

# **SERS Board Governance Policy Manual**

## **Standards of Conduct**

### **EXHIBIT D-1**

**Commonwealth of Pennsylvania  
Governor's Code of Conduct**

**EXHIBIT D-1**

**Governor's Code of Conduct**

**§ 7.151. Adverse pecuniary interest.**

An employee, appointee or official in the Executive Branch of the Commonwealth may not do the following:

- (1) Engage directly or indirectly in business transactions or private arrangement for profit which accrues from or is based upon his official position of authority.
- (2) Participate in the negotiation of our decision to award contracts, the settlement of claims or charges in contracts, the making of loans, the granting of subsidies, the fixing of rates, or the issuance of permits, certificates, guarantees or other things of value to, with or for an entity in which he has a financial or personal interest.
- (3) Hold any pecuniary interest in, or own shares or securities issued by, an entity regulated by 4Pa.C.S. Part II (relating to the Pennsylvania Race Horse Development and Gaming Act) (herein, a "regulated gaming entity"). This provision does not apply to interests held:
  - (i) In mutual funds when the value of the interest owned does not exceed 1% of the total fair market value of the regulated gaming entity.
  - (ii) Through defined benefit pension plans.
  - (iii) Through a deferred compensation plan organized and operated under section 457 of the Internal Revenue Code of 1986 (26 U.S.C.A. § 457).
  - (iv) Through a tuition account plan organized and operated under section 529 of the Internal Revenue Code (26 U.S.C.A. § 529).
  - (v) Through a plan described in section 401 k) of the Internal Revenue Code (26 U.S.C.A. § 401(k)).
  - (vi) In an employer profit-sharing plan qualified under the Internal Revenue Code.
  - (vii) In a regulated gaming entity prior to July 6, 2004, by individuals other than the following:
    - (A) Employees of the Pennsylvania State Police or the Department of Revenue whose duties include any aspect of the gaming industry.
    - (B) Members of the State Horse Racing Commission or the State Harness Racing Commission and their respective staff.

(C) Public officials appointed by the Governor and Commonwealth employees under the Governor's jurisdiction.

(D) Members of the board of the Public School Employees Retirement System and its employees.

(E) Members of the board of the State Employees Retirement System and its employees.

(F) Members of the board of the Independent Regulatory Review Commission and its employees.

#### **Source**

The provisions of this § 7.151 amended by Executive Order No. 1980-18, Revision No. 2, dated July 5, 2004, 34 Pa.B. 4013; amended by Executive Order No. 1980-18 Revision No. 3, dated April 25, 2005, 36 Pa.B. 4168. Immediately preceding text appears at serial pages (304911) to (304912).

#### **Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.152. Representation of interests.**

No employe, appointee or official in the Executive Branch of the Commonwealth may represent or act as agent for a private interest, whether for compensation or not, in a transaction in which the State has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the official or employe and his official State responsibility.

#### **Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.153. Gifts and favors.**

##### **(a) Policy**

(1) No employe, appointee or official in the Executive Branch of the Commonwealth may solicit or accept for the personal use of himself or another, a gift, gratuity, favor, entertainment, loan or other thing of monetary value from a person who:

- i. Is seeking to obtain business from or has financial relations with the Commonwealth.
- ii. Conducts operations or activities that are regulated by the Commonwealth.
- iii. Is engaged, either as principal or attorney, in proceedings before the Commonwealth or in court proceedings in which the Commonwealth is an adverse party.

iv. Has interests that may be substantially affected by the performance or nonperformance of the official duty of the ~~employee~~ employee, appointee or official.

(b) Limited Exceptions

- (1) Ordinary social hospitality may be accepted only when incidental to officially sanctioned Commonwealth trainings (for example, approved continuing education and working lunches); or in connection with an official government function or other event in which the employee, appointee or official is representing the Commonwealth in an official capacity.
- (2) Gifts from a friend, parent, spouse, child or other close relative may be accepted when the circumstances make it clear that the motivation for the action is a family or personal relationship.
- (3) Receipt of a plaque, certificate or other similar item of de minimis value may be accepted for recognition of the employee's, appointee's or official's professional work or personal community service.
- (4) Tangible items, benefits or discounts which are unsolicited may be accepted when the same or similar benefit or discount is available to members of the general public.
- (5) Food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meetings may be accepted and recreation, entertainment, food or refreshments of nominal value in the furtherance of a charitable event may be accepted.
- (6) Unsolicited advertising or promotional material, such as pens, pencils, note pads, mugs, t-shirts, calendars and other items of nominal intrinsic value may be accepted.
- (7) Bona fide reimbursement for actual expenses for travel and other necessary subsistence may be received if it is compatible with other restrictions set forth in this section and if no Commonwealth payment or reimbursement is made. However, an employee, appointee or official may not be reimbursed and payment may not be made on his/her behalf for excessive personal living expenses, gifts, entertainment or other personal benefits nor may an employee, appointee or official be reimbursed by a person for travel on official business under Commonwealth orders.
- (8) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement from a charitable, religious, professional, social, fraternal or nonprofit educational, recreational, public service or civic organization is permitted.
- (9) A voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness or retirement may be accepted.
- (10) The Commonwealth reserves the right to make determinations regarding the appropriate application of these exceptions in its sole discretion.

(c) Applicability. The limited exceptions contained in subsection (b) are not applicable to any gifts, cash, cash equivalent, discounts, loans, services or any other items or other benefits of any kind or of any value received from a lobbyist, lobbying firm or principal as those terms are defined by 65 Pa.C.S. § 13A03 (relating to definitions).

(d) Personal time. This policy does not prohibit attendance at or acceptance of ordinary social hospitality in accordance with the guidelines set forth in this policy, at functions, events or fundraisers scheduled on the employee's, appointee's or official's personal time unrelated to the individual's Commonwealth employment.

(e) Financial disclosure forms. Nothing in this policy shall override an employee's, appointee's or official's duty to comply with and timely file Federal, State or local, financial disclosure forms.

(f) Definitions.

(1) Cash equivalent. An asset that is readily convertible to cash (for example, credit/debit card,

prepaid gift card for any commercial establishment, foreign currency, certified check, cashier's check, money order or similar negotiable instrument).

(2) De minimis. An item of nominal value or a meal which is equal to or less in value than that of ordinary social hospitality.

(3) Gift. A gratuity, entertainment, loans or any other thing of monetary value, including in-kind gifts offered to an employee, during the course of their employment.

(4) Ordinary social hospitality. The value of food or refreshment not to exceed the General Services Administration rate for the applicable time period and location.

(5) Person. An individual, partnership, corporation, non-profit organization, political subdivision or other entity, but does not include State agencies or agencies of the United States government.

(6) Personal loan. A temporary financial assistance requiring repayment to an individual or organization, with or without interest.

(7) Personal or professional service. An intangible service of economic value or benefit performed by a person or business.

(8) Recreational event. A professional or semi-professional sports event, theater event, musical concert or similar event, including transportation thereto and therefrom.

(9) Tangible item. A material item or item of more than nominal or de minimis intrinsic value.

### **Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.154. Misuse of information.**

No employe, appointee or official in the Executive Branch of the Commonwealth may for his own personal gain or for the gain of others, use an information obtained as a result of service or employment with the Commonwealth and not available to the public at large or divulge the information in advance of the time prescribed for its authorized release.

### **Cross References**

This section cited in 4Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.155. Misuse of office facilities and equipment.**

No employe, appointee or official in the Executive Branch of the Commonwealth shall use any Commonwealth equipment, supplies or properties for his own private gain or for other than officially designated purposes.

### **Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.156. Supplementary employment.**

No employe, appointee or official in the Executive Branch of the Commonwealth shall engage in or accept private employment or render services for a private interest unless such employment or service is approved in advance by the Head of the Agency to which the affected person is assigned. Supplementary employment may be undertaken only when not in conflict with the conditions of employment regulations promulgated by the Executive Board and, if applicable, the Civil Service Commission. Furthermore, supplementary employment may be undertaken only when not in conflict with the conditions of employment or regulations promulgated by the government agency by which such official or employe is employed. This section shall not prohibit individuals appointed to serve part time on Boards and Commissions from pursuing their usual occupation; however, they will not perform services or receive compensation from persons or institutions which they regulate or otherwise conduct themselves in a manner inconsistent with the impartial administration of their official duties.

### **Notes of Decisions**

Since this section prohibits outside employment without advance agency head approval, failure by an agency head to act on an approval application within the 15 working day period provided for in Management Directive 515-18 does not constitute constructive approval. *Sever v. Department of Environmental Resources*, 514 A.2d 656, 658 (Pa. Commw. 1986).

### **Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.157. Honoraria.**

No employe, appointee or official in the Executive Branch of the Commonwealth shall accept honoraria, speaking fees or any other valuable consideration. Nor shall any appointed official or State employe receive compensation for consultation which draws upon ideas or data derived from his official duties. However, Commonwealth officials or employes may designate nonprofit, charitable organizations to be recipients of honoraria or speaking fees offered to such Commonwealth employes or officials by groups which customarily offer such honoraria to guest

speakers. This paragraph does not apply to individuals appointed to serve on Boards and Commissions who may not, however, accept such honoraria from groups that are regulated by the Board or Commission on which they serve, or which could otherwise raise a legitimate question about their ability to fairly and impartially perform their official duties.

### **Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.158. Political activity.**

No employe, appointee or official in the Executive Branch of the Commonwealth may:

(1) Engage in any political activity such as campaigning, fundraising, canvassing or poll watching during his specified working hours, or which is determined by the Secretary of Administration to conflict or interfere with the ability of the affected official or employe to effectively and efficiently carry out the duties and functions of his position.

(2) In any manner coerce another person in government service or employ to contribute time, money or services to a political candidate or campaign.

### **Source**

The provisions of this § 7.158 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial page (55488).

### **Cross References**

This section cited in 4 Pa. Code § 7.159 (relating to enforcement).

#### **§ 7.159. Enforcement.**

Officials, appointees or employes who refuse or fail to comply with the regulations set forth in §§ 7.151—7.158 (relating to restricted activities: conflicts of interest) shall be subjected to disciplinary action including, but not limited to, reprimands, suspensions and termination.

## **FINANCIAL DISCLOSURE**

#### **§ 7.161. Executive branch—statements of financial interest.**

The following officials and employes of the Commonwealth shall file statements of financial interest with the personnel office of their respective department, agency, board or commission, or other office as designated in the following:

- (1) Governor.
- (2) Lieutenant Governor.

(3) Heads of agencies and departments, their respective deputy secretaries, all Commonwealth officials or employees at the level of division chief and above, and all attorneys, press secretaries, legislative liaisons, and executive and special assistants.

(4) Chairpersons and members of compensated boards and commissions under the Governor's jurisdiction.

(5) Executive directors, counsel and administrative secretaries of compensated boards and commissions under the Governor's jurisdiction.

(6) Employees of all classes required by the Office of Administration to file financial disclosure under the act of October 4, 1978 (P. L. 883, No. 170) (65 P. S. §§ 401—413).

#### **Source**

The provisions of this § 7.161 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial page (55489).

#### **§ 7.162. Additional filings.**

The Governor may require other officials or employees of the Commonwealth in the executive branch to file financial disclosure statements.

#### **§ 7.163. Filing procedure.**

(a) Financial disclosure statements shall be filed on forms promulgated by the Secretary of Administration and provided by the Office of Personnel of the department or agency to which the affected official or employee is assigned, which office shall receive, compile and maintain copies of the statements. Personnel offices shall provide necessary assistance in assuring that financial disclosure statements are filed properly, accurately and completely. Copies of statements filed shall be forwarded to the department or agency head and their chief counsel for review. If either of them determines a statement is not in compliance with the disclosure requirements of this order, or that a conflict of interest could exist, copies of the statement shall be forwarded to the secretary of the department, the Secretary of Administration, and the General Counsel, who shall determine whether the statement is in compliance or whether a conflict exists and take appropriate action.

(b) Cabinet officials, as well as the Governor and Lieutenant Governor, shall submit statements of financial interest to the Secretary of Administration and the General Counsel. The Secretary and Counsel shall review the statements and take appropriate action to insure compliance and to insure against any conflict of interest.

(c) The Secretary of Administration and the General Counsel shall submit statements to the Governor.

(d) Financial statements filed under this section may not be open to persons for commercial purposes; however, they shall be available, upon request, for inspection by accredited reporters employed by general news organizations, as well as the Secretary of Administration and the

General Counsel, and, in the case of the Department of Transportation, the Inspector General. Persons required to file statements under this section shall do so within 30 days from the date they assume office, and shall file the statements on May 1 of each year thereafter, for the preceding calendar year, for the duration of their term of office.

(e) In the event a covered person fails or refuses to file a financial statement, the appropriate official shall notify the person of his noncompliance within 10 days of the date of notice. Failure of a covered person to comply after receipt of the notice may be a basis for removal from office. The head of the department or agency involved shall report failure of any person to comply to the Secretary of Administration and the General Counsel.

### Source

The provisions of this § 7.163 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036. Immediately preceding text appears at serial pages (55489) and (63828).

### § 7.164. Required disclosures.

A person subject to this subchapter shall disclose the following information, as well as information as may be required by the State Ethics Commission:

(1) *Real estate property interests.* In-State and out-of-State real estate property interests including revenue-producing leased facilities and interests in gas, oil, coal or other mineral royalty or lease. The home of principal residence is to be excluded. The required schedule must include, for each disclosed interest:

(i) The name and nature of the property, its street or mailing address and a description thereof.

(ii) The nature and extent of the interest held, including conditions or encumbrances upon the property interest and partners in the interest.

(iii) The identity of the person from whom the interest was acquired, the data thereof and the manner of the transfer or conveyance.

(iv) The transfer of real property interest since the last required report was filed or since appointment or election, whichever occurs later. A description of the transferred interest, consideration received for it and the identity of the transferee is required.

(2) *Personal economic interests.* Investments, including, but not limited to, stocks, notes, bonds, consulting arrangements and the like, in an in-State or out-of-State business entity, whether or not the entity is involved in a transaction involving the Commonwealth. The required schedule must include for each interest:

(i) The name and address of the principal office of the business entity.

(ii) The nature of interest held, including conditions and encumbrances.

(iii) The transfer of an interest or portion of an interest since the last required report was filed or since appointment or election, whichever is later. A description of the transferred interest and the identity of the transferee must be required.

(3) *Business interests.* Interests, including, but not limited to, stocks, notes, bonds, partnerships, joint ownerships, proprietorships and the like in a business entity or not-for-profit entity doing business with the Commonwealth, if known. For purposes of this schedule, the term includes not only a personal economic interest but also interests such as nonpaid memberships on boards of directors of business entities or not-for-profit entities. The required schedule shall include for each interest:

(i) The name and address of the principal office of the business entity.

(ii) The nature and dollar value of interest held, including conditions and encumbrances on it.

(iii) The transfer of an interest or portion of an interest since the last required report was filed or since appointment or election, whichever is later. A description of the transferred interest and the identity of the transferee is required.

(4) *Gifts.* Gifts of a value in excess of \$100, including the forgiveness of a debt, received since the last required report was filed or since appointment or election, whichever is later. For the purposes of this section, a gift from a family member is not required to be disclosed. The required schedule must include:

(i) The nature and value of the gift.

(ii) The identity of the person from whom, or on behalf of whom directly or indirectly, the gift was received.

(5) *Employment—excluding Commonwealth employment.* Payments, compensation or consideration of any nature for services rendered or to be rendered. Payments, compensation or consideration includes, but is not limited to, offices, directorships, salaried employment, consultant fees, honoraria, travel and related expenses and other fees earned since the last required report was filed or since appointment or election, whichever is later. This required report must include:

(i) The name and address of the office of the person for whom the services are or will be rendered.

(ii) The title or nature of the service.

(iii) The total amount of compensation or consideration received.

(6) *Liabilities.* Liabilities owed to a person or institution since the last required report was filed, or since appointment or election, whichever is later, excluding retail credit accounts,

commercial banks, savings and loan and finance companies. This required schedule must include:

- (i) The identity of the person or institution to whom the liability is owed.
- (ii) The terms of payment of the liability.
- (iii) The amount of liability.
- (iv) The manner in which the liability was secured.
- (v) Changes in the nature or amount of a liability since the last required report was filed.

(7) *Severance arrangements and proceeds received.* In addition to the information in paragraphs (1)—(6), individuals required to file statements of financial interest shall, within 30 days from the date they assume office, disclose severance payments received or to be received, or proceeds received or to be received from the sale or redemption of their interest in a corporation—which represents 5% or more of the common stock or assets of the corporation—professional corporation, partnership or other entity, which payments or proceeds result from the termination of employment or withdrawal from a corporation, professional corporation, partnership or other entity upon the assumption of public office. The individual shall file with the statement of financial interest copies of agreements relating to the receipt of the severance payments or proceeds.

(8) *Severance arrangements concluded 30 days after assuming office.* If a severance arrangement or sale or redemption of an interest specified in paragraph (7) is concluded more than 30 days following the date on which an individual assumes office, he shall, within 10 days following the conclusion of this transaction, update the information provided under paragraph (7) by disclosing payments or proceeds received or to be received and filing agreements relating to the payments or proceeds.

(9) *Current officeholders or employees.* Individuals required to file statements of financial interest, currently holding office or employed by the Commonwealth, who have not previously filed the information required under paragraphs (7) and (8), shall file the information by November 3, 1987.

(10) *Lobbying disclosure.*

(i) *Scope.* The Governor may require lobbyists to file lobbying disclosure statements and expense reports with respect to their activities and attempts to influence Commonwealth employees under the jurisdiction of the Governor who have decision-making authority over certain decisions and administrative actions.

(ii) *Lobbyist registration and financial disclosure.*

(A) *Registration requirement.* A lobbyist, as of March 15, 2006, or anytime prior to March 31, 2006, shall register with the Office of Administration within 5 days after March 31, 2006. After March 31, 2006, a lobbyist required to register under this paragraph shall register

within 5 days prior to lobbying an employee. Registrations must be in electronic form, except as provided in subparagraph (iii). An individual who engages in lobbying activities with respect to the executive branch shall register as a lobbyist whether or not the corporation, firm or principal with whom he is employed or engaged has registered or employs other registered lobbyists. Registration shall be biennial, except for calendar year 2006, and shall expire on November 30 of each even-numbered year. The required registration must include the name of the lobbyist, the lobbyist's business address, employer, and daytime telephone number, and the name, principal business address and daytime telephone number of each principal the lobbyist represents. Any subsequent change in the registration information, including a termination of representation, shall be made within 14 days of the change.

(B) *Previous employment.* The lobbyist shall include information about any previous employment by any Commonwealth agency or the General Assembly.

(C) *Lobbying coalition.* If the lobbyist is a member of a lobbying coalition as defined in this paragraph, the lobbyist shall register his participation in the lobbying coalition, and shall list the names of all lobbyists and organizations participating in the coalition and the subject matter of the action that they are attempting to influence.

(D) *Exclusion from registration.* The following individuals and activities are exempt from registration and reporting under this paragraph:

(I) An individual who limits lobbying activities to preparing testimony and testifying before an agency within the executive branch.

(II) An individual who is an employee of an entity engaged in the business of publishing, broadcasting or televising while engaged in the gathering and dissemination of news and comment thereon to the general public in the ordinary course of business.

(III) Any of the following:

(-a-) An individual who does not receive compensation, other than traveling expenses, for lobbying.

(-b-) An individual whose compensation for lobbying, from all principals represented, does not exceed \$2,500 in the aggregate during any calendar quarter of the previous 24 months.

(-c-) An individual who engages in lobbying on behalf of the individual's employer and whose lobbying activity involves expense less than \$2,500 of the value of the employee's time during any calendar quarter of the previous 24 months, based on an hourly proration of the employee's annual compensation.

(-d-) An individual, other than a lobbyist, whose total expenses for lobbying purposes do not exceed \$2,500 during any reporting period.

(IV) Any of the following:

(-a-) An elected State officer acting in an official capacity.

(-b-) A State executive officer appointed by the Governor acting in an official capacity.

(-c-) An elected or appointed official, or employee of a political subdivision of this Commonwealth acting in an official capacity.

(-d-) An employee of the Commonwealth or independent agency of the Commonwealth acting in an official capacity.

(V) Submitting material in connection with the Regulatory Review Act (71 P. S. §§ 745.1—745.15) or similar statute when comments are already subject to public scrutiny.

(VI) An employee, who is not a registered lobbyist, of a corporation, which meets the following conditions:

(-a-) Is a principal under this rule.

(-b-) Has one or more registered lobbyists.

(-c-) Includes that employee's expenses related to lobbying in the reports of the registered lobbyists.

(VII) Any individual representing a bona fide church of which the individual is a member who engages in lobbying solely for the purpose of protecting the constitutional right to the free exercise of religion.

(E) *Expense reports.*

(I) A registered lobbyist shall, under oath or affirmation, file in electronic form (except as provided in subparagraph (iii)) quarterly expense reports with the Secretary of the Office of Administration. Expense reports must list, by each principal represented by the lobbyist, the general subject matters or issues being lobbied, including the legislative bill number, if any. A quarterly expense report shall be filed no later than 30 days following the end of each calendar quarter reflecting expenses incurred during the preceding calendar quarter beginning with the quarter ended June 30, 2006. A lobbyist shall retain all documents reasonably necessary to substantiate the reports to be made under this section for at least 4 years from the date of filing the subject report. Upon request by the Secretary, these materials shall be made available for inspection within a reasonable period of time. Expense reports must include the following categories for each principal and by subject matter, including, the legislative bill number when applicable:

(-a-) A single aggregate good faith estimate of the total amount spent for personnel and office expenses related to lobbying all Commonwealth employees subject to this paragraph.

(-b-) A single aggregate good faith estimate of the total amount spent for direct communication to all Commonwealth employees subject to this paragraph.

(-c-) A single aggregate good faith estimate of the total amount spent for indirect communication to all Commonwealth employees subject to this paragraph.

(-d-) The total costs for gifts, entertainment, meals, transportation, lodging and receptions, given or provided to all employees subject to this paragraph; together with a description of the assumptions or methodology used to make the estimate required by items (-a-)-(-c-). Each estimate must be based on reasonable allocations of costs consistently applied.

(II) The expense report must also identify, by name, position and each occurrence, a Commonwealth employee subject to this paragraph who receives from a lobbyist anything of value, including in-kind gifts, which must be included in the statement under 65 Pa.C.S. § 1105(b)(6) and (7) (relating to statement of financial interests) as implemented by 65 Pa.C.S. § 1105(d). For the purpose of this paragraph, the amount referred to in 65 Pa.C.S. § 1105(b)(7) shall be considered an aggregate amount per year. Written notice shall be given to each Commonwealth employee subject to this paragraph referenced in the expense report within 7 days of the report's submission to the Office of Administration. A notice must include the information which will enable the Commonwealth employee subject to this paragraph to comply with 65 Pa.C.S. § 1105(b)(6) and (7).

(III) Nothing in this paragraph prohibits a lobbyist from reporting expenses in greater detail than required by this rule nor from reporting information not required by this paragraph.

(iii) *Registry and forms.*

(A) The Office of Administration shall create a lobbyist registry in electronic form which shall be the repository for all registration statements and expense reports for lobbyists required to register under this subparagraph. The Secretary shall develop and make available forms and procedures for registration in electronic form of lobbyists and lobbying coalitions, and quarterly expense reports to be filed electronically. If, at any time, the Office of Administration does not have registration and expense report forms available, lobbyists shall provide the basic information listed in subparagraph (ii) to the Office of Administration on the lobbyist's letterhead.

(B) The Secretary shall publish this paragraph and the entire Code of Conduct on the Commonwealth's Internet website, and shall send a notice to every lobbyist currently registered with the Senate, notifying the lobbyist of the requirements of this paragraph.

(IV) *Public access.* By September 11, 2006, and in the absence of legislation which may provide similar or greater reporting requirements than this paragraph, the Secretary shall:

(-a-) Make all lobbying registration forms, lobbying coalition forms and expense reports available for public inspection, and provide copies of these documents at a price which may not exceed the actual cost of copying.

(-b-) Maintain and from time to time but not less than annually publish a listing of registered lobbyists.

(-c-) Develop a database on the basis of information reported under subparagraph (iii), and make the database available to the public on the Commonwealth's Internet website. The database must be capable of being searched according to any of the following categories: lobbyist, principal and subject matter, including legislative bill number.

(V) *Definitions.* The following words and terms, when used in this paragraph, have the following meanings, unless the context clearly indicates otherwise:

*Agency*—A Commonwealth agency, board, commission, authority or department within the executive branch under the Governor's jurisdiction or to which the Governor makes nominations or appointments, or both.

*Contact*—Direct or indirect contact with a lobbyist, and initiated by a lobbyist, the purpose of which is to influence a decision or administrative action for which the employee has decision-making authority or a duty to act.

*Decision or administrative action*—A matter over which an employee has decision-making authority or influence and which is currently pending or expected to occur in the future, including, but not limited to:

(i) Legislative-related matters, including:

(A) The Governor's approval, veto or consideration of legislation.

(B) Negotiation of the elements of, or support or opposition to, legislation with any members or staff of the General Assembly.

(C) Any action by a Commonwealth employee which is intended to influence or attempt to influence the decisions of the General Assembly.

(ii) Budgetary matters, including:

(A) The inclusion or exclusion of items in the Governor's Budget.

(B) Any expenditure of funds after enactment of the Budget.

(C) Any expenditure of capital funds.

(iii) Administrative matters, including:

(A) Implementation of a statute.

(B) Proposal, consideration, promulgation, amendment, approval, rejection or rescission of a regulation.

(C) Development or modification of a guideline or a statement of policy or any amendment thereto.

(D) The Governor's proposal, consideration, promulgation, amendment, approval, rejection or rescission of an executive order.

(E) The nomination or appointment by the Governor of an individual as an officer or employee or appointee of the Commonwealth.

(F) Seeking to influence the awarding, rejection or rescission of a grant, loan, or contract or any amendment thereto.

(G) Seeking to influence an employee with respect to decisions before independent agencies, boards or commissions, including those over which the Governor has the power to appoint one or more members.

*Decision-making authority*—The responsibility and authority to act on behalf of the Commonwealth involving the exercise of discretion and not mere performance of a ministerial duty.

*Direct communication*—An effort, whether written, oral or by any other medium, made or commissioned by a lobbyist, directed to a member or employee of the executive branch, the purpose or foreseeable effect of which is to influence executive branch decisions or administrative actions.

*Employee*—Any of the following officials and employees of the Commonwealth who have decision making authority:

(i) The Governor.

(ii) The Lieutenant Governor.

(iii) Heads of agencies and departments, their respective deputy secretaries, all Commonwealth officials or employees at the level of division chief and above, and all attorneys, press secretaries, legislative liaisons, and executive and special assistants.

(iv) Chairpersons and members of boards, councils, and commissions or the like, under the Governor's jurisdiction, except those serving on advisory boards having no authority to expend funds or otherwise exercise the power of the Commonwealth.

(v) Executive directors, counsel and administrative secretaries of compensated boards and commissions under the Governor's jurisdiction.

(vi) Employees of all classes required to file financial disclosure under 65 Pa.C.S. Chapter 11 (relating to Public Official and Employee Ethics Act).

*Indirect communication*—

(i) An effort, whether written, oral or by any medium other than direct communication, made or commissioned by a lobbyist or a principal, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence executive branch decisions or administrative action.

(ii) The term includes letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues.

(iii) The term does not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.

*Lobbying*—Action taken for the purpose of influencing the exercise of discretion by an employee with respect to a decision or administrative action.

*Lobbyist*—

(i) Any individual, firm, association, lobbying coalition, corporation, partnership, business trust or business entity that engages in lobbying on behalf of a principal for economic consideration.

(ii) For purposes of this paragraph, the term includes any person or entity that has registered as a lobbyist in compliance with the Rules of the Senate or with the Rules of the House of Representatives, if so required, and an attorney who engages in activities which are not the practice of law, but which are lobbying and which may be regulated consistent with 204 Pa. Code Rule 1.19 (relating to lawyers acting as lobbyists) of the Rules of Professional Conduct of the Supreme Court.

*Lobbyist coalition*—

(i) Three or more lobbyists or principals, or both, who are formally acting together to influence a decision or administrative action.

(ii) The term includes, but is not limited to, a group of three or more persons formed primarily to influence legislative or administrative action, whose members make payments to the coalition for the purpose of sharing the expenses of employing a lobbyist or contracting for the services of a lobbyist.

*Principal*—Any individual, firm, association, corporation, partnership, business trust or business entity who expends more than \$2,500 on lobbying per quarter during any quarter of a reporting 24-month period and meets one of the following conditions:

(i) On whose behalf a lobbyist influences or attempts to influence a decision or administrative action.

(ii) Who engages in lobbying on his own behalf.

*Secretary*—The Secretary of the Office of Administration.

### Source

The provisions of this § 7.164 amended by Executive Order No. 1980-18, dated and effective May 16, 1984, 14 Pa.B. 2036; amended by Executive Order No. 1980-18, dated and effective September 28, 1987, 17 Pa.B. 4183; amended by Executive Order No. 1980-18, revised No. 4, dated March 15, 2006, 36 Pa.B. 1633. Immediately preceding text appears at serial pages (289818) to (289820).