

**PART IV. LEGISLATIVE BUDGET AND FINANCE
COMMITTEE**

Chap.
**401. ACCESS, MAINTENANCE AND DISCLOSURE OF
RECORDS—STATEMENT OF POLICY 401.1**

**CHAPTER 401. ACCESS, MAINTENANCE AND
DISCLOSURE OF RECORDS—STATEMENT OF POLICY**

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Authority

The provisions of this Chapter 401 issued under the act of August 4, 1959 (P. L. 587, No. 195) (46 P. S. §§ 70.1—70.7); and the Sunset Act (71 P. S. §§ 1795.1—1795.14), unless otherwise noted.

Source

The provisions of this Chapter 401 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6, unless otherwise noted.

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GENERAL PROVISIONS**§ 401.1. Policy.**

Given the unique access rights of the Committee under its statutory mandates to obtain information, including that which is otherwise protected from disclosure under statute, the Committee seeks to achieve a balance between its duty to report on the efficiency and effectiveness of Commonwealth agencies in accordance with professional auditing and evaluation standards, while ensuring that privacy rights and other rights of individuals under law are properly safeguarded. In recognition of the Committee's duty to report to the General Assembly in conjunction with the monitoring of executive agencies, this chapter provides a framework for maintaining a balance.

Source

The provisions of this § 401.1 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6.

§ 401.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The act of August 4, 1959 (P. L. 587, No. 195) (46 P. S. §§ 70.1—70.7).

Auditee—In the case of a study project, a Commonwealth agency responsible for the function, activity or program which is the subject matter of the study. In the specific case of a sunset performance audit, the Commonwealth agency which is named in the Sunset Act (71 P. S. §§ 1795.1—1795.14) or otherwise required by statute to undergo sunset review as provided for in the act.

Authorized representative—A person, including the Executive Director, who is approved by a majority of the officers to implement the general duties of the Committee and those persons who are contracted by the Committee for specific duties which have been approved by a majority of the officers. A current listing of authorized representatives shall be maintained by the Executive Director.

Committee—The Legislative Budget and Finance Committee.

Confidential records—Records which are prohibited under this chapter from public disclosure.

Disclose or disclosure—To make records available for examination or copying, to furnish a copy, or to otherwise release records to a person other than to a member of the Committee or its authorized representatives.

Executive Director—The position created under the act. The duties of the position include the making of recommendations concerning budget and revenue of the departments, boards, commissions and agencies of the Commonwealth.

Identifiable—In the context of a request for a record, a reasonably specific description of a particular record sought, such as the date of the record, subject matter, agency or person involved, and the like, which will permit location or retrieval of the record.

Legislative Budget and Finance Committee—The elected officials who are designated as members of the Committee formed under the act.

Officers—Members of the Committee elected to serve in the offices of Chairperson, Vice-Chairperson, Secretary and Treasurer.

Person—An individual, partnership, corporation, association or public or private organization, including Commonwealth officials and employees.

Records—Books, papers, manuals, reports, verification letters, work papers and other documentary materials, regardless of physical form or characteristics, under the control of the Committee or its authorized representative which are maintained under a sunset performance audit or a study project and the specific and unique information contained therein. In the context of a request for a record, the term refers only to records in being and under control of the Committee or its authorized representative. The term does not include and this chapter does not pertain to reports authored by the Committee which are specifically released to the public at a meeting of the Committee. The term also does not include other books, booklets and similar documents which have been published and made available to the public by the author of the book, booklet or similar document.

Study project—Activities resulting in a written report by the Committee under its duties required by the act or other studies not including sunset performance audits.

Sunset performance audit—A specific study project involving activities resulting in a written report by the Committee under the Sunset Act (71 P. S. §§ 1795.1—1795.14), evaluating the management and performance of an agency based on the statistics on its operations and carried out in accordance with the standards for performance and financial compliance auditing developed by the United States General Accounting Office. The term also includes specific study projects involving activities resulting in a written report by the Committee under sunset provisions of other acts.

Source

The provisions of this § 401.2 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; amended August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial pages (103906) to (103907).

**ACCESS AND MAINTENANCE OF RECORDS;
AUTHORITY OF COMMITTEE**

§ 401.11. Statement of applicability.

The policies for access, maintenance, and release of records apply to activities undertaken by the Committee and its authorized representatives, unless specific statements of access, maintenance, or release of records are otherwise designated by a specific statute or in this chapter.

Source

The provisions of this § 401.11 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; amended August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103908).

§ 401.12. Access rights of the Committee.

(a) Under the act, the Committee and its authorized representatives shall have direct and unimpeded access to materials which it deems necessary, including personnel records, to fulfill its duty of making reports and recommendations to the General Assembly and the standing committees thereof for the purposes of eliminating unnecessary expenditures, promoting economy in the government of the Commonwealth, ensuring that monies are being expended for the intended purposes and within statutory restrictions, and examining the availability of revenues to meet expenditures of the Commonwealth.

(b) Under the Sunset Act (71 P. S. §§ 1795.1—1795.14), the Committee and its authorized representatives shall have ready access to persons and may examine and copy to the extent deemed necessary to its evaluation and review, pertinent records of any Commonwealth agency. The records shall include personnel records. Under adherence to United States General Accounting Office standards, as mandated for the conduct of activity under the Sunset Act, the determination of “pertinent” will be made by the Committee.

Source

The provisions of this § 401.12 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; amended August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103908).

Cross References

This section cited in 101 Pa. Code § 401.17 (relating to exercise of subpoena power).

§ 401.13. Procedures for access.

The Committee, and its authorized representatives, will follow oral and written procedures developed in conjunction with auditees for the inspection and copying of records maintained by agents of the auditee responsible for the custody of

the records. The procedures may not act to impede the nature of material to be accessed by the Committee, or its authorized representatives.

Source

The provisions of this § 401.13 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; amended August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103908).

§ 401.14. Maintenance of records.

In the interest of safeguarding privacy rights and other rights protected under statute, such as, the attorney-client privilege and the right not to be defamed, the Committee, or its authorized representatives, recognizing its fiduciary responsibilities for those records which it acquires, will provide for the security of records obtained during study projects and sunset performance audits.

Source

The provisions of this § 401.14 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; amended August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103908).

§ 401.15. Request for records; nondisclosure; responsibility.

(a) Records which are created or obtained during study projects and sunset performance audits will be treated as confidential. If a request is made to inspect identifiable records pertaining to a project, unless the denial of the request would conflict with the standards for performance and financial compliance auditing developed by the United States General Accounting Office, the requesting person will be notified that the records are considered to be confidential and will not be made available for inspection.

(b) Subsection (a) does not apply to members of the Committee or the Committee's authorized representatives.

(c) Members of the Committee and authorized representatives of the Committee are responsible for the confidential handling of records in their possession or under their custody under this chapter. Authorized representatives of the Committee who improperly release records will be subject to disciplinary action, including possible dismissal from employment or other termination of association.

Source

The provisions of this § 401.15 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; amended August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial pages (103908) to (103909).

§ 401.16. Evidence of illegal activities.

Information uncovered during a study project which constitutes or may constitute evidence of illegal activities will be brought to the attention of the administrative head of the auditee or appropriate law enforcement authorities, or both.

Source

The provisions of this § 401.16 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6.

§ 401.17. Exercise of subpoena power.

(a) If the Committee or its authorized representative is denied access to records which it has a duty to acquire and which it has attempted to obtain under § 401.12(a) (relating to access rights of the Committee), the Committee, upon approval of a majority of its membership, may issue a subpoena under the hand and seal of its Chairperson under section 3(5) of the act (46 P. S. § 70.3(5)). A person who willfully neglects or refuses to comply with a subpoena issued on behalf of the Committee shall be subject to the penalties provided by statute.

(b) If the Committee or its authorized representative is denied access to records which it has a duty to acquire and which it has attempted to obtain under § 401.12(b), the Committee, with the concurrent resolution of both Houses, has the authority to issue subpoenas to compel the production of records under authority of section 12 of the Sunset Act (71 P. S. § 1795.12). A person who willfully neglects or refuses to comply with a subpoena issued on behalf of the Committee in pursuit of its duties under the Sunset Act (71 P. S. §§ 1795.1—1795.14) is subject to the penalties provided by statute.

Source

The provisions of this § 401.17 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; amended August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103909).

§ 401.21. [Reserved].**Source**

The provisions of this § 401.21 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103909).

§ 401.22. [Reserved].**Source**

The provisions of this § 401.22 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial pages (103909) to (103910).

§ 401.23. [Reserved].**Source**

The provisions of this § 401.23 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103910).

§ 401.24. [Reserved].**Source**

The provisions of this § 401.24 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103910).

§ 401.25. [Reserved].**Source**

The provisions of this § 401.25 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial pages (103910) to (103911).

§ 401.26. [Reserved].**Source**

The provisions of this § 401.26 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial pages (103911) to (103913).

§ 401.27. [Reserved].**Source**

The provisions of this § 401.27 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103913).

§ 401.28. [Reserved].**Source**

The provisions of this § 401.28 adopted January 3, 1986, effective January 4, 1986, 16 Pa.B. 6; reserved August 10, 1990, effective August 11, 1990, 20 Pa.B. 4299. Immediately preceding text appears at serial page (103913).

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