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United States Commission on Civil Rights
Washington, D.C.
April 1980

U.S. COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights is a temporary, independent, bipartisan agency established by the Congress in 1957 to:

- Investigate complaints alleging that citizens are being deprived of their right to vote by reason of their race, color, religion, sex, age, handicap, or national origin, or by reason of fraudulent practices;
- Study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Appraise Federal laws and policies with respect to discrimination or the denial of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice;
- Serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin; and
- Submit reports, findings, and recommendations to the President and Congress.

STATUTE, RULES, AND REGULATIONS

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UNITED STATES COMMISSION ON CIVIL RIGHTS

This booklet consists of the following statute, rules, and regulations that concern the United States Commission on Civil Rights:

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A. Sections 101–06, Civil Rights Act of 1957, As Amended

[42 U.S.C. 1975–1975e]

Sections 101–06 of the Civil Rights Act of 1957, 71 Stat. 634; as amended by the Civil Rights Act of 1960, 74 Stat. 86; as amended by the Civil Rights Act of 1964, 78 Stat. 241; as amended by 81 Stat. 582 (1967); and as amended by 84 Stat. 1356 (1970); 86 Stat. 813 (1972); 42 U.S.C. 1975 (1976); and by 92 Stat. 1067 (1978).

ESTABLISHMENT OF THE COMMISSION ON CIVIL RIGHTS

Sec. 101 (a) There is created in the executive branch of the Government a Commission on Civil Rights (hereinafter called the “Commission”).

(b) The Commission shall be composed of six members who shall be appointed by the President by and with the advice and consent of the Senate. Not more than three of the members shall at any one time be of the same political party.

(c) The President shall designate one of the members of the Commission as Chairman and one as Vice Chairman. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

(d) Any vacancy in the Commission shall not affect its powers and shall be filled in the same manner, and subject to the same limitation with respect to party affiliations as the original appointment was made.

(e) Four members of the Commission shall constitute a quorum.
(42 U.S.C. 1975)

RULES OF PROCEDURE OF THE COMMISSION HEARINGS

Sec. 102. (a) At least thirty days prior to the commencement of any hearing, the Commission shall cause to be published in the *Federal Register* notice of the date on which such hearing is to commence, the place at which it is to be held, and the subject of the hearing. The Chairman, or one designated by him to act as Chairman at a hearing of the Commission, shall announce in an open statement the subject of the hearing.

(b) A copy of the Commission’s rules shall be made available to any witness before the Commission, and a witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the Commission’s rules at the time of service of the subpoena.

(c) Any person compelled to appear in person before the Commission shall be accorded the right to be accompanied and advised by counsel, who shall have the right to subject his client to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections. The Commission shall proceed with reasonable dispatch to conclude any hearing in which it is engaged. Due regard shall be had for the convenience and necessity of witnesses.

(d) The Chairman or Acting Chairman may punish breaches of order and decorum by censure and exclusion from the hearings.

(e) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of such evidence or testimony in executive session. The Commission shall afford any person defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by him, before deciding to use such evidence or testimony. In the event the Commission determines to release or use such evidence or testimony in such manner as to reveal publicly the identity of the person defamed, degraded, or incriminated, such evidence or testimony, prior to such public release or use, shall be given at a public session, and the Commission shall afford such person an opportunity to appear as a voluntary witness or to file a sworn statement in his behalf and to submit brief and pertinent sworn statements of others. The Commission shall receive and dispose of requests from such person to subpoena additional witnesses. If a report of the Commission tends to defame, degrade, or incriminate any person, then the report shall be delivered to such person thirty days before the report shall be made public in order that such person may make a timely answer to the report. Each person so defamed, degraded, or incriminated in such report may file with the Commission a verified answer to the report not later than twenty days after

service of the report upon him. Upon a showing of good cause, the Commission may grant the person an extension of time within which to file such answer. Each answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report. Such answer shall be published as an appendix to the report. The right to answer within these time limitations and to have the answer annexed to the Commission report shall be limited only by the Commission's power to except from the answer such matter as it determines has been inserted scandalously, prejudicially, or unnecessarily.

(f) Except as provided in sections 102 and 105(f) of this Act, the Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses.

(g) No evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission. Whoever releases or uses in public without consent of the Commission such evidence or testimony taken in executive session shall be fined not more than \$1,000, or imprisoned for not more than one year.

(h) In the discretion of the Commission, witnesses may submit brief and pertinent sworn statements in writing for inclusion in the record. The Commission shall determine the pertinency of testimony and evidence adduced at its hearings.

(i) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof,

except that a witness in a hearing held in executive session may for good cause be limited to inspection of the official transcript of his testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof. An accurate transcript shall be made of the testimony of all witnesses at all hearings, either public or executive sessions, of the Commission or of any subcommittee thereof.

(j) A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

(k) The Commission shall not issue any subpoena for the attendance and testimony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a hearing to be held outside of the State wherein the witness is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a hearing held within fifty miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(1) The Commission shall separately state and currently publish in the *Federal Register* (1) descriptions of its central and field organization including the established places at which, and me-

thods whereby, the public may secure information or make requests; (2) statements of the general course and method by which its functions are channeled and determined; and (3) rules adopted as authorized by law. No person shall in any manner be subject to or required to resort to rules, organization, or procedure not so published.

(42 U.S.C. 1975a)

COMPENSATION OF MEMBERS OF THE COMMISSION

Sec. 103. (a) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive a sum equivalent to the compensation paid at level IV of the Federal Executive Salary Schedule, pursuant to section 5315 of Title 5, prorated on a daily basis for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with section 5703 of Title 5.

(b) Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from his usual place of residence, in accordance with subchapter I of chapter 57 of Title 5.

(42 U.S.C. 1975b)

DUTIES OF THE COMMISSION

Sec. 104. (a) The Commission shall—

(1) investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of their color, race, religion, sex, age, handicap, or national origin; which writing, under oath or affirmation, shall set forth the facts upon which such belief or beliefs are based;

(2) study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(4) serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin, including but not limited to the fields of voting, education, housing, employment, the use of public facilities, and transportation, or in the administration of justice;

(5) investigate allegations, made in writing and under oath or affirmation, that citizens of the United States are unlawfully being accorded or denied the right to vote, or to have their votes properly counted, in any election of presidential electors, Members of the United States Senate, or of the House of Representatives, as a result of any pat-

terns or practice of fraud or discrimination in the conduct of such elections; and

(b) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to inquire into or investigate any membership practices or internal operations of any fraternal organization, any college or university fraternity or sorority, any private club, or any religious organization.

(c) The Commission shall submit interim reports to the President and to the Congress at such times as the Commission, the Congress, or the President shall deem desirable, and shall submit to the President and to the Congress a final report of its activities, findings, and recommendations not later than the last day of the fiscal year ending September 30, 1983.

(d) Sixty days after the submission of its final report and recommendations the Commission shall cease to exist.

(e) As used in this section, the term "handicap" means, with respect to an individual, a circumstance that would make that individual a handicapped individual as defined in the second sentence of section 706(6) of Title 29.

(f) Nothing in this or any other Act shall be construed as authorizing the Commission, its Advisory Committees, or any person under its supervision or control to appraise, or to study and collect information about, laws and policies of the Federal Government, or any other governmental authority in the United States, with respect to abortion.

(g) The Commission shall continue to appraise the laws and policies of the Federal Government with respect to

denials of equal protection of the laws under the Constitution involving Americans who are members of eastern- and southern-European ethnic groups and shall report its findings to the Congress. Such report shall include an analysis of the adverse consequences of affirmative action programs encouraged by the Federal Government upon the equal opportunity rights of these Americans.

(42 U.S.C. 1975c)

POWERS OF THE COMMISSION

Sec. 105. (a) There shall be a full-time Staff Director for the Commission who shall be appointed by the President by and with the advice and consent of the Senate. The President shall consult with the Commission before submitting the nomination of any person for appointment to the position of Staff Director. Within the limitations of its appropriations, the Commission may appoint such other personnel as it deems advisable, in accordance with the civil service and classification laws, and may procure services as authorized by section 3109 of Title 5, but at rates for individuals not in excess of the daily equivalent paid for positions at the maximum rate for GS-15 of the General Schedule under section 5332 of Title 5.

(b) The Commission shall not accept or utilize services of voluntary or uncompensated personnel, and the term "whoever" as used in paragraph (g) of section 102 hereof shall be construed to mean a person whose services are compensated by the United States.

(c) The Commission may constitute such Advisory Committees within States as it deems advisable, but the Commission shall constitute at least one advisory

committee within each State composed of citizens of that State. The Commission may consult with governors, attorneys general, and other representatives of State and local governments, and private organizations, as it deems advisable.

(d) Members of the Commission, and members of advisory committees constituted pursuant to subsection (c) of this section, shall be exempt from the operation of sections 203, 205, 207, 208, and 209 of Title 18.

(e) All Federal agencies shall cooperate fully with the Commission to the end that it may effectively carry out its functions and duties.

(f) The Commission, or on the authorization of the Commission any Subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of this Act, hold such hearings and act at such times and places as the Commission or such authorized Subcommittee may deem advisable. Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued in accordance with the rules of the Commission as contained in section 102 (j) and (k) of this Act, over the signature of the Chairman of the Commission or of such Subcommittee, and may be served by any person designated by such Chairman. The holding of hearings by the Commission, or the appointment of a Subcommittee to hold hearings pursuant to this subparagraph, must be approved by a majority of the members present at a meeting at which at least a quorum of four members is present.

(g) In case of contumacy or refusal to obey a subpoena, any district court of the

United States or the United States court of any territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person an order requiring such person to appear before the Commission or a Subcommittee thereof, there to produce pertinent, relevant, and nonprivileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order of court may be punished by said court as contempt thereof.

(h) Without limiting the generality of the foregoing, each member of the Commission shall have the power and authority to administer oaths or take statements of witnesses under affirmation.

(i) The Commission shall have the power to make such rules and regulations as are necessary to carry out the purpose of this Act.

(42 U.S.C. 1975d)

APPROPRIATIONS

Sec. 106. There are authorized to be appropriated not to exceed \$14,000,000 to carry out the provisions of this Act for the fiscal year ending September 30, 1980.

(42 U.S.C. 1975e)

B. Rules and Regulations of The United States Commission On Civil Rights

1. ORGANIZATION AND FUNCTIONS OF THE COMMISSION

PART 701—ORGANIZATION AND FUNCTIONS OF THE COMMISSION

Subpart A—Operations and Functions

Sec.

701.1 Establishment.

701.2 Responsibilities.

Subpart B—Organization Statement

Sec.

701.11 Membership of the Commission.

701.12 Staff organization.

701.13 Field offices.

Authority: The provisions of this Part 701 issued under secs. 101-106, 71 Stat. 634-636, as amended; 42 U.S.C. 1975-1975e.

Subpart A—Operations and Functions

§701.1 Establishment.

The United States Commission on Civil Rights (hereinafter referred to as the "Commission") is a bipartisan agency of the executive branch of the Government. Established under the Civil Rights Act of 1957, 71 Stat. 634, the Commission derives its responsibilities from that Act and from amendments to it in the Civil Rights Act of 1960, 74 Stat. 86; in the Civil Rights Act of 1964, 78 Stat. 241; by 81 Stat. 582 (1967); by 84 Stat. 1356 (1970); and by 86 Stat. 813 (1972); and by the Civil Rights Act of 1978, 92 Stat. 1067; (hereinafter the 1957 Act as amended will be referred to as "the

Act.") The statutes are codified in 42 U.S.C. 1975-1975e.

§701.2 Responsibilities.

(a) The Commission's responsibilities under section 104(a) of the Act may be summarized briefly as follows:

(1) To investigate allegations in writing under oath or affirmation that certain citizens of the United States are being deprived of their right to vote and have that vote counted by reason of color, race, religion, sex, age, handicap, or national origin;

(2) To study and collect information concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(3) To appraise the laws and policies of the Federal Government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin or in the administration of justice;

(4) To serve as a national clearinghouse for information in respect to discrimination or denials of equal protection of the laws because of race, color, religion, sex, age, handicap, or national origin;

(5) To investigate sworn allegations that citizens are being accorded or denied the right to vote in Federal elections

as a result of patterns or practices of fraud or discrimination.

(b) Under section 104(c) of the Act the Commission is required to submit interim reports to the President and to the Congress at such times as the Commission, the Congress, or the President shall deem desirable and to submit to the President and to the Congress the final report of its activities, findings, and recommendations not later than the last day of fiscal year 1983.

(c) In fulfilling these responsibilities the Commission is authorized by the Act to hold hearings, and to issue subpoenas for the production of documents and the attendance of witnesses; to consult with governors, attorneys general, other representatives of State and local governments, and private organizations; and is required to establish an advisory committee in each State. The Act also provides that all Federal agencies shall cooperate fully with the Commission, so that it may effectively carry out its functions and duties.

Subpart B—Organization Statement

§701.11 Membership of the Commission—Staff Director.

Pursuant to section 101 of the Act:

(a) The Commission is composed of six members, not more than three of whom may be of the same political party, appointed by the President by and with the advice and consent of the Senate.

(b) The Chairman and Vice Chairman of the Commission are designated by the President, the Vice Chairman acting as Chairman in the absence or disability of

the Chairman or in the event of a vacancy in that office.

(c) No vacancy in the Commission affects its powers and any vacancy is filled in the same manner and subject to the same limitation with respect to party affiliations as previous appointments.

(d) Four members of the Commission constitute a quorum.

(e) A Staff Director for the Commission is appointed by the President (after consultation with the Commission) by and with the advice and consent of the Senate. The Staff Director is the chief executive officer of the agency.

§701.12 Staff organization.

The organization of the Commission is established as follows:

(a) *Office of the Staff Director.* Under the direction of the Staff Director, this office plans the agency's programs; directs, supervises, and coordinates the work of other offices; reports plans, programs, and activities of the agency to the Commission; manages the administrative affairs of the agency and represents the agency in relations with the Executive Office of the President, the Congress and other Federal agencies. Special units reporting to the Office of the Staff Director are:

(1) *Equal Employment Opportunity Unit.* Under the direction of the Equal Employment Opportunity Officer, this unit is responsible for the agency's EEO and affirmative action programs; advises employees regarding the applicability of Office of Personnel Management and other relevant equal employment opportunity regulations and is responsible for the agency troubled employee program.

(2) *Solicitor's Unit.* Under the direction of the Solicitor, this unit is responsible for administrative law matters, including contracts, openness in government, government ethics and personnel.

(b) *Office of General Counsel.* Under the direction of the General Counsel, this office serves as legal counsel to the Commissioners and to the agency; plans and conducts hearings for the Commission; conducts legal studies; prepares reports of legal studies and hearings; drafts or reviews proposals for legislative and executive action and reviews all agency publications and congressional testimony for legal sufficiency.

(c) *Office of Management.* Under the direction of the Assistant Staff Director for Administration, this office is responsible for all administrative, management and facilitative services necessary for the efficient operation of the agency. Its units, headed by division directors, include the Administrative Services Division, the Budget and Fiscal Division, the Management Analysis Division, the Personnel Division, the Publications Management Division, and the National Clearinghouse Library Division.

(d) *Office of Program Planning and Evaluation.* Under the direction of the Assistant Staff Director for Program Planning and Evaluation, this office is responsible for: coordinating the agency's program planning process; conducting program evaluations to assess the impact of the Commission's projects on problems addressed; and coordinating the monthly program reporting system. Its units, headed by Division Directors, are the Program Development and Planning Division and the Program Evaluation Division.

(e) *Office of Federal Civil Rights Evaluation.* Under the direction of the Assistant Staff Director for Federal Civil Rights Evaluation, this office is responsible for: monitoring, evaluating and reporting on the civil rights enforcement effort of the Federal Government and forwarding complaints alleging denials of civil rights to Federal agencies having appropriate jurisdiction.

(f) *Office of Program and Policy Review.* Under the direction of the Assistant Staff Director for Program and Policy Review, this office is responsible for: planning, conducting or stimulating studies to advance basic knowledge of the extent, causes and consequences of civil rights denials; preparing monographs dealing with subjects which are current national civil rights issues; monitoring civil rights developments; planning and conducting consultations on the civil rights implications of Federal programs and policies and/or current civil rights issues; and providing staff assistance as needed to other offices of the Commission.

(g) *Office of Congressional and Public Affairs.* Under the direction of the Assistant Staff Director for Congressional and Public Affairs, this Office is comprised of three divisions:

(1) The Press and Communications Division is responsible for liaison with and dissemination of information concerning the Commission to the news media and the preparation and dissemination of various periodical publications on civil rights issues.

(2) The Congressional Liaison Division is responsible for responding to requests for information from members of Congress, preparing testimony for pre-

sentation before committees of Congress when such testimony has been requested by a committee or a member and assisting members of the Commission and staff in liaison with members of Congress and committees of Congress.

(3) The Community Relations Division organizes, plans and manages conferences at which the Commission receives information regarding civil rights issues; establishes and maintains liaison with government and private civil rights agencies; and represents the Commission at government and private organization conferences and conventions.

(h) *Office of Regional Programs.* Under the direction of the Assistant Staff Director for Regional Programs, this office is responsible for: directing and coordinating the programs and work of the regional offices and State Advisory Committees to the United States Commission on Civil Rights, and maintaining liaison between the regional offices and various headquarters offices of the Commission.

§701.13 Regional offices.

Each regional office of the Commission is directed by a regional director. The address of each office and the States which they serve are as follows:

Region I: U.S. Commission on Civil Rights, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, FTS (8) 223-4671—(617) 223-4671; Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Region II: U.S. Commission on Civil Rights, 26 Federal Plaza, Room 1639, New York, N.Y. 10007, FTS (8) 264-0400—(212) 264-0543; New Jersey and New York.

Region III: U.S. Commission on Civil Rights, 2120 L Street, N.W., Room 510, Washington, D.C. 20037, FTS (8) 254-6717—(202) 254-6670; Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.

Region IV: U.S. Commission on Civil Rights, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Room 632, Atlanta, Georgia 30303, FTS (8) 242-4391—(404) 221-4344; Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

Region V: U.S. Commission on Civil Rights, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, FTS (8) 353-7371—(312) 353-7371; Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin.

Region VI: U.S. Commission on Civil Rights, Heritage Plaza, 418 South Main, San Antonio, Texas 78204, FTS (8) 730-5570—(512) 225-4810; Arkansas, Louisiana, Oklahoma, Texas, and New Mexico.

Region VII: U.S. Commission on Civil Rights, Old Federal Office Building, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106, FTS (8) 758-5253—(816) 374-5253.

Region VIII: U.S. Commission on Civil Rights, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202, FTS (8) 327-2211—(303) 837-2211; Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.

Region IX: U.S. Commission on Civil Rights, 312 North Spring Street, Room 1015, Los Angeles, California 90012, FTS (8) 798-3437—(213)

688-5705; Arizona, California, Hawaii, and Nevada.

Region X: U.S. Commission on Civil Rights, 915 Second Avenue, Room 2852, Seattle, Washington 98174, FTS (8) 399-1426—(206) 442-1246; Alaska, Idaho, Oregon, and Washington.

2. RULES ON HEARINGS, REPORTS, AND MEETINGS OF THE COMMISSION

PART 702—RULES ON HEARINGS, REPORTS, AND MEETINGS OF THE COMMISSION

Subpart A—Hearings and Reports

Sec.	Definition
702.1	Authorization for hearing.
702.3	Notice of hearing
702.4	Subpenas.
702.5	Conduct of proceedings.
702.6	Executive session.
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702.8	Evidence at Commission proceedings.
702.9	Cross-examination at public session.
702.10	Voluntary witness at public session of a hearing.
702.11	Special executive session.
702.12	Contempt of the Commission.
702.13	Intimidation of witnesses.
702.14	Transcript of Commission proceedings.
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702.16	Attendance of news media at public sessions.
702.17	Communications with respect to Commission proceedings.
702.18	Commission Reports.

Subpart B—Meetings

Sec.	Purpose and scope.
702.50	Definitions.
702.51	Open meeting requirements.
702.52	Closed meetings.
702.53	Closed meeting procedures.
702.54	Public announcement of meetings.
702.55	Records.
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Authority: The provisions of Part 702A are issued under secs. 101-106, 71 Stat. 634-636, as amended; 42 U.S.C. 1975-1975e. Subpart B is issued pursuant to 5 U.S.C. 552b, Pub. L. 94-409, 90 Stat. 1241.

Subpart A—Hearings and Reports

§702.1 Definitions.

For purposes of the following Rules on Hearings of the United States Commission on Civil Rights, the following definitions shall apply, unless otherwise provided:

(a) "The Act" shall refer to the Civil Rights Act of 1957, 71 Stat. 634, as amended.

(b) "The Commission" shall refer to the United States Commission on Civil Rights or, as provided in 702.2, to any authorized Subcommittee thereof.

(c) "The Chairman" shall refer to the Chairman of the Commission or authorized Subcommittee thereof or to any acting Chairman of the Commission or of such Subcommittee.

(d) "Proceeding" shall refer collectively to any public session of the Commission and any executive session held in connection therewith.

(e) "Hearing" shall refer collectively to a public session of the Commission and any executive session held in connection therewith, but shall not include a session held for the sole purpose of receiving subpoenaed documents.

(f) "The rules in this part" shall refer to the Rules on Hearings of the Commission.

(g) "Report" refers to statutory reports or portions thereof issued pursuant to section 104(c) of the Civil Rights Act of 1957, as amended.

(h) "Verified answer" refers to an answer the truth of which is substantiated by oath or affirmation attested to by a notary public or other person who has legal authority to administer oaths.

§702.2 Authorization for hearing.

Under section 105(f) of the Act the Commission or, on the authorization of the Commission, any Subcommittee of two or more members, at least one of whom shall be of each major political party, may, for the purpose of carrying out the provisions of the Act, hold such hearings and act at such times and places as the Commission or such authorized Subcommittee may deem advisable; and the holding of hearings by the Commission or the appointment of a Subcommittee to hold hearings pursuant to this section must be approved by a majority of the Commission, or by a majority of the members present at a meeting at which at least a quorum of four members is present.

§702.3 Notice of hearing.

At least 30 days prior to the commencement of any hearing, the Commission shall cause to be published in the *Federal Register* notice of the date on which such hearing is to commence, the place at which it is to be held, and the subject of the hearing.

§702.4 Subpenas.

(a) Subpenas for the attendance and testimony of witnesses or the production of written or other matter may be issued by the Commission over the signature of the Chairman and may be served by any person designated by the Chairman.

(b) A witness compelled to appear before the Commission or required to produce written or other matter shall be served with a copy of the rules in this part at the time of service of the subpoena.

(c) The Commission shall not issue any subpoena for the attendance and testi-

mony of witnesses or for the production of written or other matter which would require the presence of the party subpoenaed at a place outside the State wherein the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process except that, in any event, the Commission may issue subpoenas for the attendance and testimony of witnesses and the production of written or other matter at a place within 50 miles of the place where the witness is found or resides or is domiciled or transacts business or has appointed an agent for receipt of service of process.

(d) The Chairman shall receive and the Commission shall dispose of requests to subpoena additional witnesses except as otherwise provided in 702.6(e).

(e) Requests for subpoena shall be in writing, supported by a showing of the general relevance and materiality of the evidence sought. Witness fees and mileage, computed pursuant to 702.15, shall be paid by the person at whose instance a witness is subpoenaed.

(f) Subpenas shall be issued at a reasonably sufficient time in advance of their scheduled return, in order to give subpoenaed persons an opportunity to prepare for their appearance and to employ counsel, should they so desire.

(g) No subpoenaed document or information contained therein shall be made public unless it is introduced into and received as part of the official record of the hearing.

§702.5 Conduct of proceedings.

(a) The Chairman shall announce in an opening statement the subject of the proceeding.

(b) Following the opening statement, the Commission shall first convene in executive session if one is required pursuant to the provisions of 702.6.

(c) The Chairman shall, subject to the approval of the Commission—

(1) Set the order of presentation of evidence and appearance of witnesses;

(2) Rule on objections and motions;

(3) Administer oaths and affirmations;

(4) Make all rulings with respect to the introduction into or exclusion from the record of documentary or other evidence;

(5) Regulate the course and decorum of the parties and their counsel to insure that the proceedings are conducted in a fair and impartial manner.

(d) Proceedings shall be conducted with reasonable dispatch and due regard shall be had for the convenience and necessity of witnesses.

(e) The questioning of witnesses shall be conducted only by members of the Commission, by authorized Commission staff personnel, or by counsel to the extent provided in 702.7.

(f) In addition to persons served with a copy of the rules in this part pursuant to 702.4 and 702.6, a copy of the rules in this part will be made available to all witnesses.

(g) The Chairman may punish breaches of order and decorum by censure and exclusion from the proceedings.

§702.6 Executive session.

(a) If the Commission determines that evidence or testimony at any hearing may tend to defame, degrade, or incriminate any person, it shall receive such evidence or testimony or summary of

such evidence or testimony in executive session.

(b) The Commission shall afford any persons defamed, degraded, or incriminated by such evidence or testimony an opportunity to appear and be heard in executive session, with a reasonable number of additional witnesses requested by them before deciding to use such evidence or testimony.

(1) Such person shall be served with notice in writing of the date, time, and place made available for the appearance of witnesses at executive session, at least 10 days prior to such date, or where service is by mail at least 14 days prior to such date. This notice shall be accompanied by a brief summary of the information which the Commission has determined may tend to defame, degrade, or incriminate such person.

(2) The notice, summary, and rules in this part shall be served personally by depositing the same in the United States mail as certified mail, or by leaving a copy thereof at the last known residence or business address of such person.

(3) The date of service, for purposes of this section, shall be the day when the material is deposited in the United States mail or is delivered in person, as the case may be. When service is made by certified mail, the return post office receipt shall be proof of service; in all other cases, the acknowledgement of the party served, or the verified return of the one making service shall be proof of the same.

(c) If a person receiving notice under this section notifies the Commission within 5 days of service of such notice, or where service is by mail within 8 days of service of such notice that the time sche-

dule therein constitutes a hardship, the Commission may, in its discretion, set a new time for such person's appearance at the executive session.

(d) In the event such persons fail to appear at executive session at the time and place made available under paragraph (b) or (c) of this section, they shall not be entitled to another opportunity to appear at executive session, except as provided in 702.11.

(e) If such persons intend to submit sworn statements of themselves or others, or if they intend that witnesses appear in their behalf at executive session, they shall, no later than 48 hours prior to the time set under paragraph (b) or (c) of this section, submit to the Commission all such statements and a list of all witnesses. The Commission will inform such persons whether the number of witnesses requested is reasonable within the meaning of paragraph (b) of this section. In addition, the Commission will receive and dispose of requests from such persons to subpoena other witnesses. Requests for subpoenas shall be made sufficiently in advance of the scheduled executive session as to afford persons subpoenaed reasonable notice of their obligation to appear at that session. Subpoenas returnable at executive session shall be governed by the provisions of 702.4.

(f) Persons for whom an executive session has been scheduled, and persons compelled to appear at such session, may be represented by counsel at such session to the extent provided by 702.7.

(g) Attendance at executive session shall be limited to members of the Commission, authorized Commission staff personnel, witnesses and their counsel at

the time scheduled for their appearance, and such other persons whose presence is requested or consented to by the Commission.

(h) In the event the Commission determines to release or to use evidence or testimony which it has determined may tend to defame, degrade, or incriminate any persons, in such a manner as to reveal publicly their identity, such evidence or testimony, prior to such public release or use, will be presented at a public session, and the Commission will afford them an opportunity to appear as voluntary witnesses or to file a sworn statement in their own behalf and to submit brief and pertinent sworn statements of others.

§702.7 Counsel.

(a) Persons compelled to appear in person before the Commission and any witness appearing at a public session of the Commission will be accorded the right to be accompanied and advised by counsel, who will have the right to subject their clients to reasonable examination, and to make objections on the record and to argue briefly the basis for such objections.

(b) For the purpose of this section, "counsel" shall mean an attorney at law admitted to practice before the Supreme Court of the United States, or the highest court of any State or Territory of the United States.

(c) The failure of any persons to obtain counsel shall not excuse them from attendance in response to a subpoena, nor shall any persons be excused in the event their counsel is excluded from the proceeding pursuant to 702.5 (g). In the latter case, however, such persons shall

be afforded a reasonable time to obtain other counsel, said time to be determined by the Commission.

§702.8 Evidence at Commission proceedings.

(a) The rules of evidence prevailing in courts of law or equity shall not control proceedings of the Commission.

(b) Where a witness testifying at a public session of a hearing or a session for return of subpoenaed documents offers the sworn statements of other persons, such statements, in the discretion of the Commission, may be included in the record, provided they are received by the Commission within 24 hours in advance of the witness' appearance.

(c) The prepared statement of a witness testifying at a public session of a hearing, in the discretion of the Commission, may be placed into the record, provided that such statement is received by the Commission 24 hours in advance of the witness' appearance.

(d) In the discretion of the Commission, evidence may be included in the record after the close of a public session of a hearing, provided the Commission determines that such evidence does not tend to defame, degrade, or incriminate any person.

(e) The Commission will determine the pertinency of testimony and evidence adduced at its proceedings, and may refuse to include in the record of a proceeding or may strike from the record any evidence it considers to be cumulative, immaterial, or not pertinent.

§702.9 Cross-examination at public session.

If the Commission determines that oral testimony of a witness at a public session tends to defame, degrade, or incriminate any person, such person or through counsel shall be permitted to submit questions to the Commission in writing, which, in the discretion of the Commission, may be put to such witness by the Chairman or by authorized Commission staff personnel.

§702.10 Voluntary witness at public session of a hearing.

A person who has not been subpoenaed and who has not been afforded an opportunity to appear pursuant to 702.6 may be permitted, in the discretion of the Commission, to make an oral or written statement at a public session of a hearing. Such person may be questioned to the same extent and in the same manner as other witnesses before the Commission.

§702.11 Special executive session.

If, during the course of a public session, evidence is submitted which was not previously presented at executive session and which the Commission determines may tend to defame, degrade, or incriminate any person, the provision of 702.6 shall apply, and such extensions, recesses, or continuances of the public session as it deems necessary shall be ordered by the Commission, except that the time and notice requirements of 702.6 may be modified by the Commission provided reasonable notice of a scheduled executive session is afforded such person, and except that the Commission may, in its discretion, strike

such evidence from the record, in which case the provisions of 702.6 shall not apply.

§702.12 Contempt of the Commission.

Proceedings and process of the Commission are governed by section 105 (g) of the Act, which provides:

In case of contumacy or refusal to obey a subpoena, a district court of the United States or the United States court of any Territory or possession, or the District Court of the United States for the District of Columbia, within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or is domiciled or transacts business, or has appointed an agent for receipt of service of process, upon application by the Attorney General of the United States shall have jurisdiction to issue to such person to appear before the Commission or Subcommittee thereof, there to produce pertinent, relevant and non-privileged evidence if so ordered, or there to give testimony touching the matter under investigation; and any failure to obey such order to the court may be punished by said court as a contempt thereof.

§702.13 Intimidation of witnesses.

Witnesses at Commission proceedings are protected by the provisions of 18 U.S.C. 1505, which provide:

Whoever corruptly, or by threats or force, or by any threatening letter or communication, endeavors to influence, intimidate, or impede any witness in any proceeding pending before any department or agency of the United States, or

in connection with any inquiry or investigation being held by either House, or any joint Committee of the Congress; or

Whoever injures any party or witness in his person or property on account of his attending or having attended such proceeding, inquiry, or investigation, or on account of his testifying or having testified to any matter pending therein; or

Whoever, with intent to avoid, evade, prevent, or obstruct compliance in whole or in part with any civil investigative demand duly and properly made under the Antitrust Civil Process Act willfully removes from any place, conceals, destroys, mutilates, alters, or by other means falsifies any documentary material which is the subject of such demand; or

Whoever corruptly, or by threats or force, or by any threatening letter or communication influences, obstructs, or impedes or endeavors to influence, obstruct, or impede the due and proper administration of the law under which such proceeding is being had before such department or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had before such department or agency of the United States, or the due and proper exercise of the power of inquiry under which such inquiry or investigation is being had by either House, or any joint committee of the Congress—

Shall be fined not more than \$5,000 or imprisoned not more than five years, or both.

§702.14 Transcript of Commission proceedings.

(a) An accurate transcript shall be made of the testimony of all witnesses at all proceedings of the Commission. Transcripts shall be recorded solely by the official reporter, or by any other person or means designated by the Commission.

(b) Every person who submits data or evidence shall be entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that witnesses in a hearing held in executive session may for good cause be limited to inspection of the official transcript of their testimony. Transcript copies of public sessions may be obtained by the public upon the payment of the cost thereof.

(c) Persons who have presented testimony at a proceeding may ask within 60 days after the close of the proceeding to correct errors in the transcript of their testimony. Such requests shall be granted only to make the transcript conform to their testimony as presented at the proceeding.

§702.15 Witness fees.

Pursuant to section 102(j) of the Act: A witness attending any session of the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Mileage payments shall be tendered to the witness upon service of a subpoena issued on behalf of the Commission or any subcommittee thereof.

§702.16 Attendance of news media at public sessions.

Reasonable access for coverage of public sessions shall be provided to the various communications media including newspapers, magazines, radio, newsreels, and television, subject to the physical limitations of the room in which the session is held and consideration of the physical comfort of Commission members, staff, and witnesses. However, no witnesses shall be televised, filmed, or photographed during the session nor shall the testimony of any witness be broadcast or recorded for broadcasting, if the witness objects.

§702.17 Communications with respect to Commission proceedings.

During any proceeding held outside Washington, D.C., communications to the Commission with respect to such proceeding must be made to the Chairman or authorized Commission staff personnel in attendance. All requests for subpoenas returnable at a hearing, requests for appearance of witnesses at a hearing, and statements or other documents for inclusion in the record of a proceeding, required to be submitted in advance, must be submitted to the Chairman, or such authorized person as the Chairman may appoint, at an office located in the community where such hearing or proceeding is scheduled to be held. The location of such office will be set forth in all subpoenas issued under the rules in this part and in all notices prepared pursuant to 702.6.

§702.18 Commission reports.

(a) If a Commission report tends to defame, degrade, or incriminate any per-

son, the report or relevant portions thereof shall be delivered to such person at least thirty (30) days before the report shall be made public in order that such person may make a timely verified answer to the report. The Commission shall afford such person an opportunity to file with the Commission a verified answer to the report or relevant portions thereof not later than twenty (20) days after service of the report or relevant portions thereof upon such person as provided by the regulations in this part.

(1) Such person shall be served with a copy of the report or relevant portions thereof, with an indication of the section(s) that the Commission has determined tend to defame, degrade, or incriminate such person, a copy of the Act, and a copy of the regulations in this part.

(2) The report or relevant portions thereof, the Act, and regulations in this part shall be served by depositing the same in the U.S. mail via certified mail, return receipt requested, or by leaving a copy thereof at the last known residence or business address of such person.

(3) The date of service for the purposes of this section shall be the day the material is delivered either by the post office or otherwise, to such person or the agent of such person or at the last known residence or business address of such person. The acknowledgement of the party served, or the verified return of the one making service shall be proof of service except that when service is made by certified mail, the return post office receipt may also constitute proof of same.

(b) If a person receiving a Commission report or relevant portions thereof under

this part requests an extension of time from the Commission within 7 days of service of such report, the Commission may, upon a showing of good cause, grant the person additional time within which to file a verified answer.

(c) A verified answer shall plainly and concisely state the facts and law constituting the person's reply or defense to the charges or allegations contained in the report.

(d) Such verified answer will be published as an appendix to the report: Provided, however, that the Commission may except from the answer such matter as it determines to be scandalous, prejudicial, or unnecessary.

Subpart B—Meetings

§702.50 Purpose and scope.

This section contains the regulations of the U.S. Commission on Civil Rights implementing sections (a)-(f) of 5 U.S.C. 552b, the "Government in the Sunshine Act." They are adopted to further the principle that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Commission. They open to public observation meetings of the Commissioners of the U.S. Commission on Civil Rights except where the rights of individuals are involved or the ability of the Commission to carry out its responsibilities requires confidentiality.

§702.51 Definitions.

(a) *Commission* means the U.S. Commission on Civil Rights and any Subcommittee of the Commission authorized under 42 U.S.C. 1975d(f).

(b) *Commissioner* means a member of the U.S. Commission on Civil Rights appointed by the President under 42 U.S.C. 1975(b).

(c) *Solicitor* means the Solicitor of the U.S. Commission on Civil Rights.

(d) *Meeting* means the deliberations of at least the number of Commissioners required to take action on behalf of the Commission where such deliberations determine or result in the joint conduct or disposition of official Commission business.

(1) The number of Commissioners required to take action on behalf of the Commission is four, except that such number is two when the Commissioners are a Subcommittee of the Commission authorized under 42 U.S.C. 1975d(f).

(2) Deliberations among Commissioners regarding the setting of the time, place or subject matter of a meeting, whether the meeting is open or closed, whether to withhold information discussed at a closed meeting, and any other deliberations required or permitted by 5 U.S.C. §552b (d) and (e) and §702.54 and §702.55 of this subpart, are not meetings for the purposes of this subpart.

(3) The consideration by Commissioners of Commission business which is not discussed through conference calls or a series of two party calls by the number of Commissioners required to take action on behalf of the Commission is not a meeting for the purposes of this subpart.

(e) *Public announcement* or *publicly announce* means the use of reasonable methods, such as the posting on Commission public notice bulletin boards and the issuing of press releases, to com-

municate information to the public regarding Commission meetings.

(f) *Staff Director* means the Staff Director of the U.S. Commission on Civil Rights.

§702.52 Open meeting requirements.

(a) Every portion of every Commission meeting shall be open to public observation, except as provided in §702.53 of this subpart. Commissioners shall not jointly conduct or dispose of agency business other than in accordance with this subpart.

(b) This subpart gives the public the right to attend and observe Commission open meetings; it confers no right to participate in any way in such meetings.

(c) The Staff Director shall be responsible for making physical arrangements for Commission open meetings which provide ample space, sufficient visibility and adequate acoustics for public observation.

(d) The presiding Commissioner at an open meeting may exclude persons from a meeting and shall take all steps necessary to preserve order and decorum.

§702.53 Closed meetings.

(a) The Commission may close a portion or portions of a meeting and withhold information pertaining to such meeting when it determines that the public interest does not require otherwise and when such portion or portions of a meeting or the disclosure of such information is likely to:

(1) Disclose matters that are (i) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (ii) in fact

properly classified pursuant to such Executive Order;

(2) Disclose information relating solely to the internal personnel rules and practices of the Commission;

(3) Disclose matters specifically exempted from disclosure by statute (other than 5 U.S.C. 552), provided, that such statute (i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) Disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) Involve accusing any person of a crime, or formally censuring any person;

(6) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) Disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) constitute an unwarranted invasion of personal privacy, (iv) disclose the identity of a confidential source and, in the case of a record received by the Commission from a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (v) disclose

investigation techniques and procedures, or (vi) endanger the life or physical safety of law enforcement personnel;

(8) Disclose information received by the Commission and contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) Disclose information the premature disclosure of which would (i) in the case of information received by the Commission from an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (A) lead to significant financial speculation in currencies, securities, or commodities, or (B) significantly endanger the stability of any financial institution; or (ii) be likely to significantly frustrate implementation of a proposed action, except that paragraph (a)(9)(ii) of this section shall not apply in any instance where the Commission has already disclosed to the public the content or nature of its proposed action, or where the Commission is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) Specifically concern the Commission's issuance of a subpoena, or the Commission's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration.

§702.54 Closed meeting procedures.

(a) A meeting or portion thereof will be closed, and information pertaining to a closed meeting will be withheld, only after four Commissioners when no Com-

missioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a subcommittee authorized under 42 U.S.C. 1975d(f), vote to take such action.

(b) A separate vote shall be taken with respect to each meeting, a portion or portions of which is proposed to be closed to the public under §702.53, and with respect to any information to be withheld under §702.53.

(1) A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as:

(i) Each meeting in such series involves the same particular matters, and

(ii) Is scheduled to be held no more than thirty (30) days after the initial meeting in such series.

(c) The Commission will vote on the question of closing a meeting or portion thereof and withholding information under paragraph 702.54(b) if one Commissioner calls for such a vote. The vote of each Commissioner participating in a vote to close a meeting shall be recorded and no proxies shall be allowed.

(1) If such vote is against closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available by putting in a place easily accessible to the public a written copy of such vote reflecting the vote of each Commissioner.

(2) If such vote is for closing a meeting and withholding information, the Staff Director, within one working day of such vote, shall make publicly available

by putting in a place easily accessible to the public a written copy of such vote reflecting the vote of each Commissioner, and:

(i) A full written explanation of the decision to close the meeting or portions thereof (such explanation will be as detailed as possible without revealing the exempt information);

(ii) A list of all persons other than staff members expected to attend the meeting and their affiliation (the identity of persons expected to attend such meeting will be withheld only if revealing their identity would reveal the exempt information which is the subject of the closed meeting).

(d) Prior to any vote to close a meeting or portion thereof under §702.54(c) the Commissioners shall obtain from the Solicitor his or her opinion as to whether the closing of a meeting or portions thereof is in accordance with paragraphs (1)-(10) of §702.53(a).

(1) For every meeting closed in accordance with paragraphs (1)-(10) of §702.53(a), the Solicitor shall publicly certify in writing that, in his or her opinion, the meeting may be closed to the public and shall cite each relevant exemptive provision.

(2) A copy of certification by the Solicitor, together with a statement from the presiding officer of the closed meeting setting forth the time and place of the meeting and the persons present, shall be retained by the Commission.

(e) For all meetings closed to the public, the Commission shall maintain a complete verbatim transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting which sets forth the

time and place of the meeting and the persons present.

(1) In the case of a meeting, a portion of a meeting, closed to the public pursuant to paragraphs (8), (9)(i)(A), or (10) of §702.53(a), the Commission may retain a set of minutes;

(i) Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(f) Any person whose interests may be directly affected by a portion of a meeting may request that such portion be closed to the public under §702.53 or that it be open to the public if the Commission has voted to close the meeting pursuant to §702.53(a) to §702.53(a)(5), (6), or (7). The Commission will vote on the request if one Commissioner asks that a vote be taken.

(1) Such requests shall be made to the Staff Director within a reasonable amount of time after the meeting or vote in question is publicly announced.

§702.55 Public announcement of meetings.

(a) *Agenda:* The Staff Director shall set as early as possible but in any event at least eight calendar days before a meeting, the time, place and subject matter for the meeting.

(1) Agenda items will be identified in detail adequate to inform the general

public of the specific business to be discussed at the meeting.

(b) *Notice:* The Staff Director, as early as possible but in any event at least eight calendar days before a meeting, shall make public announcement of:

- (1) The time of the meeting;
- (2) Its place;
- (3) Its subject matter;
- (4) Whether it is open or closed to the public; and
- (5) The name and phone number of a Commission staff member who will respond to requests for information about the meeting.

(c) *Changes:* (1) The time of day or place of a meeting may be changed following the public announcement required by §702.55(b) of this subpart, if the Staff Director publicly announces such change at the earliest practicable time subsequent to the decision to change the time of day or place of the meeting.

(2) The date of a meeting may be changed following the public announcement required by §702.55(b), or a meeting may be scheduled less than eight calendar days in advance, if:

(i) Four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a Subcommittee authorized under 42 U.S.C. 1975d(f), determine by recorded vote that Commission business requires such a meeting at an earlier date; and

(ii) The Staff Director, at the earliest practicable time following such vote, makes public announcement of the time, place and subject matter of such meeting, and whether it is open or closed to the public.

(3) The subject matter of a meeting or the determination to open or close a meeting or a portion of a meeting to the public, may be changed following the public announcement required by 702.55(b) of this subpart if:

(i) Four Commissioners when no Commissioner's position is vacant, or three Commissioners when there is such a vacancy, or two Commissioners on a Subcommittee authorized under 42 U.S.C. 1975d(f), determine by recorded vote that Commission business so requires; and

(ii) The Staff Director publicly announces such change and the vote of each Commissioner upon such change at the earliest practicable time subsequent to the decision to make such change.

(d) *Federal Register*: Immediately following all public announcements required by §702.55(b) and (c) of this subpart, notice of the time, place and subject matter of a meeting, whether the meeting is open or closed to the public, any change in one of the preceding, and the name and phone number of the official designated by the Commission to respond to requests for information about the meeting, shall be submitted for publication in the *Federal Register*.

(1) Notice of a meeting will be published in the *Federal Register* even after the meeting which is the subject of the notice has occurred in order to provide a public record of all Commission meetings.

§702.56 Records.

(a) The Commission shall promptly make available to the public in an easily accessible place at Commission headquarters the following materials:

(1) A copy of the certification by the Solicitor required by §702.54(e)(1).

(2) A copy of all recorded votes required to be taken by these rules.

(3) A copy of all announcements published in the *Federal Register* pursuant to this subpart.

(4) Transcripts, electronic recordings and minutes of closed meetings determined not to contain items of discussion or information which may be withheld under §702.53.

(i) Copies of such material will be furnished to any person at the actual cost of transcription or duplication.

(b) Requests to review or obtain copies of records compiled under this Act, other than transcripts, electronic recordings or minutes of a closed meeting, will be processed under the Freedom of Information Act and, where applicable, the Privacy Act regulations of the Commission (Parts 704 and 705, respectively, of this title). Nothing in this subpart expands or limits the present rights of any person under these rules with respect to such requests.

(1) Requests to review or obtain copies of transcripts, electronic recordings or minutes of meetings of a closed meeting maintained under §702.54(e) and not released under §702.56(a)(4) shall be directed to the Staff Director who shall respond to such requests within ten (10) working days.

(c) The Commission shall maintain a complete verbatim copy of the transcript, a complete copy of minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of two years after such meeting, or until one year after the conclusion of any agency pro-

ceeding with respect to which the meeting or portion was held, whichever occurs later.

§702.57 Administrative review.

(a) Any person who believes a Commission action governed by this subpart to be contrary to the provisions of this subpart shall file in writing with the Staff Director an objection specifying the violation and suggesting corrective action. Whenever possible the Staff Director shall respond within ten (10) working days of the receipt of such objections.

3. OPERATIONS AND FUNCTIONS OF STATE ADVISORY COMMITTEES

PART 703—OPERATIONS AND FUNCTIONS OF STATE ADVISORY COMMITTEES

Sec.	
703.1	Name and establishment.
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§703.1 Name and Establishment.

Pursuant to Section 105(c) of the Act, the Commission has chartered and maintains Advisory Committees to the Commission in each State and the District of Columbia. All relevant provisions of the Federal Advisory Committee Act of 1972 (Pub. L. 92-463 as amended) are applicable to the management, membership and operations of such committees and subcommittees thereof.

§703.2 Functions.

Under the Commission's charter each State Advisory Committee shall:

(a) Advise the Commission in writing of any knowledge or information it has of any alleged deprivation of the right to vote and to have the vote counted, by reason of color, race, religion, sex, age, handicap or national origin, or that citizens are being accorded or denied the right to vote in Federal elections as a result of patterns or practices of fraud or discrimination;

(b) Advise the Commission concerning legal developments constituting discrimination or a denial of equal protection of the laws under the Constitution, and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws;

(c) Advise the Commission upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress;

(d) Receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Committee;

(e) Initiate and forward advice and recommendations to the Commission upon matters which the State Committee has studied;

(f) Assist the Commission in the exercise of its clearinghouse function and with respect to other matters which the State Committee has studied;

(g) Attend, as observers, any open hearing or conference which the Commission may hold within the State.

§703.3 Scope of Subject Matter.

The scope of the subject matter to be dealt with by the State Advisory Committees shall be those subjects of inquiry or study with which the Commission itself is authorized to deal, pursuant to 104(a) of the Act. Each State Advisory Committee shall confine its studies to the State covered by its charter. It may, however, subject to the requirements of 703.4, undertake to study within the limitations of the Act, subjects other than those chosen by the Commission for study.

§703.4 Advisory Committee Management Officer.

(a) The Assistant Staff Director for the Office of Regional Programs is designated as Advisory Committee Management Officer pursuant to the requirements of the Federal Advisory Committee Act of 1972 (Pub. L. 92-463).

(b) Such officer shall carry out the functions specified in 8(b) of the Federal Advisory Committee Act.

(c) Such officer shall with respect to each State Advisory Committee appoint an employee, subject to the supervision of the Regional Director of the Commission having responsibility for the State within which said Committee has been chartered, to provide services to the Committee and to be responsible for supervising the activity of the Committee pursuant to Section 10 of the Federal Advisory Committee Act.

§703.5 Membership.

(a) Subject to exceptions made from time to time by the Commission to fit special circumstances, each State Com-

mittee shall consist of at least eleven members appointed by the Commission. Members of the State Committee shall serve for a fixed term to be set by the Commission upon the appointment of a member, subject to the duration of Advisory Committees as prescribed by the charter, provided that members of the State Committee may, at any time, be removed by the Commission.

(b) Membership on the Advisory Committee shall be reflective of the different ethnic, racial, and religious communities within each State and the membership shall also be representative with respect to sex, political affiliation, age and handicap status.

§703.6 Officers.

(a) The officers of each State Advisory Committee shall be a Chairperson, Vice Chairperson and such other officers as may be deemed advisable.

(b) The Chairperson shall be appointed by the Commission.

(c) The Vice Chairperson and other officers shall be elected by the majority vote of the full membership of the Committee.

(d) The Chairperson, or in his/her absence the Vice Chairperson, under the direction of the Commission staff member appointed pursuant to 703.4(b), shall:

- (1) Call meetings of the Committee;
- (2) Preside over meetings of the Committee;
- (3) Appoint all subcommittees of the Committee;
- (4) Certify for accuracy the minutes of Committee meetings prepared by the assigned Commission staff member; and

(5) Perform such other functions as the Committee may authorize or the Commission may request.

§703.7 Subcommittees.—Special Assignments

Subject to the approval of the designated Commission employee, a State Advisory Committee may:

(a) Establish subcommittees, composed of members of the Committee to study and report upon matters under consideration, and it may authorize such subcommittees to take specific action within the competence of the Committee; and

(b) Designate individual members of the Committee to perform special projects involving research or study on matters under consideration by the Committee.

§703.8 Meetings.

(a) Meetings of a Committee shall be convened by the designated Commission employee, or, subject to his/her approval, by the Chairperson, or by a majority of the Committee members. The agenda for such Committee or subcommittee meeting shall be approved by the designated Commission employee.

(b) A quorum shall consist of one-half or more of the members of the Committee, or five members, whichever is the lesser, except that with respect to the conduct of factfinding meetings as authorized in paragraph (e) of this section, a quorum shall consist of three members.

(c) Notice of all meetings of a Committee shall be given to the public.

(1) Notice shall be published in the *Federal Register* at least 15 days prior to

the meetings, provided that in emergencies, such requirement may be waived.

(2) Notice of meetings shall be provided to the public by press releases and other appropriate means.

(3) Each notice shall contain a statement of the purpose of the meeting, a summary of the agenda, and the time, place, and location of such meeting.

(d) Except as provided for in paragraph (d)(1) of this section, all meetings of committees or subcommittees shall be open to the public.

(1) The Assistant Staff Director for Regional Programs may authorize a committee or subcommittee to hold a meeting closed to the public if he/she determines that the closing of such meeting is in the public interest provided that: prior to authorizing the holding of a closed meeting the Assistant Staff Director will have requested and received the opinion of the Solicitor of the Commission with respect to whether the meeting may be closed under one or more of the exemptions provided in the Government in the Sunshine Act, 5 U.S.C. 552b(c).

(2) In the event that any meeting or portion thereof is closed to the public, the Committee shall publish, at least annually, in summary form a report of the activities conducted in meetings not open to the public.

(e) Advisory Committees and subcommittees may hold factfinding meetings for the purpose of inviting the attendance of and soliciting information and views from government officials and private persons respecting subject matters within the jurisdiction of the Committee or subcommittee.

(f) Any person may submit a written statement at any business or factfinding meeting of a Committee or subcommittee.

(g) At the discretion of the designated Commission employee or his/her designee, any person may make an oral presentation at any business or factfinding meeting, provided that such presentation will not defame, degrade or incriminate any other person as is prohibited by the Act.

4. COMMUNICATIONS AND CONFIDENTIAL INFORMATION

PART 704—INFORMATION DISCLOSURE AND COMMUNICATIONS

Sec.	
704.1	Material available pursuant to 5 U.S.C. 552.
704.2	Complaints.
704.3	Other requests and Communications.
704.4	Restrictions on disclosure of information.

Authority: The provisions of this Part 704 issued under sections 101–106, 71 Stat. 634–636, as amended; 42 U.S.C. 1975–1975(e); section 1, 81 Stat. 54–55; 5 U.S.C. 552.

§703.9 Reimbursement of Members.

(a) Advisory Committee members may be reimbursed by the Commission by a per diem subsistence allowance and for travel expenses at rates not to exceed those prescribed by Congress for Government employees, for the following activities only:

(1) Attendance at meetings, as provided for in 703.8; and

(2) Any activity specifically requested and authorized by the Commission to be reimbursed.

(b) Members will be reimbursed for expense of travel by private automobile on a mileage basis only to the extent such expense is no more than that of suitable public transportation for the same trip, unless special circumstances justify the additional expense of travel by private automobile.

§704.1 Material available pursuant to 5 U.S.C. 552.

(a) *Purpose, scope, and definitions.*

(1) This section contains the regulations of the U.S. Commission on Civil Rights implementing 5 U.S.C. 552. These regulations inform the public with respect to where and how records and information may be obtained from the Commission. Officers and employees of the Commission shall make Commission records available under 5 U.S.C. 552 only as prescribed in this section. Nothing contained in this section, however, shall be construed to prohibit officers or employees of the Commission from routinely furnishing information or records which are customarily furnished in the regular performance of their duties.

(2) For the purposes of these regulations the terms listed below are defined as indicated:

‘Commission’ means the United States Commission on Civil Rights;

‘Solicitor’ means the Solicitor of the United States Commission on Civil Rights or his or her designee;

‘FOIA’ means Freedom of Information Act, 5 U.S.C. 552;

'FOIA Request' means a request in writing, for records pursuant to 5 U.S.C. 552 which meets the requirements of 704.1(d) herein. These regulations do not apply to telephone or other oral communications and requests not complying with 704.1(d)(1)(i);

'Staff Director' means the Staff Director of the United States Commission on Civil Rights.

(b) *General Policy.* In order to foster the maximum participation of an informed public in the affairs of Government, the Commission will make the fullest possible disclosure of its identifiable records and information consistent with such considerations as those provided in the exemptions of 5 U.S.C. 552, which are set forth in paragraph (f) of this section.

(c) *Material maintained on file pursuant to 5 U.S.C. 552(a)(2).* Material maintained on file pursuant to 5 U.S.C. 552(a)(2) shall be available for inspection during regular business hours at the offices of the Commission at 1121 Vermont Avenue, N.W., Washington, D.C. 20425. Copies of such material shall be available upon written request, specifying the material desired, addressed to the Solicitor's Unit, U.S. Commission on Civil Rights, Washington, D.C. 20425, and upon the payment of fees, if any, determined in accordance with paragraph (e) of this section.

(1) *Current index.* Included in the material available pursuant to 5 U.S.C. 552(a)(2) shall be an index of:

- (i) all other material maintained on file pursuant to 5 U.S.C. 552(a)(2); and
- (ii) all material published by the Commission in the *Federal Register* and currently in effect.

(2) *Deletion of identifying details.* Wherever deletions from material maintained on file pursuant to 5 U.S.C. 552(a)(2) are required in order to prevent a clearly unwarranted invasion of privacy, justification for the deletions shall be placed as a preamble to documents from which such deletions are made.

(d) *Materials available pursuant to 5 U.S.C. 552(a)(3).*

(1) *Request Procedures.* (i) Each request for records pursuant to this subsection shall be in writing over the signature of the requester, addressed to the Solicitor's Unit, U.S. Commission on Civil Rights, Washington, D.C. 20425 and: (A) Shall clearly and prominently be identified as a request for information under the Freedom of Information Act [if submitted by mail or otherwise submitted in an envelope or other cover, be clearly and prominently identified as such on the envelope or other cover—e.g., FOIA]; and (B) shall contain a sufficiently specific description of the record requested with respect to names, dates, and subject matter to permit such record to be identified and located; and (C) shall contain a statement that whatever costs involved pursuant to §704.1(e) will be paid, that such costs will be paid up to a specified amount, or that waiver or reduction of fees is requested pursuant to §704.1(e).

(ii) If the information submitted pursuant to §704.1(d)(1)(i)(B) is insufficient to enable identification and location of the records, the Solicitor shall as soon as possible notify the requester in writing indicating the additional information needed. Every reasonable effort shall be made to assist in the identification and

location of the record sought. Time requirements under these regulations are tolled from the date notification under this subsection is sent to the requester until an answer in writing to such notification is received from requester.

(iii) A request for records which is not in writing or does not comply with §704.1(d)(1)(i) is not a request under the Freedom of Information Act and the 10 day time limit for agency response under the Act will not be deemed applicable.

(iv) Except as otherwise provided herein, the Solicitor shall immediately notify the requester of noncompliance with §704.1(d)(1)(i)(C) and §704.1(e).

(2) Agency determinations.

(i) Responses to all requests pursuant to 5 U.S.C. 552(a)(3) shall be made by the Solicitor in writing to the requester within 10 working days after receipt by the Solicitor of such request except as specifically exempted under §704.1(d)(1)(ii), (iii) and (iv), and shall state: (A) Whether and to what extent the Commission will comply with the request; (B) the probable availability of the records or that the records may be furnished with deletions or that records will be denied as exempt pursuant to 5 U.S.C. 552(b) (i)-(ix)); (C) the estimated costs, determined in accordance with §704.1(e) herein, including waiver or reduction of fee as appropriate and any deposit or prepayment requirement; and (D) when records are to be provided, the time and place at which records or copies will be available determined in accordance with the terms of the request and with §704.1(d)(3). Such response shall be termed a determination notice.

(ii) In the case of denial of requests in whole or part the determination notice

shall state: (A) specifically what records are being denied; (B) the reasons for such denials; (C) the specific statutory exemption(s) upon which such denial is based; (D) the names and titles or positions of every person responsible for the denial of such request; and (E) the right of appeal to the Staff Director of the Commission and procedures for such appeal as provided under §704.1(g).

(iii) Each request received by the Solicitor's Unit for records pursuant to these regulations shall be recorded immediately. The record of each request shall be kept current, stating the date and time the request is received, the name and address of the person making the request, any amendments to such request, the nature of the records requested, the action taken regarding the request, including waiver of fees, extensions of time pursuant to 5 U.S.C. 552(a)(6)(B), and appeals. The date and subject of any letters pursuant to §704.1(d)(1) or agency determination pursuant to (d)(2)(i), the date(s) any records are subsequently furnished, and the payment requested and received.

(3) Time limitations.

(i) Time limitations for agency response to a request for records established by these regulations shall begin when the request is recorded pursuant to §704.1(d)(2)(iii). A written request pursuant to FOIA but sent to an office of the Commission other than the Solicitor's Unit shall be date stamped, initialed, and redirected immediately to the Solicitor's Unit. The required period for agency determination shall begin when it is received by the Solicitor's Unit in accordance with §704.1(d)(2)(iii).

(ii) In unusual circumstances, pursuant to 5 U.S.C. 552(a)(6)(B), the Solicitor may, in the case of initial determinations under these regulations, extend the 10 working day time limit in which the agency is required to make its determination notification. Such extension shall be communicated in writing to the requesting party setting forth with particularity the reasons for such extension and the date on which a determination is expected to be transmitted. Such extensions may not exceed 10 working days for any request and may only be used to the extent necessary to properly process a particular request. Such extension is permissible only where there is a demonstrated need: (A) to search for and collect the requested records from field facilities or other establishments that are separate from the Solicitor's Unit; (B) to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or (C) for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the same agency having substantial subject matter interest therein.

(e) *Fees.*—(1) *Fee schedule:*

(i) Photocopy reproductions from all types of copying processes, each reproduction image—\$.03.

(ii) Standard searching, per hour (minimum charge one-quarter hour)—\$4.09.

(iii) Searching requiring particular training or skills not required of clerical

personnel, per hour (minimum one-half hour)—\$8.88.

(iv) The above search fee is not applicable to computerized record search: In situations involving the use of computers to locate and extract the requested information charges will be based only on the direct cost to the agency, including labor, material, and computer time.

(v) There will be a charge of \$1.00 each for certification of true copies.

(vi) Payment of fees shall be made by cash (if delivered in person), check or money order payable to 'U.S. Treasury.'

(2) The Solicitor may in his/her discretion, waive fees in whole or part otherwise assessable under paragraph (e)(1) of this section where:

(i) The total cost of providing the records is less than \$5.00.

(ii) Payment of the full fee by a State or local government agency or nonprofit group would not be in the general public interest.

(iii) The records have been requested by a Federal agency, a foreign government, or an international governmental organization.

(3) Fees shall be waived or reduced for records requested in writing under §704.1 when the Solicitor determines that:

(i) An individual has provided sufficient evidence in a signed statement that he or she is indigent and that reduction or waiver would not constitute an unreasonable expense to the Commission.

(ii) A person has demonstrated in a written statement that waiver or reduction of the fees is in the public interest because furnishing the information primarily benefits the general public. Re-

quests for waiver or reduction under this subsection must be accompanied by a signed statement indicating ability to pay.

(4) Whenever waiver or reduction of fees is granted only one copy of the record will be furnished.

(5) Appeals from denials of requests for waiver or reduction of fees shall be considered by the Staff Director pursuant to the criteria set forth in §704.1(e)(2) and (3). Appeal procedure under this subsection shall be in accordance with §704.1(g) herein.

(6) Whenever a notification is required under §704.1(d)(1)(iv) or the estimated costs exceed the limit established by the requesting party and the Solicitor has not determined to waive or reduce such fees as provided herein, such notification shall:

(i) Provide the requesting party with such information regarding cost as may be available;

(ii) Extend an offer to the requesting party to confer with the Solicitor in an attempt to reformulate the request in a manner that will minimize the fees and still meet the needs of the requesting party;

(iii) Inform the requesting party that the time requirement imposed by §704.1(d)(2)(i) will be tolled pending a reformulation of the request, or receipt of an agreement from the requester to bear the estimated costs.

(7) Whenever a requesting party is notified of the possibility of an unproductive search in accordance with §704.1(d)(2)(i)(B), no search will be conducted until prepayment is made or waived under §704.1(e)(2) or (3). The time requirement under §704.1(d)(2)(i)

will be tolled from the date of dispatch of notification until the requester makes prepayment as required.

(8) Whenever the estimated cost of providing requested records exceeds \$25.00, the requesting party will be so notified and required to prepay the estimated cost, unless waived, before a search for such records will be conducted. The time requirement under §704.1(d)(2)(i) will be tolled from the date of dispatch of notification until the requester makes prepayment as required.

(f) *Exemptions* (5 U.S.C. 552(b))—

(1) *General.* The Commission may exempt from disclosure matters that are:

(i) (A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive Order.

(ii) Related solely to the internal personnel rules and practices of an agency;

(iii) Specifically exempted from disclosure by statute;

(iv) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(v) Interagency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the agency;

(vi) Personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(vii) Investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would: (A) interfere with enforcement proceedings; (B) deprive a

person of a right to a fair trial or an impartial adjudication; (C) constitute an unwarranted invasion of personal privacy; (D) disclose the identity of a confidential source, and in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, would disclose confidential information furnished only by the confidential source; (E) disclose investigative techniques and procedures; or (F) endanger the life or physical safety of law enforcement personnel.

(viii) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; and

(ix) Geological and geophysical information and data, including maps, concerning wells.

(2) *Investigatory records* (5 U.S.C. 552(b)(7)).

(i) Among the documents exempt from disclosure pursuant to 704.1(f)(1)(vii) shall be investigatory files or similar documents reflecting investigations which either are conducted for the purpose of determining whether a violation(s) of legal right has taken place, or have disclosed that a violation(s) of legal right has taken place, but only to the extent that production of such records would: (A) Deprive a person of a right to a fair trial or an impartial adjudication; (B) constitute an unwarranted invasion of personal privacy; (C) disclose the identity of a confidential source; (D) disclose investigative techniques and procedures; or (E)

endanger the life or physical safety of law enforcement personnel.

(i) Among the documents included in paragraph (f)(2)(1)(C) of this section, shall be documents which disclose the fact or the substance of a communication made to the Commission in confidence relating to an allegation or support of an allegation of wrongdoing by certain persons. It is sufficient under this subsection to indicate the confidentiality of the source if the substance of the communication or the circumstances of the communication indicate that investigative effectiveness will be inhibited by disclosure.

(3) Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(g) *Administrative appeals.*

(1) These procedures apply whenever a requester is either denied records under 704.1(d)(2)(i) or denied waiver or reduction of fees under §704.1(e)(2) or (3).

(2) Parties may appeal 704.1(d)(2)(i) and (e)(2) or (3) decisions within 90 days of the date of each decision by filing a written request for review addressed to the Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425, by certified mail, including a copy of the written denial, and may include a statement of the circumstances, reasons, or arguments advanced in support of disclosure or waiver/reduction of fees. Review will be made by the Staff Director on the basis of the written record.

(3) The decision of review of any appeal filed under this subsection shall be in writing over the signature of the Staff

Director, will be promptly communicated to the person requesting review, and will constitute the final action of the Commission.

(4) Determinations of appeals filed under this subsection shall be made within 20 working days after the receipt of such appeal. If, on appeal, denial of records is in whole or part upheld, the Staff Director shall notify the persons making such request of the provisions for judicial review of that determination under 5 U.S.C. 552(a)(4).

(5) An extension of time may be granted under this subsection pursuant to criteria established in §704.1(d)(3)(ii)(A) to (C), except that such extension together with any extension which may have been granted pursuant to §704.1(d)(3)(ii) may not exceed a total of 10 working days.

§704.2 Complaints

Any person may bring to the attention of the Commission a grievance which he or she believes falls within the jurisdiction of the Commission, as set forth in section 104 of the Act. This shall be done by submitting a complaint in writing to Office of Federal Civil Rights Evaluation, U.S. Commission on Civil Rights, Washington, D.C. 20425. Allegations falling under section 104(a)(1) and (5) of the Act (discrimination or fraud in voting) must be under oath or affirmation. All complaints should set forth the pertinent facts upon which the complaint is based, including but not limited to specification of (a) names and titles of officials or other persons involved in acts forming the basis for the complaint; (b) accurate designations of place locations involved;

(c) dates of events described in the complaint.

§704.3 Other requests and communications.

Requests for information should be addressed to Press and Communications Division and requests for Commission literature should be directed to Publications Management Division, U.S. Commission on Civil Rights, Washington, D.C. 20425. Communications with respect to Commission proceedings should be made pursuant to §702.17 of this chapter. All other communications should be directed to Office of Staff Director, U.S. Commission on Civil Rights, Washington, D.C. 20425.

§704.4 Restrictions on disclosure of information.

(a) By the provisions of section 102(g) of the Act, no evidence or testimony or summary of evidence or testimony taken in executive session may be released or used in public sessions without the consent of the Commission, and any person who releases or uses in public without the consent of the Commission such evidence or testimony taken in executive session shall be fined not more than \$1,000 or imprisoned for not more than 1 year.

(b) Unless a matter of public record, all information or documents obtained or prepared by any member, officer, or employee of the Commission, including members of State Advisory Committees, in the course of his or her official duties, or by virtue of his or her official status, shall not be disclosed or used by such person for any purpose except in the performance of his or her official duties.

(c) Any member, officer, or employee of the Commission including members of State Advisory Committees, who is served with a subpoena, order, or other demand requiring the disclosure of such information or the production of such documents shall appear in response to such subpoena, order, or other demand and, unless otherwise directed by the Commission, shall respectfully decline to disclose the information or produce the documents called for, basing his or her refusal upon this section. Any such person who is served with such a subpoena, order, or other demand shall promptly advise the Commission of the service of such subpoena, order, or other demand, the nature of the information or documents sought, and any circumstances which may bear upon the desirability of making available such information or documents.

5. MATERIALS AVAILABLE PURSUANT TO 5 U.S.C. 552a

PART 705—MATERIALS AVAILABLE PURSUANT TO 5 U.S.C. 552a

Sec.

705.1 Purpose and scope.

705.2 Definitions.

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705.4 Times, places, and requirements for identification of individuals making requests and identification of records requested.

705.5 Disclosure of requested information to individuals.

705.6 Request for correction or amendment to record.

705.7 Agency review of request for correction or amendment of the record.

705.8 Appeal of an initial adverse agency determination.

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705.10 Fees.

705.11 Penalties.

705.12 Special procedures: information furnished by other agencies.

705.13 Exemptions.

705.95 Accounting of the disclosures of records.

Authority: Pub. L. 93-579; 5 U.S.C. 552a.

§705.1 Purpose and scope.

(a) The purpose of this part is to set forth rules to inform the public regarding information maintained by the Commission on Civil Rights about identifiable individuals and to inform those individuals how they may gain access to and correct or amend information about themselves.

(b) The rules in this part carry out the requirements of the Privacy Act of 1974 (Pub. L. 93-579) and in particular 5 U.S.C. 552a as added by that Act.

(c) The rules in this part apply only to records disclosed or requested under the Privacy Act of 1974, and not to requests for information made pursuant to the Freedom of Information Act, 5 U.S.C. 552.

§705.2 Definitions

For the purpose of this regulation: (a) The terms "Commission" and "agency" mean the U.S. Commission on Civil Rights;

(b) The term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(c) The term "maintain" includes maintain, collect, use, or disseminate;

(d) The term "record" means any item, collection, or grouping of information about an individual that is maintained by the Commission, including, but not limited to, his or her education, financial transactions, medical history and criminal or employment history and that contains his or her name, or the

identifying number, symbol, or other identifying particular assigned to the individual;

(e) The term "system record" means a group of any records under the control of the Commission from which information may be retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to that individual;

(f) The term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided in section 8 of title 13; and

(g) The term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(h) For purposes of these Regulations, a "confidential source" means a source who furnished information to the Government under an express promise that the identity of the source would remain confidential, or, prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

§705.3 Procedures for requests pertaining to individual records in a system of records.

(a) An individual seeking notification of whether a system of records contains a record pertaining to him or her or an individual seeking access to information or records pertaining to him or her which is available under the Privacy Act of 1974, shall present his or her request

in person or in writing to the Solicitor of the Commission.

(b) In addition to meeting the requirements set forth in §706.4(c) or (d), any person who requests information under these regulations shall provide a reasonably specific description of the information sought so that it may be located without undue search or inquiry. If possible, that description should include the nature of the records sought, the approximate dates covered by the record, and, if known by the requester, the system in which the record is thought to be included. Requested information that is not identified by a reasonably specific description is not an identifiable record, and the request for that information cannot be treated as a formal request.

(c) If the description is insufficient, the agency will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought.

[40 FR 45727, Oct. 2, 1975, as amended by 42 FR 12046, Mar. 2, 1977]

§705.4 Times, places, and requirements for identification of individuals making requests and identification of records requested.

(a) The Solicitor is the designated Privacy Act Officer for the Commission.

(b) An individual making a request to the Solicitor in person may do so at the Commission's headquarters office, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, on any business day during business hours. Persons may also appear for purposes of identification only at any

of the regional offices of the Commission on any business day during business hours. Regional offices are located as follows:

Region I: U.S. Commission on Civil Rights, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671 (8:45 a.m.-5:30 p.m.)

Region II: U.S. Commission on Civil Rights, 26 Federal Plaza, Room 1639, New York, N.Y. 10007, (212) 264-0543 (9:00 a.m.-5:30 p.m.)

Region III: U.S. Commission on Civil Rights, 2120 L Street, N.W., Room 510, Washington, D.C. 20037 (202) 254-6670 (8:45 a.m.-5:30 p.m.)

Region IV: U.S. Commission on Civil Rights, Citizens Trust Bank Building, 75 Piedmont Avenue, N.E., Atlanta, Georgia 30303, (404) 221-4344 (9:00 a.m.-5:30 p.m.)

Region V: U.S. Commission on Civil Rights, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604, (312) 353-7371 (8:45 a.m.-5:30 p.m.)

Region VI: U.S. Commission on Civil Rights, Heritage Plaza, 418 South Main, First Floor, San Antonio, Texas 78204, (512) 225-4810 (8:45 a.m.-5:30 p.m.)

Region VII: U.S. Commission on Civil Rights, 911 Walnut Street, Kansas City, Missouri 64106, (816) 374-5253 (8:00 a.m.-5:30 p.m.)

Region IX: U.S. Commission on Civil Rights, 312 North Spring Street, Room 1015, Los Angeles, California 90012, (213) 688-5705 (8:45 a.m.-5:00 p.m.)

Region X: U.S. Commission on Civil Rights, Federal Building, 915 Second Avenue, Room 2852, Seattle, Wash-

ington 98174, (206) 442-1246 (8:00 a.m.-5:00 p.m.)

(c) An individual seeking access to records in person may establish his or her identity by the presentation of one document bearing a photograph (such as a driver's license, passport, or identification card or badge) or by the presentation of two items of identification which do not bear a photograph, but do bear both a name and address (such as a credit card). When identification is made without photographic identification the Commission will request a signature comparison to the signature appearing on the items offered for identification, whenever possible and practical.

(d) An individual seeking access to records by mail shall establish his or her identity by a signature, address, date of birth, and one other identification, such as a copy of a driver's license, passport, identification card or badge, credit card or other document. The words "Privacy Act Request" should be placed in capital letters on the face of the envelope in order to facilitate requests by mail.

(e) An individual seeking access in person or by mail who cannot provide the required documentation of identification may provide a notarized statement, swearing or affirming to his or her identity and to the fact that he or she understands that there are criminal penalties for the making of false statements.

(f) The parent or guardian of a minor or a person judicially determined to be incompetent, in addition to establishing the identity of the minor or incompetent person he or she represents as required by paragraphs (a) through (c) of this section, shall establish his or her own parentage or guardianship by furnishing

a copy of a birth certificate showing parentage or court order establishing guardianship.

(g) An individual seeking to review information about himself or herself may be accompanied by another person of his or her own choosing. In all such cases, the individual seeking access shall be required to furnish a written statement authorizing the discussion of his or her record in the presence of the accompanying person.

[40 FR 45727, Oct. 2, 1975, as amended at 42 FR 12046, Mar. 2, 1977]

§705.5 Disclosure of requested information to individuals.

The Solicitor or one or more assistants designated by him or her, upon receiving a request for notification of the existence of a record, or for access to a record shall (a) determine whether such record exists; (b) determine whether access is available under the Privacy Act; (c) notify the requesting person of those determinations within 10 (ten) working days (excluding Saturdays, Sundays, and legal public holidays); and (d) provide access to information pertaining to that person which has been determined to be available.

§705.6 Request for correction or amendment to record.

(a) Any individual who has reviewed a record pertaining to him or her that was furnished to him or her under this part may request the agency to correct or amend all or part of that record.

(b) Each individual requesting a correction or amendment shall send the request to the Solicitor.

(c) Each request for a correction or amendment of a record shall contain the following information:

(1) The name of the individual requesting the correction or amendment.

(2) The name of the system of records in which the record sought to be amended is maintained.

(3) The location of the record system from which the record was obtained.

(4) A copy of the record sought to be amended or a description of that record.

(5) A statement of the material in the record that should be corrected or amended.

(6) A statement of the specific wording of the correction or amendment sought.

(7) A statement of the basis for the requested correction or amendment including any material that the individual can furnish to substantiate the reasons for the amendment sought.

§705.7 Agency review of request for correction or amendment of the record.

Within ten (10) working days (excluding Saturdays, Sundays and legal public holidays) of the receipt of the request for the correction or amendment of a record, the Solicitor shall acknowledge receipt of the request and inform the individual that his or her request has been received and inform the individual whether further information is required before the correction or amendment can be considered. Further, the Solicitor shall promptly, and, under normal circumstances, not later than thirty (30) working days after receipt of the request, make the requested correction or amendment or notify the individual of his or her refusal to do so, including in

the notification the reasons for the refusal, and the procedures established by the Commission by which the individual may initiate a review of that refusal. In the event of correction or amendment, an individual shall be provided with one copy of each record or portion thereof corrected or amended pursuant to his or her request without charge as evidence of the correction or amendment. The Commission shall also provide to all prior recipients of such a record, the corrected or amended information to the extent that it is relevant to the information previously furnished to a recipient pursuant to the Privacy Act.

[40 FR 45727, Oct. 2, 1975, as amended at 42 FR 12046, Mar. 2, 1977]

§705.8 Appeal of an initial adverse agency determination.

(a) Any individual whose request for access or for a correction or amendment which has been denied, in whole or in part, by the Solicitor may appeal that decision to the Staff Director of the Commission, 1121 Vermont Avenue, N.W., Room 800, Washington, D.C. 20425, or to a designee of the Staff Director.

(b) The appeal shall be in writing and shall:

(1) Name the individual making the appeal;

(2) Identify the record sought to be amended or corrected;

(3) Name the record system in which that record is contained;

(4) Contain a short statement describing the amendment or correction sought; and

(5) State the name of the person who initially denied the correction or amendment.

(c) Not later than thirty (30) working days (excluding Saturdays, Sundays, and legal public holidays) after the date on which the agency received the appeal, the Staff Director shall complete his or her review of the appeal and make a final decision thereon, unless, for good cause shown, the Staff Director extends the appeal period beyond the initial thirty (30) day appeal period. In the event of such an extension the Staff Director shall promptly notify the individual making the appeal that the period for a final decision has been extended.

(d) After review of an appeal request, the Staff Director will send a written notice to the requester containing the following information:

(1) The decision, and if the denial is upheld, the reasons for the decision;

(2) The right of the requester to institute a civil action in a Federal District Court for judicial review of the decision, if the appeal is denied; and

(3) The right of the requester to file with the Commission a concise statement setting forth the reasons for his or her disagreement with the Commission's decision denying the request. The Commission shall make this statement available to any person to whom the record is later disclosed, together with a brief statement, if the Commission considers it appropriate, of the agency's reasons for denying the requested correction or amendment. These statements shall also be provided to all prior recipients of the record to the extent that it is relevant to the information previously furnished to a recipient pursuant to the Privacy Act.

[40 FR 45727, Oct. 2, 1975, as amended at 42 FR 12047, Mar. 2, 1977]

§705.9 Disclosure of records to a person other than the individual to whom the record pertains.

(a) Any individual who desires to have his or her record disclosed to or mailed to a third person may authorize that person to act as his or her agent for that specific purpose. The authorization shall be in writing, signed by the individual, and notarized. The agent shall also submit proof of his or her own identity as provided in §705.4.

(b) The parent of any minor individual or the legal guardian of any individual who has been declared by a court to be incompetent, due to physical or mental incapacity, may act on behalf of that individual in any matter covered by this part. A parent or guardian who desires to act on behalf of such an individual shall present suitable evidence of parentage or guardianship, by birth certificate, copy of a court order or similar documents, and proof of the individual's identity as provided in §705.4.

(c) An individual to whom a record is to be disclosed, in person, pursuant to this part may have a person of his or her own choosing accompany the individual when the record is disclosed.

§705.10 Fees.

If an individual requests copies of his or her records the charge shall be three (3) cents per page, provided, however, that the Commission shall not charge for copies furnished to an individual as a necessary part of the process of disclosing the record to an individual. Fees may be waived or reduced in accordance with

§704.1(e) of the Commission's regulations (45 CFR 704) because of indigency, where the cost is nominal, when it is in the public interest not to charge, or when waiver would not constitute an unreasonable expense to the Commission.

§705.11 Penalties.

Any person who makes a false statement in connection with any request for a record, or in any request for an amendment to a record under this part, is subject to the penalties prescribed in 18 U.S.C. 494 and 495.

§705.12 Special procedures: information furnished by other agencies.

When records or information sought from the Commission include information furnished by other Federal agencies, the Solicitor shall consult with the appropriate agency prior to making a decision to disclose or to refuse to disclose the record, but the decision whether or not to disclose the record shall be made by the Solicitor.

§705.13 Exemptions.

(a) Under the provision of 5 U.S.C. 552a(k), it has been determined by the agency that the following exemptions are necessary and proper and may be asserted by the agency:

(1) *Exemption (k)(2) of the Act.* Investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of the Privacy Act: Provided, however, That if any individual is denied any right, privilege, or benefit that he or she would otherwise be eligible for, as a result of the maintenance of such ma-

terial, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(2) *Exemption (k)(4) of the Act.* Statistical personnel records that are used only to generate aggregate data or for other evaluative or analytical purposes and which are not used to make decisions on the rights, benefits, or entitlements of individuals.

(3) *Exemption (k)(5) of the Act.* Investigatory material maintained solely for the purposes of determining an individual's qualifications, eligibility, or suitability for employment in the Federal civilian service, Federal contracts, or access to classified information, but only to the extent that disclosure of such material would reveal the identity of the source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or prior to September 27, 1975, under an implied promise that the identity of the source would be held in confidence.

(4) Testing or examination material used solely to determine individual qualifications for promotion or appointment in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(b) Following are Commission systems of records which are partially ex-

empt under 5 U.S.C. 552a(k)(2), (4), (5), and (6) and the reasons for such exemptions:

(1) *Appeals, Grievances and Complaints (staff)—Commission Project CCR-001. Exempt partially under 5 U.S.C. 552a(k)(2)*—The reasons for possibly asserting the exemptions are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

(2) *Complaints, CRC-003—Exempt partially under 5 U.S.C. 552a(k)(2)*. The reasons for possibly asserting the exemptions are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

(3) *Commission projects, CRC-004—Partially exempt under 5 U.S.C. 552a(k)(a)*. The reasons for asserting the exemption are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

(4) *Other Employee Programs: EEO, Troubled Employee, and Upward Mo-*

bility, CRC-006—Partially exempt under 5 U.S.C. 552a(k)(4), (5), and (6). The reasons for asserting the exemptions are to maintain the ability to obtain candid and necessary information, to fulfill commitments made to sources to protect the confidentiality of information, to avoid endangering these sources and, primarily, to facilitate proper selection or continuance of the best applicants or persons for a given position.

(5) *State Advisory Committees Projects, CRC-009—Partially exempt under 5 U.S.C. 552a(k)(2)*. The reasons for possibly asserting the exemptions are to prevent subjects of investigation from frustrating the investigatory process, to prevent disclosure of investigative techniques, to maintain the ability to obtain necessary information, to fulfill commitments made to sources to protect their identities and the confidentiality of information and to avoid endangering these sources.

§705.95 Accounting of the disclosures of records.

(a) All disclosures of records covered by this Part 705, except for the exemptions listed in §705.95(b), shall be accounted for by keeping a written record of the particular record disclosed, the name and address of the person or agency to whom or to which disclosed, and the date, nature and purpose of the disclosure.

(b) No accounting is required for disclosures of records to those officials and employees of the Commission who have a need for the record in the performance of their duties, or if disclosure would be required under the Freedom of Information Act. 5 U.S.C. 552.

(c) The accounting shall be maintained for 5 years or until the record is destroyed or transferred to the National Archives and Record Service for storage, in which event, the accounting pertaining to those records, unless maintained separately, shall be transferred with the records themselves.

(d) The accounting of disclosures may be recorded in any system the Commission determines is sufficient for this purpose, however, the Commission must be able to construct from its system a listing of all disclosures. The system of accounting of disclosures is not a system of records under the definition in §705.2(e) and no accounting need be maintained for disclosure of the accounting of disclosures.

(e) Upon request of an individual to whom a record pertains, the accounting of the disclosures of that record shall be made available to the requester, provided that he/she has complied with §705.3(a) and with §705.4(c) or (d).

6. EMPLOYEE RESPONSIBILITIES AND CONDUCT

PART 706—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

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Authority: Sections 101–106, 71 Stat. 634–636 as amended (42 U.S.C. 1975–1975e) Pub. L. 95–521 as amended, 5 CFR 735.

Subpart A—General Provisions

716.1 Adoption of regulations.

Pursuant to 5 CFR 735.104(f) and 735.502, the U.S. Commission on Civil Rights (hereinafter referred to as the Commission) hereby adopts, with appropriate modifications, relevant sections of Part 735 of Title 5 of the Code of Federal Regulations as renumbered and set forth below.

§706.2 Purpose.

The maintenance of unusually high standards of honesty, integrity, impartiality, and conduct by Government employees and special government employees is essential to assure the proper performance of the Government's business and the maintenance of confidence by citizens in their Government. The avoidance of misconduct and conflicts of in-

terest on the part of Government employees and special Government employees through informed judgment is indispensable to the maintenance of these standards. To accord with these concepts, this part sets forth the United States Commission on Civil Rights' regulations covering the agency's employees and special Government employees, prescribing standards of conduct and responsibilities, and governing statements reporting employment and financial interests.

§706.3 Definitions.

In this part:

“Commission” means the United States Commission on Civil Rights, an Executive agency as defined by Section 105 of Title 5, United States Code.

“Employee” means an officer or employee of the Commission including a special Government employee, as defined in 18 U.S.C. 202.

“Executive order” means Executive Order 11222 of May 8, 1965.

“Person” means an individual, a corporation, a company, an association, a firm, a partnership, a society, a joint stock company, or any other organization or institution.

§706.4 Distribution.

(a) Within 90 days after publication of these regulations in the Federal Register the Commission shall furnish each employee with a copy of the regulations.

(b) The Commission shall furnish all new employees with a copy of the regulations at the time of their entrance on duty.

(c) The Commission shall bring the regulations to the attention of each em-

ployee annually, and at such other times as circumstances warrant.

(d) The Commission shall have available for review by employees copies of relevant laws, the Executive order, and pertinent Commission instructions relating to ethical and other standards of conduct.

§706.5 Counseling.

The Solicitor of the Commission shall serve as the agency's ethical conduct counselor and is the designated agency official for the purposes of the Ethics in Government Act of 1978, Pub. L. 95-521. The Solicitor shall respond to requests by employees and special Government employees for advice and guidance respecting questions of ethical conduct, conflicts of interest, reporting of financial interests and other matters of law covered by these regulations.

§706.6 Disciplinary and other remedial action.

An employee of the Commission who violates any of the regulations in this part may be disciplined. The disciplinary action may be in addition to any penalty prescribed by law for the violation. In addition to or in lieu of disciplinary action, remedial action to end conflicts or appearance of conflicts of interests may include but is not limited to:

- (a) Changes in assigned duties;
- (b) Divestment by an employee of any conflicting interest; or
- (c) Disqualification for a particular assignment.

§706.7 Outside employment and other activity.

Employees of the Commission may engage in outside employment or other outside activity not incompatible with the full and proper discharge of the duties and responsibilities of their Government employment. Employees who wish to engage in outside employment shall first obtain the approval, in writing, of their supervisor.

§706.8 Prohibition against disclosure of evidence.

All employees of the Commission are subject to the prohibition on disclosure of evidence taken in executive session contained in Section 102(g) of the Civil Rights Act of 1957, 71 Stat. 634, as amended.

Subpart B—Ethical and Other Conduct and Responsibilities of Employees

§706.9 Proscribed actions.

An employee shall avoid any action, whether or not specifically prohibited by this subpart, which might result in, or create the appearance of:

- (a) Using public office for private gain;
- (b) Giving preferential treatment to any person;
- (c) Impeding Commission efficiency or economy;
- (d) Making a Commission decision outside official channels;
- (e) Losing complete independence or impartiality; or
- (f) Affecting adversely the confidence of the public in the integrity of the Commission.

§706.10 Gifts, entertainment and favors.

(a) Except as provided in paragraphs (b) and (e) of this section, an employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value from a person who:

(1) Has, or is seeking to obtain, contractual or other business or financial relations with the Commission;

(2) Conducts operations or activities that are regulated by the Commission; or

(3) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duty.

(b) Exceptions from the prohibitions contained in (a) of this section are as follows:

(1) Gifts, entertainment and favors which derive from family or personal relationships (such as those between parents, children, or spouse of the employee and the employee) when the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors;

(2) Acceptance of food and refreshments of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meeting or on an inspection tour where an employee may properly be in attendance;

(3) Acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans; and

(4) Acceptance of unsolicited advertising or promotional material, such as pens, pencils, note pads, calendars,

and other items of nominal intrinsic value.

(c) Employees shall not solicit a contribution from another employee for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an employee receiving less pay than themselves. This paragraph, however, does not prohibit a voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness, or retirement.

(d) An employee shall not accept a gift, present, decoration, or other thing from a foreign government unless authorized by Congress as provided by the Constitution and 5 U.S.C. 7342.

(e) Neither this section nor §706.11 precludes an employee from receipt of bona fide reimbursement, unless prohibited by law, for expense of travel and such other necessary subsistence as is compatible with this part, for which no Government payment or reimbursement is made. This paragraph, however, does not allow employees to be reimbursed, or payment to be made on their behalf, for excessive personal living expenses, gifts, entertainment or other personal benefits.

§706.11 Proscribed outside employment and other activities.

(a) An employee shall not engage in outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of Government employment. Incompatible activities include but are not limited to:

(1) Acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circum-

stances in which acceptance may result in, or create the appearance of conflicts of interest; or

(2) Outside employment which tends to impair mental or physical capacity to perform Government duties and responsibilities in an acceptable manner.

(b) An employee shall not receive any salary or anything of monetary value from a private source as compensation for service to the Government as prohibited by 18 U.S.C. 209.

(c) Employees are encouraged to engage in teaching, lecturing, and writing that is not prohibited by law, the Executive order, or Commission regulations. An employee shall not, either for or without compensation, engage in teaching, lecturing, or writing, including teaching, lecturing, or writing for the purpose of the special preparation of a person or class of persons for an examination of the Office of Personnel Management or Board of Examiners for the Foreign Service, that depends on information obtained as a result of Government employment, except when that information has been made available to the general public or will be made available on request, or when the agency head gives written authorization for use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a Presidential appointee covered by Section 401(a) of the order shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Commission or which draws substantially on official data or ideas which

have not become part of the body of public information.

(d) This section does not preclude an employee from:

(1) Participation in the activities of national or State political parties not proscribed by law;

(2) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational and recreational public service, or civic organization; or

(3) Outside employment permitted under these regulations.

§706.12 Financial Interests.

(a) Employees shall not:

(1) Have a direct or indirect financial interest that conflicts substantially, or appears to conflict substantially, with their Government duties and responsibilities; or

(2) Engage in, directly or indirectly, a financial transaction as a result of, or primarily relying on, information obtained through their Government employment.

(b) This section does not preclude an employee from having a financial interest or engaging in financial transactions to the same extent as a private citizen not employed by the Government, so long as it is not prohibited by law, the Executive order, or Commission regulations.

§706.13 Use of Government property.

Employees shall not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities.

Employees have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted or issued them.

§706.14 Misuse of information.

For the purpose of furthering a private interest, employees shall not directly or indirectly use, or allow the use of, official information obtained through or in connection with their Government employment, which has not been made available to the general public.

§706.15 Indebtedness.

An employee shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this section, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as the employer. In the event of dispute between an employee and an alleged creditor, this section does not require the Commission to determine the validity or amount of the disputed debt.

§706.16 Gambling, betting, and lotteries.

Employees shall not participate while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a number slip or ticket.

§706.17 General conduct prejudicial to the Government.

Employees shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, or other conduct prejudicial to the Government.

§706.18 Miscellaneous statutory provisions.

Employees shall acquaint themselves with each statute that relates to their ethical and other conduct as an employee of the Commission and of the Government. The attention of Commission employees is directed to the following statutory provisions:

(a) House Concurrent Resolution 175, 85th Congress, 2d session, 72 Stat. B12, the "Code of Ethics for Government Service";

(b) Chapter II of Title 18, United States Code, relating to bribery, graft, and conflicts of interest, as appropriate to the employees concerned;

(c) The prohibition against lobbying with appropriated funds (18 U.S.C. 1913);

(d) The prohibitions against disloyalty and striking (5 U.S.C. 7311; 18 U.S.C. 1918);

(e) The prohibition against the employment of a member of a Communist organization (50 U.S.C. 784);

(f) The prohibitions against the disclosure of classified information (18 U.S.C. 798; 50 U.S.C. 1905);

(g) The provision relating to the habitual use of intoxicants to excess (5 U.S.C. 7352);

(h) The prohibition against the misuse of a Government vehicle (31 U.S.C. 638a(c));

(i) The prohibition against the misuse of the franking privilege (18 U.S.C. 1719);

(j) The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (18 U.S.C. 1917);

(k) The prohibition against fraud or false statements in a Government matter (18 U.S.C. 1001);

(l) The prohibition against mutilating or destroying a public record (18 U.S.C. 2071);

(m) The prohibition against counterfeiting and forging transportation requests (18 U.S.C. 508);

(n) The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of the employee by reason of his/her employment (18 U.S.C. 654);

(o) The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285);

(p) The prohibitions against political activities in subchapter III of chapter 73 of Title 5, United States Code and 18 U.S.C. 602, 603, 607, and 608;

(q) The prohibition against an employee acting as the agent of a foreign principal registered under the Foreign Agent Registration Act (18 U.S.C. 219).

Subpart C—Financial Reporting Requirements

§706.19 Statements of financial and property interests and outside employment.

Pursuant to the Ethics in Government Act of 1978 (Pub. L. 95-521, referred to hereinafter in this Subpart as “the Act”), the following officers and employees of the Commission are required to file annual reports of financial and property interests and outside employment if they have served 61 days or more in their positions during the preceding calendar year:

(a) Officers and employees (including special government employees, as defined in 18 U.S.C. 202) whose positions are classified at GS-16 or above of the General Schedule, or whose basic rate of pay (excluding “step” increases) under other pay schedules is equal to or greater than the rate for GS-16 (step 1);

(b) Employees in the excepted service in positions which are of a confidential or policy-making character, unless their positions have been excluded by the Director of the Office of Government Ethics; and

(c) Each designated agency ethics official.

§706.20 Time and place for filing of reports.

(a) Annual reports are to be filed no later than May 15 of each calendar year, except that persons assuming a position for which reports are required who have not immediately prior to this assumption occupied a covered position in another agency, must file a report within 30 days after assuming the position at the Com-

mission. In the event an individual terminates employment with the Commission and does not accept another position for which reporting is required, the report must be filed no later than the 30th day after termination, covering:

(1) The preceding calendar year if the annual May 15 report has not been filed; and

(2) The portion of the present calendar year up to the date of termination.

(b) Reports shall be filed with the designated ethics officer (Solicitor) of the Commission. The reports of the designated ethics officer and nominees to and holders of positions which require confirmation by the Senate shall be transmitted by the Solicitor to the Office of Government Ethics of the Office of Personnel Management.

§706.21 Exclusion of certain positions from reporting requirements.

(a) Under Section 201(f)(5) of the Act, a report is required of any person in the executive branch in a position excepted from the competitive service by reason of being of a confidential or policymaker character. An exemption is available, as provided below, for a person in any such position classified below GS-16 (or the rate of basic pay for which is less than the minimum rate of basic pay fixed for GS-16) who has no role in advising or making policy determinations with respect to agency programs or policies. Such persons may include chauffeurs, private secretaries, stenographers and those who hold positions of similar nature, consistent with the basic criterion set forth in the preceding sentence.

(b) The exclusion of any position will be effective as of the time the Commis-

sion files with the Office of Government Ethics a list and description of each position for which exclusion is sought, and the identity of its current occupant. Such a list must be filed with the Office of Government Ethics on or before the date on which such reports are due under the Act.

(c) In the event that the Office of Government Ethics finds that one or more positions have been improperly excluded, it will so advise the Commission and set a date for the filing of the report.

§706.22 Information required to be reported—reporting forms.

Information required to be reported by the Act shall be set forth in the manner specified in, and in accordance with the instructions contained in, Standard Forms issued by the Office of Personnel Management, to be used as follows:

(a) Standard Form 278—for use by an officer or employee filing (1) an annual report pursuant to Section 201(d) of the Act, or (2) a departure report upon termination of employment, pursuant to Section 201(e) of the Act;

(b) Standard Form 278A—for use by (1) an individual assuming a position for which reporting is required pursuant to Section 201(a) of the Act; or (2) an individual whose nomination has been transmitted by the President to the Senate, pursuant to Section 201(b) of the Act.

§706.23 Review of reports.

(a) Financial reports are reviewed by the Commission's designated ethics official or the Director of the Office of Government Ethics, as appropriate. Re-

ports are to be reviewed within 60 days after the date of their filing or transmittal to the Office of Government Ethics.

(b) After reviewing a report, the reviewing official is required to:

(1) State upon the report that the reporting individual is in compliance with applicable laws and regulations and to sign the report;

(2) Notify the reporting individual that additional information is required to be submitted and the time by which it must be submitted; or

(3) Notify the reporting individual that the report indicates noncompliance and afford the individual a reasonable opportunity for a written or oral response after which the reviewing official reaches an opinion whether the individual is in compliance.

(c) If the reviewing official determines that the reporting individual is not in compliance with applicable laws and regulations, the reviewing official will notify the individual of that opinion, and after an opportunity for personal consultation, notify the individual of the steps which should be taken to assure compliance and the date by which such steps should be taken.

(d) The use of any steps to bring the individual in compliance are to be in accordance with regulations issued by the Director of the Office of Government Ethics.

(e) To assist employees in avoiding situations in which they would not be in compliance with applicable laws and regulations, the designated Commission ethics official is to maintain a list of those circumstances or situations which have resulted or may result in noncompliance and the lists are to be periodically pub-

lished and furnished to individuals required to file reports under this Act.

§706.24 Public access to financial disclosure reports.

(a) Pursuant to Section 205(b) of the Act, each report will be made available for public inspection within 15 days after the report is received by the agency, whether or not the review of the report prescribed by Section 206 of the Act has been completed.

(b) Pursuant to Section 205(b) of the Act, as amended by Pub. L. 96-19, the following rules are applicable to public access to financial reports:

(1) A financial disclosure report may not be made available to any person nor may a copy thereof be provided to any person except upon written application by such person stating:

(i) That person's name, occupation, and address;

(ii) The name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(iii) That such person is aware that it is unlawful to obtain or use a report:

(A) For any unlawful purpose;

(B) For any commercial purpose, other than by news and communications media for dissemination to the general public;

(C) For determining or establishing the credit rating of any individual; or

(D) For use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose. Any application for a report shall be available to the public during the period in which the requested report is available to the public.

(c) Requests for copies of financial disclosure reports of officers appointed by the President by and with the advice and consent of the Senate, as well as nominees to such offices and designated Commission ethics officials, may be directed to the Director of the Office of Government Ethics.

(d) To gain access to or to obtain a copy of a report filed with the Commission, an individual should appear in person at the office of the Solicitor of the Commission, 1121 Vermont Avenue, N.W., Washington, D.C. 20425, during the hours 8:30 A.M., to 4:30 P.M., and complete an application form. Requests by mail should contain the information described in paragraph (b) of this section, together with the signature of the requester. Requests which do not contain the required information will be returned. Notice of the statutory prohibitions on use will be attached to copies of reports provided in response to a request otherwise properly filled out.

U.S. COMMISSION ON CIVIL RIGHTS
WASHINGTON, D.C. 20425

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PENALTY FOR PRIVATE USE, \$300



BULK RATE
POSTAGE AND FEES PAID
U.S. COMMISSION ON CIVIL RIGHTS
PERMIT NO. G73