

WEST VIRGINIA

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #1

FILED

1000 FEB -9 PM 4:07

OFFICE OF THE SECRETARY OF STATE

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: West Virginia Ethics Commission TITLE NUMBER: 158

RULE TYPE: Procedural; CITE AUTHORITY West Virginia Code § 68-2-1(e) a
§ 68-2-4

AMENDMENT TO AN EXISTING RULE: YES NO X

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 1

TITLE OF RULE BEING PROPOSED: Procedural Rules for the West Virginia
Ethics Commission

DATE OF PUBLIC HEARING: March 21, 1990 TIME: 1:00 pm

LOCATION OF PUBLIC HEARING: West Virginia Ethics Commission Conference Room
1207 Quarrier Street, 4th Floor, Litton Bldg.
Charleston, WV 25301

COMMENTS LIMITED TO: ORAL WRITTEN BOTH X

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: West Virginia Ethics Commission

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

1207 Quarrier Street
Charleston, WV 25301

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

Lynne Ranson
Legal Counsel
WVa. Ethics Comm.



STATE OF WEST VIRGINIA
DEPARTMENT OF ADMINISTRATION

State Capitol
Charleston, WV 25305

Gaston Caperton
Governor

Chuck Polan
Secretary

February 8, 1990

Mr. Richard M. Alker
Executive Director
West Virginia Ethics Commission
Litton Building, 4th Floor
1207 Quarrier Street
Charleston, West Virginia 25301

Re: Rules

Dear Rick:

Approval is hereby given for filing of Procedural Rules for the West Virginia Ethics Commission, Series 1, 2, 3, 4 and 5, as enclosed, in accordance with West Virginia Code Section 29-12-1 et seq.

Sincerely,

Chuck Polan
Secretary

CP/lm

Enclosure: 1

FILED
1990 FEB -9 PM 4:08
OFFICE OF THE SECRETARY OF STATE

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Procedural Rules for the West Virginia Ethics Commission

Type of Rule: Legislative Interpretive X Procedural

Agency West Virginia Ethics Commission Address 1207 Quarrier Street
4th Floor, Litton Bldg., Charleston, WV 25301

1. Effect of Proposed Rule	ANNUAL		FISCAL YEAR		
	Increase	Decrease	Current	Next	Thereafter
Estimated Total Cost	\$	\$	\$	\$	\$
Personal Services	NO CHANGE		NO CHANGE		
Current Expense	NO CHANGE		NO CHANGE		
Repairs and Alterations	NO CHANGE		NO CHANGE		
Equipment	NO CHANGE		NO CHANGE		
Other	NO CHANGE		NO CHANGE		

2. Explanation of above estimates:

This rule establishes Commission procedures; no new administrative expenditures are anticipated.

3. Objectives of these rules:

This rule establishes procedures concerning the practice before the West Virginia Ethics Commission.

4. Explanation of Overall Economic Impact of Proposed Rule.

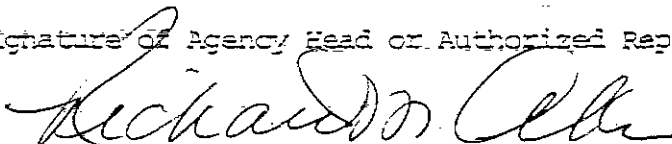
A. Economic Impact on State Government. No Impact

B. Economic Impact on Political Subdivisions; Specific Industries;
Specific groups of citizens. No Impact

C. Economic Impact on Citizens/Public at Large. No Impact

Date: February 7, 1990

Signature of Agency Head or Authorized Representative

A handwritten signature in cursive script, appearing to read "Richard D. Clark", is written over a horizontal line.

Executive Director

TITLE 158
PROCEDURAL RULES FOR THE
WEST VIRGINIA ETHICS COMMISSION

SERIES 1
WEST VIRGINIA ETHICS COMMISSION

FILED
1999 FEB -9 PM 4:08
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

158-1-1 General

1.1 Scope--The following procedural rules and regulations set forth the practice and procedure established by the West Virginia Ethics Commission for carrying out its responsibilities in the administration and enforcement of the West Virginia Governmental Ethics Act, (hereafter referred to as the "Act") West Virginia Code section one, article one, chapter six-B, et seq.

1.2 Authority-- W.Va. Code 6B-2-1(e)

1.3 Filing Date--

1.4 Effective Date--

1.5 Procedure governed--These regulations shall govern all practice and procedure before the West Virginia Ethics Commission (hereafter referred to as Commission).

1.6 Liberal construction--These regulations shall be liberally construed to permit the Commission to discharge its statutory functions and to secure just and expeditious determination of all matters before the Commission.

1.7 Deviation from regulations--In special cases where good cause appears, not contrary to the Act, the Commission or its hearing examiner may permit deviation from these regulations insofar as it may find compliance therewith to be impractical or unnecessary.

1.8 Practice where regulations do not govern--In situations where the regulations are not applicable the Commission's or its hearing examiner's discretion shall be exercised in accordance with the traditional notions of fairness and justice.

1.9 Severability--If any of these regulations be held invalid, it shall not be construed to invalidate any of the other provisions of these regulations.

1.10 Availability of regulations--The regulations of the Commission shall be filed in the office of the Secretary of State.

1.11 Additional copies--Additional copies of the regulations of the Commission shall be available to the general public at the office of the Secretary of State.

1.12 Delegation of powers and duties--Except where contrary to the law, the Commission may delegate any of the powers and duties of the Commission to an employee or agent of the Commission or otherwise.

1.13 Effect of amendments to the act--In the event that the Act is amended by the Legislature, these rules and regulations will automatically be amended to conform to such amendments.

158-1-2 Definitions

All words defined in West Virginia Code section three, article one, chapter six-B or otherwise shall have the meanings therein ascribed to them for the purpose of these regulations. All other words shall have the meanings herein ascribed to them as set forth below:

2.1 The term "Act" means the West Virginia Governmental Ethics Act.

2.2 The term "Chairperson" means the chairperson of the West Virginia Ethics Commission elected by the Commissioners.

2.3 The term "Commissioner" means one (1) of the duly appointed members of the West Virginia Ethics Commission.

2.4 The term "Notice" means personal delivery to the agency or person to be so notified or by depositing such notice in the United States mail, postage prepaid, return receipt requested in an envelope addressed to such agency or person at his last known address. Proof of the giving of notice in either such manner may be made by a signed and dated certificate of the person who delivers or mails said notice.

2.5 The term "Service", unless otherwise required, shall be complete upon mailing and proof of service shall be a signed and dated certificate attached thereto by the party or his attorney.

2.6 The term "Personal Service" when required by these rules shall be that service as is described in Section 4 of the West Virginia Rules of Civil Procedure.

2.7 The term "Hearing Panel" means the Commission members appointed in accordance with the provisions of subsections (i) and (j), section four, article two, chapter six B of the West Virginia Code.

2.8 The term "Hearing Examiner" means that statutory officer referred to in section four, article two, chapter six B of the West Virginia Code required to conduct the public hearing or perform other functions authorized by the Act or the Commission's rules and regulations.

2.9 The term "Meeting" means the convening of the Commission for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.

158-1-3 Meetings

3.1 Meetings of the Commission may be called by the chairperson, and the chairperson shall call a meeting upon the written request of three (3) commissioners.

3.2 The chairperson shall notify the Commission members in writing at least seven (7) days in advance of a meeting setting forth the time and place of such meeting and the matters to be considered, except that such notice is not required if the time, the place and matters for consideration have been fixed in a prior meeting.

3.3 The chairperson shall notify the public and the news media by filing with the office of the Secretary of State a public notice of the meeting at least seven (7) days in advance. The public notice shall contain the date, the time, the place and the matters to be considered.

3.4 The provisions of this section shall not apply in the event of an emergency requiring immediate official action by the Commission.

3.5 Meetings that are not concluded in one day may be continued to a set date, time and place by a majority vote of the Commission members present and voting.

3.6 The Commission shall meet in regular session on the first Thursday of each month or such other date as the Commission may direct.

3.7 The Commission shall convene all regular meetings at the offices of the West Virginia Ethics Commission, Litton Building, 1207 Quarrier Street, Charleston, West Virginia, 25301, unless otherwise changed by a majority vote of a quorum of the Commission or by the chairperson.

3.8 Order of business--The general order of business for a regular meeting of the Ethics Commission shall be:

- (a) Call to order
- (b) Secretary's report
- (c) Agenda adjustments (to include executive session, if any)
- (d) Executive session re: ongoing or planned investigations; verified or unverified complaints
- (e) Discussion and vote on advisory opinions
- (f) Exemptions requested and vote
- (g) Other new business or concerns
- (h) Setting of next regular meeting

(i) Adjournment

158-1-4 Proceedings to be Open; Exceptions

4.1 All meetings of the Commission shall be open to the public except as otherwise provided in the West Virginia Code section four, article nine-a, chapter six and section six, article three, chapter thirty, or as otherwise provided in the Act.

4.2 The Commission may at any meeting go into Executive Session, upon majority vote to discuss Commission personnel, planned or ongoing litigation, planned or ongoing investigations, or to conform with the provisions of the Act requiring confidentiality.

4.3 Any action taken as a result of such discussion in Executive Session must be properly passed in open session of the Commission to be an official action of the Commission.

158-1-5 Minutes of Meetings

5.1 The Secretary shall prepare written minutes of all its meetings and mail a copy to each commission member within ten (10) days of each meeting.

5.2 A copy of the minutes of open meetings shall be available to the public within a reasonable time after such meetings and shall include the following information:

- (a) The date, time, and place of the meeting;
- (b) The name of each Commission member present or absent;
- (c) All motions, proposals, resolutions;
- (d) The results of all votes and upon the request of a member, the vote of each member, by name.

158-1-6 Quorum, Majority Vote Required; Proxy Vote Prohibited

6.1 A majority of the members of the Commission shall constitute a quorum for the transaction of business.

6.2 Business shall be transacted by a majority of a quorum except:

(a) that voting regarding probable cause to believe that a criminal violation may have been committed requires an affirmative vote of eight (8) Commission members as set forth in subsection (v) of section four, article two, chapter six-B; and

(b) when the commission is acting as a hearing panel pursuant to section four, article two, chapter six-B, then five members shall constitute a quorum.

6.3 No Commission member shall be allowed to vote by proxy.

6.4 Telephone conferencing and voting may be held by the Commission members for the purpose of approving or rejecting any proposed advisory opinion prepared by the Commission, or for voting on issues involving the administrative functions of the Commission.

6.5 Meetings held by telephone conferencing shall require notice to members in the same manner as meetings personally attended, may be electronically recorded, and if so, the recordings shall be made a permanent part of the Commission records as set forth in subsection (1) section one, Article two, Chapter six-B.

158-1-7 Travel Expense Rules; Compensation

7.1 Members of the Ethics Commission shall receive one hundred dollars for each day actually devoted to the business of the Commission.

7.2 Every day spent in a regular meeting shall constitute a day spent on Commission business.

7.3 Time devoted to Commission business, not spent in regular meetings shall be accumulated and eight (8) hours of time worked shall equal one day spent on Commission business.

7.4 Members of the Commission shall be reimbursed for expenses actually and necessarily incurred in the performance of their official duties based upon the rate applicable under the state employee travel regulations at the time the service is performed.

158-1-8 Oath

Each member of the Commission shall take and subscribe to the oath or affirmation required pursuant to Section 5, Article IV of the Constitution of West Virginia.

158-1-9 Removal of Member

A Commission member may be removed by the governor for substantial neglect of duty, gross misconduct in office, or violation of the Act, after written notice and an opportunity for reply.

SUBMITTED BY



DATED FILED: February 9, 1990