

CHAPTER 23. COMMISSION

GENERAL PROVISIONS

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

CODE OF CONDUCT

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

Source

The provisions of this Chapter 23 adopted April 23, 1993, effective April 24, 1993, 23 Pa.B. 2087, unless otherwise noted.

GENERAL PROVISIONS

§ 23.1. Meetings.

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

Cross References

This section cited in 51 Pa. Code § 13.3 (relating to opinions).

§ 23.2. Quorum.

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

Cross References

This section cited in 51 Pa. Code § 13.3 (relating to opinions).

§ 23.3. Presiding officer.

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

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

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

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

Cross References

This section cited in 51 Pa. Code § 13.3 (relating to opinions).

§ 23.4. Conduct of meetings.

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

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

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

(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.

Cross References

This section cited in 51 Pa. Code § 13.3 (relating to opinions).

§ 23.5. Records of meetings.

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

Cross References

This section cited in 51 Pa. Code § 13.3 (relating to opinions).

§ 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.

Cross References

This section cited in 51 Pa. Code § 13.3 (relating to opinions).

§ 23.7. Election of Chairperson and Vice Chairperson.

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

(b) The term of office for the Chairperson and Vice Chairperson is 2 years. The officers will remain in office during the interim period between the date when the term of office expires and the next regularly scheduled election.

(c) The Chairperson and Vice Chairperson 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 nonreappointment, resignation, removal or incapacity of the Chairperson, the Vice Chairperson will serve the unexpired term of the Chairperson or will serve during the period of incapacity of the Chairperson.

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

(g) Notice of a special election will be publicly announced at least 30 days prior to the election. Notice will be forwarded to the members of the Commission.

(h) The Chairperson, or Vice Chairperson may be removed as officers, but not as Commissioners, for just cause upon a majority vote of the Commission.

(i) A motion to remove a member of the Commission from the offices mentioned in subsection (h) may be made by a Commission member.

(j) A member may not be removed unless given reasonable notice and an opportunity to be heard.

CODE OF CONDUCT**§ 23.21. Code of conduct.**

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

(b) The provisions of this section and §§ 23.22 and 23.23 are in addition to the duties, responsibilities or obligations imposed upon the Commission members as public officials under the act.

§ 23.22. Prohibited activities.

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

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

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

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

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

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

(e) If a Commissioner violates section 6(d) of the act (65 P. S. § 406(d)), a majority of the Commission may declare the seat vacant.

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

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

Cross References

This section cited in 51 Pa. Code § 23.2 (relating to quorum); and 51 Pa. Code § 23.21 (relating to code of conduct).

§ 23.23. Limitations on voting/recusal.

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

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

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

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

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

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

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

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

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

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

(3) Recuse himself.

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

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

(1) A relative of the Commissioner.

(2) A former employer or employe.

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

- (4) A source of income reportable on the Statement of Financial Interests.
- (5) The individual appointing authority of the Commissioner is a respondent.
- (6) A person providing the Commissioner with funds, goods or services without compensation.
- (7) A person with whom the Commissioner has a fiduciary relationship.
- (8) A debtor or creditor of the Commissioner.
- (e) A Commissioner recused from a matter shall direct that the individual recording the minutes at the meeting enter into the minutes the recusal and the reasons therefor.
- (f) If the Commission cannot achieve a quorum because recusals reduce the number of Commissioners available to vote, the matter in question will be deferred until a meeting at which a quorum may be achieved.

Cross References

This section cited in 51 Pa. Code § 23.21 (relating to code of conduct).

[Next page is 25-1.]