

RULES AND REGULATIONS

Title 51—PUBLIC OFFICERS

STATE ETHICS COMMISSION [51 PA. CODE CHS. 11 AND 19] Procedure

The State Ethics Commission (Commission) adopts amendments to Chapters 11 and 19 (relating to general provisions; and statements of financial interests) to read as set forth in Annex A. The amendments are made under the authority of the act of October 4, 1978 (P. L. 883, No. 170) (65 P. S. §§ 401—413), known as the Public Official and Employee Ethics Law (Ethics Law), as amended and added by the act of June 26, 1989 (P. L. 26, No. 9) (Act 9).

Notice of proposed rulemaking was published at 25 Pa.B. 3876 (September 16, 1995), with an invitation to submit written commentary within 30 days.

Purpose

These amendments are made in accordance with section (7)(1) of the Ethics Law (65 P. S. § 401(1)) which directs the Commission to promulgate rules and regulations necessary to carry out the provisions of the Ethics Law.

The amendments implement Act 9 which amended the Ethics Law and which directs the Commission to administer the Ethics Law to public officials, public employes, candidates for public office and other persons involved in an official capacity with the foregoing persons.

The amendments are promulgated to correct the problem of filings of financial interests statements (FISs) by facsimile service (FAX) transmission without signed originals by requiring the filing of a signed original FIS within 5 business days after the FIS filing by FAX.

Summary

The amendments, being procedural in nature to correct the problem of filings of FISs by FAX transmission without signed originals, require the filing of a signed original FIS within 5 days after the FIS filing by FAX.

Comments and Responses

Written comments and suggestions were received from the Independent Regulatory Review Commission (IRRC).

The commentary suggested that the Commission require hard copies of all official papers transmitted by FAX regardless of whether received at the Commission or issued by the Commission.

A meeting on the commentary took place on March 4, 1996, attended by staff of the House and Senate standing committees, IRRC and staff of the Commission. The standing committees took the view that the proposed rulemaking as published was appropriate to deal with a very specific problem. IRRC then proposed new wording which was substantially similar to the original proposed rulemaking but located at a different section in the regulations. The rulemaking would not appear in § 11.1 under the definition of "filed" but rather in § 19.1 (relating to forms; filing).

The commentary was considered by the members of the Commission in a public meeting on May 31, 1996, wherein the commentary of IRRC was accepted with the addition of language in the definition of "filed" to cross reference the requirement of FIS filings in § 19.1(d).

Affected Parties

These amendments will affect public officials, public employes, candidates and third parties who have involvement with the foregoing individuals.

Fiscal Impact and Paperwork Requirements

These amendments have no fiscal impact upon the Commonwealth.

Effective Date

The amendments will take effect upon final publication in the *Pennsylvania Bulletin*.

Sunset Date

The effectiveness of these regulations will be reviewed by the Commission periodically. Thus, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Commission submitted a copy of the notice of proposed rulemaking, published at 25 Pa.B. 3876 (September 16, 1995), to IRRC and the Chairpersons of the House Judiciary Committee and the Senate Committee on Rules and Executive Nominations for review and comment. The Commission only received commentary from IRRC.

On July 26, 1996, the Commission submitted to IRRC the final-form regulations which were considered at a public meeting of IRRC on August 22, 1996. Approval as to form and legality was received from the Office of Attorney General on September 4, 1996.

In preparing these final-form regulations, the Commission considered the commentary received from IRRC.

Contact Person

The contact persons responsible for information on the Commission's process for adoption of the amendments are John J. Contino, Executive Director, or Vincent J. Dopko, Chief Counsel, 309 Finance Building, P. O. Box 11470, Harrisburg, PA 17108-1470, (717) 783-1610.

Findings and Order

The Commission finds that the amendments are necessary and appropriate for the administration and enforcement of Act 9. Acting under the authority of the Ethics Law, the Commission orders that:

(1) The regulations of the Commission, 51 Pa. Code Chapters 11 and 19, are amended by amending §§ 11.1 and 19.1 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(2) The Executive Director of the Commission shall submit this order and Annex A to the Office of Attorney General for approval as to form and legality as required by law.

(3) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon publication in the *Pennsylvania Bulletin*.

DANEEN E. REESE,
Chairperson

(Editor's Note: The amendment to § 19.1 (relating to forms; filing) was not included in the proposal at 25 Pa.B. 3876)

For the text of the order of the Independent Regulatory Review Commission relating to this document, see 26 Pa.B. 4371 (September 7, 1996).

Fiscal Note: Fiscal Note 63-05 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 51. PUBLIC OFFICERS

PART I. STATE ETHICS COMMISSION

CHAPTER 11. GENERAL PROVISIONS

§ 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.

* * * * *

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 or by Facsimile Service (FAX). See § 19.1 (relating to forms; filing) for additional requirements when filing a Statement of Financial Interests by Facsimile Service (FAX).

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CHAPTER 19. STATEMENTS OF FINANCIAL INTERESTS, MISCELLANEOUS

§ 19.1. Forms; filing.

(a) Public officials, public employes and candidates shall file Form SEC-1, as published and revised by the Commission.

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

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

(d) A Statement of Financial Interests sent by FAX transmission is filed on the date the Commission receives the faxed copy if the Commission receives the signed original within 5 business days thereafter. If the Commission does not receive the signed original within 5 business days from the date of receiving the faxed copy, the Statement of Financial Interests is filed on the date the Commission receives the signed original.

[Pa.B. Doc. No. 96-1571. Filed for public inspection September 20, 1996, 9:00 a.m.]
