

OHIO ETHICS COMMISSION



Agency Rule Making Guide

A Guide to Public Participation

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INTRODUCTION

This guide is published to assist interested parties in understanding how rules are adopted by the Ohio Ethics Commission. It provides highlights and is not intended to be an in-depth review of the rule making process. Rules, if adopted in accordance with R.C. Section 102.05 of the Ohio Administrative Procedures Act (Chapter 119 of the Revised Code), have the force and effect of law. Therefore, rules of the Commission are important to public officials and employees and the general public who are affected by their implementation.

The Commission's processes are designed to offer adequate opportunity for the public to provide input to the Commission regarding the content of any rule being considered. If you have questions after reading this guide, please contact the Commission at 614-466-7090.

MISSION & OVERVIEW

The Mission of the Ethics Commission is to promote and enforce ethical conduct throughout state and local government. The Commission consists of six members, appointed by the Governor and confirmed by the Senate. Members serve staggered six-year terms. The Commission is required to be bi-partisan with three members from each of the two major political parties. Day-to-day administration of the Commission is the responsibility of an Executive Director who is hired by the Commission and supervises a staff to assist in implementing the various functions of the Commission that are mandated by law.

MAJOR FUNCTIONS

The Commission:

- Provides continuing education and information to state and local public officials, public employees, and the general public on Ohio's Ethics Law and related statutes (Ethics Law);
- Responds to questions from public officials and employees at all levels of government, and members of the public, and provides guidance and opinions interpreting the Ethics Law;
- Enforces financial disclosure laws that require many candidates for public office, public officials, and public employees to annually disclose personal financial information to identify and avoid conflicts of interest;
- Investigates alleged violations of the Ethics Law;
- Refers cases supported by substantial evidence for prosecution or alternative resolution;
- Recommends to the General Assembly legislation relating to ethics, conflicts of interest, and personal financial disclosure.

RULE MAKING AUTHORITY

By law, the Commission is authorized to promulgate (adopt, amend and rescind) all rules necessary to carry out the provisions of the Ethics Law (Chapter 102 of the Ohio Revised Code) and related statutes (2921.42 and 2921.43).

The rules of the Commission may be found in Chapter 102 of the Ohio Administrative Code.

RULE REVIEW PROCESS

In accordance with Ohio law, the Commission is required to review each of its rules at least once every five years. A review committee comprised of Members of the Commission, along with its staff, who provide expertise in various areas of the Commission's authority, review the rules to determine whether a rule should be revised, rescinded, or remain unchanged, in light of the purpose, scope, and intent of the Ethics Law and/or any revisions made. Other factors considered in reviewing the rules include whether the rule should be amended or rescinded: to allow more flexibility; eliminate unnecessary paperwork; avoid administrative duplication, overlap, or confusion. The review committee prepares recommendations which are then presented to the Commission. In conducting its review, the Commission considers the continued need for the rule, the nature of any comments received concerning the rule, and any relevant factors that have changed the subject matter affected by the rule.

In addition to the five-year review required by law, the Commission may, at any time, examine its rules to determine what, if any, modifications may be needed for any reason, such as an amendment to the Ethics Law or the enactment of a new law by the General Assembly.

Once the Commission has gathered all necessary information about the rules under consideration, the Commission will direct any resulting course of action. A rule may be filed as unchanged or may be submitted for revision or rescission. New rules may be proposed to address concerns not previously addressed.

PUBLIC PARTICIPATION

Input from the public is encouraged and the meetings of the review committee are open to the public, as well as all meetings of the Commission. Agendas of Commission meetings are available before each meeting date.

The public will be afforded an additional opportunity to provide input during a public hearing for any rules which are to be promulgated under R.C. Chapter 119. The hearing will be scheduled 31-40 days after the rules are filed as required.

RULE FILING PROCESS

State law requires the Commission to file its proposed rules with the Joint Committee on Agency Rule Review (JCARR), the Legislative Service Commission (LSC), and the Secretary of State. Public notice of the filing is provided through the Register of Ohio, and as deemed appropriate by the Commission. The Commission will conduct a public hearing on a proposed rule filing, as required by law.

The public hearing, presided over by a member of the Commission, is held in Columbus and offers the public an opportunity to be heard. A court reporter may attend to record the proceedings. Testimony may be presented orally at the hearing, or in writing prior to the hearing, and for a specified period of time after the hearing, until the hearing record is officially

closed. A time limit may be placed on a witness's oral remarks to assure that all who wish to testify are heard. A witness may be asked to provide additional information.

The Commission will consider written and oral testimony received, review it at its next regularly scheduled meeting after the hearing or individually as time allows, and determine whether to make changes to the rules as proposed. If the Commission decides that changes are warranted, the rules will be refiled with JCARR, LSC, and the Secretary of State. State law does not require another public hearing when rules are refiled.

JCARR PROCESS

JCARR conducts a hearing to review the rules under consideration. JCARR's primary function is to review the rules to make certain (1) they do not exceed the scope of the Commission's rule making authority; (2) they do not conflict with other laws or rules; (3) they do not conflict with the intent of the legislature in enacting any relevant statute; and, (4) that the Commission has completed the appropriate documentation (rule summary and fiscal analysis) for filing.

The JCARR hearing is the final opportunity for the public to provide comments about the rules; however, comments before JCARR are required to address only those four issues listed above. If JCARR believes the rules do not meet one of these areas, it may entertain a motion proposing that the General Assembly invalidate the proposed rules.

Once JCARR's time to review the rules expires, the Commission may complete its action on the rules. Rules become effective no sooner than 10 days after the JCARR review period expires.

CONTACT INFORMATION

The Commission welcomes input from the public regarding laws that control the creation of administrative rules.

Additional information about the Commission and its functions may be requested by calling 614-466-7090, faxing a request to 614-466-8368, or via the Commission Web site located at: www.ethics.state.oh.us.