Commission’s website. The language of section 13.3 regarding good faith reliance

on a Commission opinion would be modified so as to be consistent with the good faith provisions of section 13.2 pertaining to advices of counsel.

Further, third party professional services' providers, including those serving as administrators or managers of political subdivisions for which a law has been enacted permitting such services, would be added to the list of public officials responsible for filing SFIs in section 15.2. This is in response to Act No. 110 of 2024, October 16, 2024, pertaining to the Borough Code, as well as similar provisions in the First Class Township Code, 53 P.S. § 56302-A(c), and the Third Class City Code, 11 Pa.C.S. § 112A03(c). This amendment has been drafted to account for future efforts to make this statutory change insofar as the language has been drafted to apply only when a political subdivision is permitted by law to retain an entity as manager. Section 15.2 would also be revised to include "public employees" as they were inadvertently left out of the current regulations. This rulemaking also would amend several sections in chapter 17 (relating to the content of SFIs). Sections 17.3 and 17.9 would be revised to consolidate familial designations under the statutory definition of "immediate family" and replace "husband and wife" with the more contemporary terminology "spouse." Non-profit organizations would be added as a business entity disclosure in section 17.7. Section 17.11 would be revised to correct the name and statutory reference for the lobbying disclosure law.

There are several minor technical edits to chapter 19. To that end, section 19.1 would be revised to provide that SFIs shall be filed on forms approved, rather than published and revised, by the Commission. Sections 19.4 and 19.5 contain edits to express numbers in words rather than in figures.

This rulemaking also proposes several technical edits to chapter 21 (relating to investigations). Section 21.1 would add reference to the applicable section of the act for consistency, while section 21.3 would streamline the language of when a preliminary inquiry must be closed due to the alleged violations occurring outside the statute of limitations, which is defined in section 11.3. The term "registered mail" in section 21.5 would be replaced by the modernized "certified mail" while the language "by a stenographer" would be deleted so that a sworn statement may be recorded by any qualified individual. Section 21.24 would be modified to replace the term "proceedings" with "hearing." The word "papers" would be replaced with "admitted exhibits" in section 21.25, and "closing statement" would be changed to "closing argument" as this is the correct legal terminology. Further, section 21.29 would be amended to change the phrase "public document" to "public record."

Chapter 23 (relating to general procedures of the Commission) contains several technical edits. Section 23.22 pertaining to prohibited activities of Commissioners would be amended to add "act on behalf of" to the provision regarding a Commissioner's employment by the Commonwealth or a political subdivision. The word "member" would be replaced by "Commissioner" as this is a more accurate description, and a small grammatical change also would

be made. In section 23.23, the word “close” would be removed as a modifying description of the type of friendships that should be considered when deciding whether a Commissioner should recuse from a matter. In addition, the phrase “by the Commission” would be deleted since the Commission does not have the authority to force a Commissioner to recuse.

This rulemaking also contains some proposed technical edits to chapter 25 (relating to wrongful use of the act). Section 25.2 would remove the unnecessary language “additional information necessary to the resolution of the matter” from the wrongful use of act notification, while section 25.4 would delete a lengthy and unnecessary description of a final determination in favor of the word “final.”

Lastly, there are numerous revisions throughout this proposed rulemaking to remove gendered terms and replace them with gender-neutral alternatives where appropriate to ensure that this rulemaking promotes clarity and inclusivity.

Paperwork Requirements

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

Fiscal Impact

The proposed 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.

Regulatory Review

Under section 5(a) of the Regulatory Review Act, 71 P.S. § 745.5(a), on April 6, 2026, the State Ethics Commission submitted a copy of this proposed 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.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the

regulatory review criteria in section 5.2 of the Regulatory Review Act, 71 P.S. § 745.5b, which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Commission and the General Assembly of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, recommendations or objections regarding this proposed rulemaking to Bridget K. Guilfoyle, Chief Counsel, State Ethics Commission, Finance Building, 613 North Street, Room 304, Harrisburg, PA 17120-0400 or by email at bguilfoyle@pa.gov, within 30 days of publication of this proposed rulemaking in the Pennsylvania Bulletin. Please reference No. 63-09 (General Revisions) when submitting comments.

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—Chapter 11 of 65 Pa.C.S. (relating to Public Official and Employee Ethics Act).

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.

Administrative Division—The Administrative Division of the Commission, whose duties include administrative functions and the processing of Statements of Financial Interests.

Advice—A directive of the Chief Counsel of the Commission issued under 65 Pa.C.S. § 1107(11) (relating to powers and duties of commission) and based exclusively on prior Commission opinions, the act, regulations promulgated under the act and court opinions which interpret the act. See 65 Pa.C.S. § 1102 (relating to definitions).

Advice of Rights Form—A form provided to subpoenaed witnesses advising them of their rights when testifying before the Commission.

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—The Chair of the Commission.

Chief Counsel—The chief legal advisor to the Commission who oversees the Legal Division and is responsible for management, training, and supervision of Legal Division staff.

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]clear, direct, weighty, and convincing evidence to enable the trier of fact to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.

Commission—The State Ethics Commission [of the Commonwealth].

Commissioner—An appointed [and seated] member of the Commission who has taken the Constitutional Oath of Office.

Commonwealth—Commonwealth of Pennsylvania

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.

Directive—Written advice that serves, or is intended, to guide the recipient or reader.

Director—An [officer acting as an agent] individual appointed or elected to a board for a business, including any nonprofit organization, who is authorized to regulate, manage and direct alone or in conjunction with other [officers] individuals the affairs of the business.

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 65 Pa.C.S. § 1106(d)(5) (relating to State Ethics Commission).

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

Executive Director—The individual who serves as the Commission's chief administrative and operating officer, supervises the operations of the Investigative Division and the Administrative Division, serves as a spokesperson for the Commission, and reports directly to the Commission.

Filed—Official papers are filed on the date they are physically received at the Commission office whether delivered by United States mail, express carrier, hand delivery, 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]A significant departure from how a reasonably careful person would act under the same circumstances but not rising to the level of intentional

indifference to the consequences of one's acts.

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.

Investigative Division—The Investigative Division of the Commission whose duties include investigating complaints and prosecuting potential violations of the Ethics Act.

Legal Division—The Legal Division of the Commission whose duties include providing legal advice to the Commission.

Local—Governmental units other than the Commonwealth or counties.

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

Opinion—A directive of the Commission issued under 65 Pa.C.S. § 1107(10) 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.

Presiding Officer—The individual responsible for overseeing and managing the conduct of Commission hearings or meetings.

Private Pecuniary Benefit—A financially related gain involving the receipt or use of something of value or the avoidance of a loss or expense by the public official or public employee, a member of the public official's or public employee's immediate family or a business with which the public official or public employee or a member of the public official's or public employee's immediate family is associated.

Public employee—

(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 employee”:

(A) The individual normally performs [their] the individual’s responsibility[y]ies in the field without onsite supervision.

(B) The individual is the immediate supervisor of a person who normally performs [their] the individual’s responsibility[y]ies in the field without onsite supervision.

(C) The individual is [the] a supervisor [of a highest level field office] with responsibility over tangible economic benefits of its subordinate employees.

(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]the individual’s position.

(I) The individual’s recommendations or actions affect organizations other than [their]the individual’s 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 employees:

(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 and police executives, 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] [Reserved].

(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[,] and equipment operators[and recreation directors].

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

(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[,] or 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 exercise 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)].

Requester—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 Chief Counsel, investigators and other personnel as may be employed by or assigned to assist the Commission.]

[*Sworn c*] *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] A declaration of complaint signed under penalty of perjury on any form approved by the Commission.

[*Unannounced w*] *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—The Vice Chair of the Commission.

Wrongful use of act complainant—An individual, previously the subject of an ethics investigation, who alleges the ethics complaint was wrongfully filed against the individual in accordance with 65 Pa.C.S. § 1110 (relating to wrongful use of chapter).

Wrongful use of act notification—Written notification from a public official or public employee alleging a wrongful use of the act as provided for in 65 Pa.C.S. § 1108(1) (relating to investigations by commission).

Wrongful use of act respondent—An individual, previously the complainant in an ethics investigation, who is the subject of a wrongful use of act notification.

§ 11.2. Construction.

Because public confidence in government can best be sustained by assuring the people of the impartiality and honesty of public officials and public employees, 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 pursuant to 65 Pa.C.S. § 1108(c) (relating to investigations by Commission) within 5 years of its occurrence. The occurrence transpires when an act is complete or requires no further action.

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]the public official's or public employee's own conduct or by the authorized representative of the person, [his]the public official's or public employee's present employer, or appointing authority of the person through majority action of the appointing authority, if applicable.

(b) The requester shall provide the following information in writing:

(1) The name, address, [and] phone number, and email address of the person who is the subject of the request and if different, the name, address, [and] phone number, and email address 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 requester 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 requester may ask that an opinion or advice be issued under either 65 Pa.C.S. § 1107(10) or (11) (relating to powers and duties of commission).

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

(e) If a requester seeks an opinion and is advised that an advice should be issued or if the requester seeks an advice and is advised that an opinion should be issued, the requester may either withdraw the request by notifying the [Commission]Legal Division 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]Legal Division.

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

(g) A requester may seek a confidential advice or opinion in writing at the time of the request or within [7]seven 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 requester'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 requester or the public official or public employee who is the subject of the [advisory]confidential advice or opinion.

(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 the court or on the date [the responsive pleading, motion, application] any 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] filed at least [7]seven 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 requester 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]15 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 requester, 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 of 65 Pa.C.S. § 1107(10) (relating to powers and duties of commission).
- (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]15 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]the person 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]person disclosed truthfully the material facts and committed the acts complained of in reliance on the opinion.

§ 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]seven 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]seven days prior to the Commission meeting.

§ 13.5. Public access.

(a) Subject to § 13.1(g), (h), and (i), (relating to general provisions), the Commission's [~~advisories~~]advices and opinions, letters requesting [~~advisories~~]advices and opinions, 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 or for public review on the Commission's website.

(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 Commissioners [~~members~~] under this act, the 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][Reserved].

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 of the year after they leave the position.

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

(c) Public officials and public employees 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.

(i) If a state law permits an individual, partnership, limited partnership, association, professional corporation, or other entity to serve as the administrator or manager of a political subdivision, each officer and employee directly providing services to the political subdivision is responsible for filing a Statement of Financial Interests.

§ 15.3. Candidates and 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 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) [Reserved].
- (3) The position sought or held, and name of the governmental body associated with the position sought or held.
- (4) 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]spouses 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]immediate family 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 have 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 of a registered lobbyist.

§ 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 person required to file a Statement of Financial Interests shall disclose the name and address of the business entity, including any nonprofit organization, 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]law, [Chapters 31 and 35]65 Pa.C.S. §§ 13A03 and 13A05 (relating to [general provisions]definitions; 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) A person required to file a Statement of Financial Interests shall file Form SEC-1, as [published and revised]approved 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.

(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 a form of electronic transmission that has been approved by the Commission is considered to be filed on the date the Commission receives the electronic copy.

§ 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]Administrative Division 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]Executive Director 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]Executive Director 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 the individual fails to file or to correct [his]their Statement within that time, the [Commission]Executive Director will review the matter to determine whether a civil penalty is appropriate under the act.

(d) If the [Commission]Executive Director determines that a penalty is appropriate, [it]the Investigative Division will issue a rule to show cause, notifying the individual of [his]the deficiency under the act and of the grounds for the rule and of [his]the individual's 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 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]two working days after the request has been made for the Statements. The Statements shall be kept on file for [5]five 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]two 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]Presiding officer.
- 21.25. Conduct of the hearing.
- 21.26. Motions.
- 21.27. Briefs.
- 21.28. Decision.
- 21.28a Treble Damages
- 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 under penalty of perjury.
- (c) The identity of the complainant will remain confidential unless there is a wrongful use of the act.
- (d) The [Commission]Executive Director 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 under penalty of perjury.
 - (3) Is within the Commission's jurisdiction.
 - (4) Concerns an alleged violation of § 1103(a) 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]Executive Director 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]Executive Director.

The [Commission through its]Executive Director may, on [its]the Executive Director's 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]Investigative Division will keep information, records and proceedings relating to a preliminary inquiry confidential. The [Commission]Investigative Division 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]the statute of limitations in § 11.3(relating to statute of limitations).

(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]Executive Director will notify the complainant and the respondent.

§ 21.4. Frivolous complaints[;] and 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]Executive Director may employ or be assigned staff, including attorneys[,] and 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, and other members of the Investigative Division 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]Investigative Division 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]Investigative Division.

(g) A person having possession or control of documents or records deemed relevant to an investigation that the [Commission]Investigative Division is authorized to conduct may be required to produce the materials for inspection by subpoena served by the members of the [Commission]Investigative Division staff designated in subsection (e). These [Commission]Investigative Division 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]Investigative Division staff designated in subsection (e) are authorized to obtain by subpoena the sworn statement of a person deemed to have information relevant to an investigation that the [Commission]Investigative Division is authorized to conduct.

(1) Sworn statements may be conducted by and before one or more of the Investigative Division 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 Investigative Division 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]Investigative Staff, [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]Investigative Division 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 subsection (h) will be authorized and signed by the [Commission and signed by the Chair or Vice Chair]Executive Director. 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]Investigative Division will do one of the following:

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

(2) [Rule upon a r]Request [for] an extension of time to complete the investigation [by the Executive Director, upon a showing of need,] not to exceed 90 days. An application for an extension of time to complete an investigation shall not disclose any substantive facts underlying the investigation and shall only describe the procedural aspects that require an extension of time.

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

(i.1) The Commission will grant a request for an extension of time to complete the investigation upon good cause shown.

(ii) A maximum of two extensions of time to complete the investigation 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 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]Investigative Division 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]the respondent's answer does not require a reply by the [Commission]Investigative Division.

(3) A respondent failing to file an answer within the time allotted shall be deemed in default, and relevant facts stated in the findings report may be deemed admitted.

(l) [Reserved].

(m) If an investigation conducted under the act indicates that no violation has been committed, the [Commission]Investigative Division 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 [and 35.145](relating to subpoenas[; and depositions]).

§ 21.6. Confidentiality.

(a) In accordance with 65 P.S. § 1108 (relating to investigations by commission) and applicable court precedent, [A]as a general rule, a person may not disclose or acknowledge, to another person, any information relating to a complaint, preliminary inquiry, investigation, or 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 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]Investigative Division, Legal Division, or Administrative Division, in the course of a preliminary inquiry, investigation, or 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 of 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.
- (11) The divulgence by a complainant of the filing of a complaint with the Commission.

HEARINGS

§ 21.21. General.

(a) The Commission will conduct hearings upon the request of a respondent. A respondent shall request a hearing in their 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 for filing an answer up to 30 days.

(2) Further requests for an extension for filing an answer shall be made to the Chair [2]two weeks prior to the extended deadline. The Chair may grant a second extension [if extraordinary circumstances are demonstrated in writing]for filing an answer upon good cause shown.

(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 findings report 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. A request for a hearing in Philadelphia or Pittsburgh [will]may be granted, if filed with the Commission within [7]seven 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] Commissioners. The Commission may [appoint a hearing officer]designate its Chief Counsel 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]Investigative Division at the hearing[,] within 30 days after an answer has been filed subject to an extension granted by the presiding officer upon good cause shown[, 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).

(c) The Investigative Division will turn over any exculpatory evidence within 30 days of an answer being filed or as soon as the Investigative Division identifies it, whichever occurs first.

(d) The presiding officer may extend the deadline for turning over exculpatory evidence for good cause shown.

(e) Failure to turn over evidence as provided for in this section may result in the evidence being excluded from the evidentiary record.

§ 21.23. Scope of hearing.

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

- (1) Full evidentiary hearing.
 - (1.1) Limited hearing based on partially stipulated facts.
- (2) Oral argument based on stipulated findings.
- (3) Submission on briefs.
- (4) [Reserved].

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

(b.1) The testimony of a witness may be taken by deposition, upon application by a participant in a proceeding before the Commission, before the hearing is closed, upon approval by the presiding officer.

(c) The [Commission]Investigative Division and the respondent may stipulate to 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]Presiding officer.

(a) [It is the duty of t]The [hearing]presiding officer [and he] has the duty and 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) Ensure that all parties have a full and fair opportunity to be heard.

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

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

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

(8) Issue subpoenas and authorize the taking of depositions upon written request for the production of documents, records and persons needed for the proceeding; such subpoenas to contain an advice of rights form if testimony is sought. The [hearing]presiding 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.

(8.1) The Investigative Division will provide an advice of rights form to each witness at the time of service of the subpoena for testimony at a hearing and deposition.

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

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

(1) A transcript of the hearing, including exhibits, copies of which may be obtained by the respondent upon payment of the appropriate fees to the applicable court reporting service.

(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 [i]Investigative [staff of the Commission]Division will present its case followed by the case of the respondent.

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

(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]may seek reimbursement from the Administrative Division 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.]Subpoenas for attendance of witnesses or for the production of documentary evidence will issue only upon application in writing to the Commission or the presiding officer. Such written applications shall include the name and address of the witness or the custodian of the records sought and shall include the general relevance, materiality, and scope of the testimony or

documentary evidence sought, including as to documentary evidence, specification as nearly as may be, of the documents desired and the facts to be proven by them in sufficient detail to indicate the materiality and relevance of such documents.

(i) The hearing and [papers]admitted exhibits, 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 d]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]conduct before the Commission or a presiding officer shall be grounds for exclusion from the hearing.

(j.1) The role of the Legal Division at hearings is to advise the presiding officer on principles of law, hearing procedures, and evidentiary rulings unless the Commission has designated the Chief Counsel to act as presiding officer in which case the Chief Counsel shall have the same powers and duties designated in § 21.24 (relating to presiding officer).

(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, Vice Chair or] designated [hearing]presiding officer who will rule on the matter unless in the exercise of [his]the presiding officer's 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]presiding officer. The [hearing]presiding 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]presiding officer or the parties may request that briefs, proposed findings of fact and conclusions of law be presented. The [hearing]presiding 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]presiding officer, shall operate as a waiver of the opportunity to present this material.

(b) The [hearing]presiding 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] Commissioners present at a meeting must find a violation of the act by clear and convincing proof.

(2) The names of the [members]Commissioners 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.

§ 21.28a Treble Damages.

The Commission will have the ability to impose treble damages upon any person who obtains financial gain from violating any provision of the act. See 65 Pa.C.S. § 1109 (relating to penalties). When deciding whether to impose a treble penalty upon a respondent, the Commission will consider whether the facts establish the following through clear and convincing evidence.

(1) A clearly discernible financial gain.

(2) A use of public office or public employment or the authority of public office or public employment or any confidential information received through holding public office or employment.

(3) Intentional, blatant or extraordinary conduct.

(4) Any other exceptional circumstances whereby the conduct warrants such action.

§ 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 a party files a request for reconsideration [is requested] within [that 30-day time period]15 days after issuance of the order. The Legal Division will provide a copy of a request for reconsideration to the Commission within three working days.

(b) [A party may ask the Commission to reconsider an order or opinion within 30 days of service of the order or opinion. The requester shall present a detailed explanation setting forth the reason why the order or opinion should be reconsidered]Filing a request for reconsideration does not toll or stay the 30-day appeal period.

(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]The request for reconsideration must state concisely the alleged errors in the order of the Commission. If the order of the Commission is sought to be vacated, reversed or modified by reason of matters that have arisen since the order, or by reason of a consequence that would result from compliance therewith, the matters relied upon by the requester must be set forth in the request for reconsideration.

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

(d.1) Answers to requests for reconsideration will not be entertained by the Commission. If the Commission grants the request for reconsideration, an answer may be filed by a participant within 15 days after service of the order granting reconsideration. The answer will be confined to the issues upon which reconsideration has been granted.

(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][Reserved].

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

(1) Order a new hearing[s].

(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]If the Commission does not act upon the request for reconsideration within 30 days after it is filed, the request for reconsideration will be deemed to have been denied.

(h) An order which becomes final in accordance with this section will be available as a public [document]record, 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]the respondent 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]Investigative Division.

CHAPTER 23. COMMISSION

GENERAL PROVISIONS

Sec.

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23.2 Quorum.

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CODE OF CONDUCT

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GENERAL PROVISIONS

§ 23.1. Meetings.

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

§ 23.2. Quorum.

A minimum of four [members of the] Commissioners 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 and Vice Chair. The Chair will preside over Commission meetings. If the Chair is absent or that position is vacant, the Vice Chair will preside.

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

(c) If no designation is made under subsection (b), the Commission will elect from among its [members]Commissioners, 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] Commissioners and to the extent permitted by the presiding officer, staff members of the Commission 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 65 Pa.C.S. § § 701—716 (relating to Sunshine Act).

(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.

(a) 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.

(b) Records of public and executive meetings shall include the following information.

(1) Date and time the meeting was called to order.

(2) Names of meeting participants and absentees.

(3) Corrections and amendments to previous meeting minutes.

(4) Additions to the current agenda.

(5) Whether a quorum of Commissioners is present.

(6) Motions taken or rejected.

(7) Voting, including a motion and a second, and the outcome of the vote.

(8) Recusals and abstentions and the reason for such recusals and abstentions.

(9) New business.

(10) Open discussion or public participation, including the names of all citizens who appeared officially and the subject of their testimony.

(11) Time of adjournment.

§ 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 and Vice Chair.

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

(b) The term of office for the Chair and Vice Chair is [2]two years or until the election of the Chair and Vice Chair as set forth in subsection (a).

(c) The Chair and Vice Chair 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, the Vice Chair will serve the unexpired term of the Chair or will serve during the period of incapacity of the Chair.

(f) Upon the resignation, removal, completion of the term and non-reappointment, or in the event that the Vice Chair must assume the duties of the Chair, a majority of the quorum of the Commission may schedule a special election to elect a Vice Chair.

(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]Commissioners.

(h) The Chair, or Vice Chair 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]Commissioner from the offices mentioned in subsection (h) may be made by a Commissioner [member].

(j) A [member]Commissioner 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 Commissioners [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 Commissioners [members] as public officials under the act.

§ 23.22. Prohibited activities.

(a) A Commissioner may not be employed by or act on behalf of 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]the Commissioner's tenure or for [1]one year prior to [his]the Commissioner's appointment to the Commission, nor may a [member]Commissioner hold office in a political committee during [his]the Commissioner's tenure.

(c) A Commissioner may not hold office if the Commissioner, a spouse of a Commissioner or a member of a Commissioner's immediate family residing in the Commissioner's household [may not] actively participates in or contributes 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 65 Pa.C.S. § 1106(d) (relating to State Ethics Commission), a majority of the Commission may declare the seat vacant.

(1) A motion to remove a Commissioner will be made by another Commissioner [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]the Commissioner's 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]two 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]the Commissioner will:

(i) [Remove himself from]Leave 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]redactions as to the recused matter 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]the potential conflict and solicit their express agreement that [he]the Commissioner may continue in [his]the Commissioner's official capacity, subject to the approval of the Commission.

(3) Recuse [himself]from the matter.

(b.1) Any party to a proceeding who believes that a Commissioner has a potential conflict of interest shall raise the conflict as soon as the party becomes aware of it either by filing a written motion to disqualify prior to the commencement of the proceeding or by making an oral motion to disqualify if the proceeding is in progress.

(c) A Commissioner who recuses [himself]from a matter 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]two 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][Reserved].

§ 25.2. Initiation of proceedings.

(a) The [Commission]Executive Director may initiate proceedings to determine whether there has been a wrongful use of the act through the filing of a wrongful use of act notification by a public official/public employee as provided for in 65 Pa.C.S. § 1108(l) (relating to investigations by commission), 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][Reserved].

(4) [Additional information necessary to the resolution of the matter][Reserved].

(b) Failure to provide information as outlined in this section will be cause for dismissal of the wrongful use of act notification.

§ 25.3. Disposition.

(a) Pursuant to a wrongful use of act notification containing the requisite information outlined in § 25.2 (relating to initiation of proceedings), the [Commission] Investigative Division 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] Investigative Division [has] already has 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][Reserved].

(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][Reserved].

(c.1) The Executive Director will notify the Legal Division within five days of receipt of a wrongful use of act notification.

(c.2) The Legal Division will notify the Commission of the wrongful use of act notification, and the Commission will select one Commissioner to serve as a screening committee for purposes of the preliminary wrongful use of act determination.

(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] Executive Director will provide the designated screening Commissioner with a memorandum outlining the findings, analysis and position of the Investigative Division.

(e) The designated screening Commissioner will make a preliminary determination as to wrongful use of the act and will notify the wrongful use of act complainant and the wrongful use of act respondent of the preliminary determination.

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

(2) If the designated screening Commissioner determines that a complaint was proper, the Legal Division will so notify the wrongful use of act complainant who may appeal that determination.

(3) If an appeal is filed by the wrongful use of act complainant, the Commission will schedule a hearing.

§ 25.4. Appeal of determination.

(a) Both the [complainant]wrongful use of act complainant and the wrongful use of act respondent [and the subject] have standing and either may appeal the preliminary determination to the [Commission]designated screening Commissioner.

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

(1.a) The designated screening Commissioner will recuse from any proceedings involving an appeal of the preliminary determination.

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

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

(1) If a [subject]wrongful use of act complainant appeals, the Commission, through its Legal Division, will issue an Order to Show Cause requiring the wrongful use of act complainant[respondent] to set forth reasons why the rule should not be made [absolute]final 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]wrongful use of act complainant's appeal at which the [subject]wrongful use of act complainant shall bear the burden of proving wrongful use of the act by clear and convincing evidence. The [i]Investigative [staff]Division of the Commission will present the case opposing the [subject's]wrongful use of act complainant's appeal.

(c) If the [complainant]wrongful use of act respondent appeals, the Commission, through its Legal Division, will issue a Rule to Show Cause requiring the [complainant]wrongful use of act respondent to file an answer to the averments in the Rule as to why the Rule should not be made [absolute]final as to a finding of wrongful use of the act. The Commission will schedule a hearing for the [complainant's]wrongful use of act respondent's appeal. The [i]Investigative [staff]Division 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]wrongful use of act complainant the name and address of the [complainant]wrongful use of act respondent solely for the purpose of initiating an action for wrongful use of the act. The [complainant's]wrongful use of act respondent'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

April 6, 2026

David Sumner
Executive Director
Independent Regulatory Review Commission
555 Walnut Street, Suite 804
Harrisburg, PA 17101

Re: Proposed Regulation No. 63-09

Dear Executive Director Sumner:

Please find enclosed a copy of the Proposed Regulation Packet for the State Ethics Commission's Proposed Regulation No. 63-09. The Proposed Regulation Packet includes the following:

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

This proposed rulemaking proposes general amendments to Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code*, said amendments necessitated by court opinions and alignment with modern practices. The Commission's regulations have not undergone substantive revisions in 30 years during which judicial precedent and modernization have transformed the way the Commission operates. This rulemaking (1) outlines the separation of powers of Commission staff; (2) deletes and revises certain provisions pertaining to confidentiality and wrongful use of the Ethics Act; (3) clarifies procedures for reconsideration of a final order; (4) removes judicial employees from the definitions of "public employee" and "public official"; (5) updates obsolete definitions and adds other definitions necessary to interpret the Ethics Act; (6) describes considerations for the imposition of treble penalties; (7) sets forth discovery, subpoena, investigative, and hearing processes; (8) removes the requirement that a complaint be notarized; and (9) makes several technical edits such as revising language to be gender neutral, correcting statutory references, requiring the provision of an email address with advisory opinion requests, and changing the title of "hearing officer" to "presiding officer."

Accordingly, the State Ethics Commission is submitting the proposed 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 proposed rulemaking package with you and your staff at your convenience.

Respectfully,



Bridget K. Guilfoyle
Chief Counsel

BKG/
Enclosures

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

I.D. NUMBER: 63-09

SUBJECT: General Revisions Necessitated by Court Opinions and Alignment with Modern Practices

AGENCY: State Ethics Commission

RECEIVED

Independent Regulatory
Review Commission

TYPE OF REGULATION

April 6, 2026

- 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**

FILING OF REGULATION

<u>DATE</u>	<u>SIGNATURE</u>	<u>DESIGNATION</u>
		<u>HOUSE COMMITTEE - Judiciary</u>
<u>04/06/26</u>	<u>Electronic Service</u>	<u>MAJORITY CHAIR Tim Briggs</u>
<u>04/06/26</u>	<u>Electronic Service</u>	<u>MINORITY CHAIR Rob W. Kaufman</u>
		<u>SENATE COMMITTEE - State Government</u>
<u>04/06/26</u>	<u>Electronic Service</u>	<u>MAJORITY CHAIR Cris Dush</u>
<u>04/06/26</u>	<u>Electronic Service</u>	<u>MINORITY CHAIR Steven J. Santarsiero</u>
<u>04/06/26</u>	<u>Electronic Service</u>	<u>INDEPENDENT REGULATORY REVIEW COMMISSION</u>
		<u>ATTORNEY GENERAL (for Final Omitted only)</u>
<u>04/06/26</u>	<u>Electronic Service</u>	<u>LEGISLATIVE REFERENCE BUREAU (for Proposed only)</u>

Guilfoyle, Bridget

From: Briggs, Tim <TBriggs@pahouse.net>
Sent: Monday, April 6, 2026 8:48 AM
To: Guilfoyle, Bridget
Cc: Vitale, David; Fitterer, Maya R.
Subject: Re: Proposed Regulation No. 63-09

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Independent Regulatory
Review Commission

April 6, 2026

Received. Thank you

Tim Briggs

From: Guilfoyle, Bridget <bguilfoyle@pa.gov>
Sent: Monday, April 6, 2026 8:19:11 AM
To: Briggs, Tim <TBriggs@pahouse.net>
Cc: Vitale, David <DVitale@pahouse.net>; Fitterer, Maya R. <MFitterer@pahouse.net>
Subject: Proposed Regulation No. 63-09

Dear Representative Briggs:

In your capacity as Chair of the House Judiciary Committee, please find attached a copy of the Proposed Regulation Packet for the State Ethics Commission's Proposed Regulation No. 63-09. The Proposed Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Proposed Preamble; and
5. Proposed Annex A.

This proposed rulemaking proposes general amendments to Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code*, said amendments necessitated by court opinions and alignment with modern practices. The Commission's regulations have not undergone substantive revisions in 30 years during which judicial precedent and modernization have transformed the way the Commission operates. This rulemaking (1) outlines the separation of powers of Commission staff; (2) deletes and revises certain provisions pertaining to confidentiality and wrongful use of the Ethics Act; (3) clarifies procedures for reconsideration of a final order; (4) removes judicial employees from the definitions of "public employee" and "public official"; (5) updates obsolete definitions and adds other definitions necessary to interpret the Ethics Act; (6) describes considerations for the imposition of treble penalties; (7) sets forth discovery, subpoena, investigative, and hearing processes; (8) removes the requirement that a complaint be notarized; and (9) makes several technical edits such as revising language to be gender neutral, correcting statutory references, requiring the provision of an email address with advisory opinion requests, and changing the title of "hearing officer" to "presiding officer." Accordingly, the State Ethics Commission will be submitting this proposed 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 proposed 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 as soon as possible or ask a member of your staff to confirm on your behalf.

Sincerely,

Bridget K. Guilfoyle | Chief Counsel
Pennsylvania State Ethics Commission
Finance Building
613 North Street, Room 304 | Harrisburg, PA 17120
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | brguilfoyle@pa.gov
www.ethics.pa.gov

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Independent Regulatory
Review Commission

April 6, 2026

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Guilfoyle, Bridget

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From: Steven Smith <Ssmith@pahousegop.com>
Sent: Monday, April 6, 2026 9:17 AM
To: Guilfoyle, Bridget
Subject: RE: [EXTERNAL]: Proposed Regulation 63-09

April 6, 2026

Received.

Steven T. Smith, Esq.
Executive Director
Judiciary Committee (R)
329 Ryan Office Building
717.260.6468

From: Guilfoyle, Bridget <bguilfoyle@pa.gov>
Sent: Monday, April 6, 2026 8:30 AM
To: rkauffman@pahousegop.com
Cc: Steven Smith <Ssmith@pahousegop.com>
Subject: [EXTERNAL]: Proposed Regulation 63-09
Importance: High

Dear Representative Kauffman:

In your capacity as the Minority Chair of the House Judiciary Committee, please find attached a copy of the Proposed Regulation Packet for the State Ethics Commission's Proposed Regulation No. 63-09. The Proposed Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Proposed Preamble; and
5. Proposed Annex A

This proposed rulemaking proposes general amendments to Chapters 11, 13, 15, 17, 19, 21, 23 and 25 of Title 51 of the *Pennsylvania Code*, said amendments necessitated by court opinions and alignment with modern practices. The Commission's regulations have not undergone substantive revisions in 30 years during which judicial precedent and modernization have transformed the way the Commission operates. This rulemaking (1) outlines the separation of powers of Commission staff; (2) deletes and revises certain provisions pertaining to confidentiality and wrongful use of the Ethics Act; (3) clarifies procedures for reconsideration of a final order; (4) removes judicial employees from the definitions of "public employee" and "public official"; (5) updates obsolete definitions and adds other definitions necessary to interpret the Ethics Act; (6) describes considerations for the imposition of treble penalties; (7) sets forth discovery, subpoena, investigative, and hearing processes; (8) removes the requirement that a complaint be notarized; and (9) makes several technical edits such as revising language to be gender neutral, correcting statutory references, requiring the provision of an email address with advisory opinion requests, and changing the title of "hearing officer" to "presiding officer." Accordingly, the State Ethics

Commission will be submitting this proposed 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 proposed 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 as soon as possible or ask a member of your staff to confirm on your behalf.

Sincerely,

Bridget K. Guilfoyle | Chief Counsel
Pennsylvania State Ethics Commission
Finance Building
613 North Street, Room 304 | Harrisburg, PA 17120
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | bjguilfoyle@pa.gov
www.ethics.pa.gov

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Guilfoyle, Bridget

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From: Foust, Joseph <jfoust@pasen.gov>
Sent: Monday, April 6, 2026 10:07 AM
To: Guilfoyle, Bridget; Dush, Senator Cris
Cc: Hepner, Cade
Subject: RE: Proposed Regulation 63-09

Independent Regulatory
Review Commission

April 6, 2026

Good morning, Bridget.

Thank you for sending these . . . receipt acknowledged.

~ Joseph

Joseph Foust
Chief of Staff
25th Senatorial District
PA State Senator Cris Dush
P: 717.787.7084

<https://senatordush.com>

From: Guilfoyle, Bridget <bguilfoyle@pa.gov>
Sent: Monday, April 6, 2026 8:19 AM
To: Dush, Senator Cris <cdush@pasen.gov>
Cc: Hepner, Cade <chepner@pasen.gov>; Foust, Joseph <jfoust@pasen.gov>
Subject: Proposed Regulation 63-09
Importance: High

⊙ CAUTION : External Email ⊙

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Dear Senator Dush:

In your capacity as Chair of the Senate State Government Committee, please find attached a copy of the Proposed Regulation Packet for the State Ethics Commission's Proposed Regulation No. 63-09. The Proposed Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Proposed Preamble; and
5. Proposed Annex A.

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Sincerely,

Bridget K. Guilfoyle | Chief Counsel
Pennsylvania State Ethics Commission
Finance Building
613 North Street, Room 304 | Harrisburg, PA 17120
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | bjguilfoyle@pa.gov
www.ethics.pa.gov

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April 6, 2026

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Guilfoyle, Bridget

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Independent Regulatory
Review Commission

From: Smith, Timothy <Timothy.Smith@pasenate.com>
Sent: Monday, April 6, 2026 8:57 AM
To: Guilfoyle, Bridget
Subject: RE: Proposed Regulation 63-09

April 6, 2026

Good morning, Bridget,

On behalf of Senator Santarsiero, we have received the Proposed Regulations Packet for the State Ethics Commission's Proposed Regulations No. 63-09.

Thanks,
Tim

Timothy P. Smith
Legal Counsel- Senate Democratic Caucus
Executive Director- State Government Committee to Chairman Senator Santarsiero
535 Main Capitol Building
Harrisburg, PA 17120

From: Guilfoyle, Bridget <bguilfoyle@pa.gov>
Sent: Monday, April 6, 2026 8:19 AM
To: PA Senator Steve Santarsiero <senatorSantarsiero@pasenate.com>
Cc: Smith, Timothy <Timothy.Smith@pasenate.com>
Subject: Proposed Regulation 63-09
Importance: High

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

EXTERNAL EMAIL

Dear Senator Santarsiero:

In your capacity as Minority Chair of the Senate State Government Committee, please find attached a copy of the Proposed Regulation Packet for the State Ethics Commission's Proposed Regulation No. 63-09. The Proposed Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Proposed Preamble; and
5. Proposed Annex A.

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provisions pertaining to confidentiality and wrongful use of the Ethics Act; (3) clarifies procedures for reconsideration of a final order; (4) removes judicial employees from the definitions of “public employee” and “public official”; (5) updates obsolete definitions and adds other definitions necessary to interpret the Ethics Act; (6) describes considerations for the imposition of treble penalties; (7) sets forth discovery, subpoena, investigative, and hearing processes; (8) removes the requirement that a complaint be notarized; and (9) makes several technical edits such as revising language to be gender neutral, correcting statutory references, requiring the provision of an email address with advisory opinion requests, and changing the title of “hearing officer” to “presiding officer.” Accordingly, the State Ethics Commission will be submitting this proposed 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 proposed 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 as soon as possible or ask a member of your staff to confirm on your behalf.

Sincerely,

Bridget K. Guilfoyle | Chief Counsel
Pennsylvania State Ethics Commission
Finance Building
613 North Street, Room 304 | Harrisburg, PA 17120
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | bjguilfoyle@pa.gov
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April 6, 2026

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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

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Independent Regulatory
Review Commission

From: Bulletin <bulletin@palrb.us>
Sent: Monday, April 6, 2026 8:23 AM
To: Guilfoyle, Bridget
Cc: Alyssa M. Burns; Adeline E. Gaydosh
Subject: [External] RE: Proposed Regulation 63-09

April 6, 2026

ATTENTION: *This email message is from an external sender. Do not open attachments or click links from unknown senders. To report suspicious email, use the Report Phishing button in Outlook.*

Good morning Bridget,

Thank you for submitting this proposed rulemaking. Someone from our staff will be in touch regarding publication in the *Pennsylvania Bulletin*.

Have a great day!

Alyssa Burns | Legal Assistant
aburns@palrb.us | 717.783.1531
Legislative Reference Bureau
Pennsylvania Code & Bulletin Office
647 Main Capitol Building
Harrisburg, PA 17120

From: Guilfoyle, Bridget <bguilfoyle@pa.gov>
Sent: Monday, April 6, 2026 8:19 AM
To: Bulletin <bulletin@palrb.us>
Subject: Proposed Regulation 63-09

Dear Sir or Madam:

Attached for publication please find a copy of the Proposed Regulation Packet for the State Ethics Commission's Proposed Regulation No. 63-09. The Proposed Regulation Packet includes the following:

1. Regulatory Analysis Form;
2. Fiscal Note;
3. Face Sheet;
4. Proposed Preamble; and
5. Proposed Annex A.

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

Thank you for your time and consideration of this matter.

Sincerely,

RECEIVED

Bridget K. Guilfoyle | Chief Counsel
Pennsylvania State Ethics Commission
Finance Building
613 North Street, Room 304 | Harrisburg, PA 17120
Telephone: 717.783.1610 | Facsimile: 717.787.0806 | bguilfoyle@pa.gov
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Independent Regulatory
Review Commission

April 6, 2026

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