

Regulations of Connecticut State Agencies

TITLE 10. Education and Culture

Agency

Commission on Culture and Tourism

Subject

Organization and Rules of Practice

Inclusive Sections

§§ 10-392-1—10-392-44

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Organization and Rules of Practice

ARTICLE I

Description of Organization and Public Information

Sec. 10-392-1. Creation and authority; mission

The Connecticut Commission on Culture and Tourism was established in 2004 as the successor agency to the State Commission on the Arts, the Connecticut Historical Commission, the Office of Tourism, the Connecticut Tourism Council, the Connecticut Film, Video and Media Office and the Connecticut Commission on Arts, Tourism, Culture, History and Film by the provisions of Public Act 04-205 and Public Act 04-02 (May Special Session). The mission of the commission is to preserve and promote Connecticut's cultural and tourism assets in order to enhance the quality of life and economic vitality of the state. The commission derives its authority primarily from the provisions of chapters 184b and 208 of the Connecticut General Statutes.

(Adopted effective September 18, 2009)

Sec. 10-392-2. Basic organization

The commission is composed of thirty-five commissioners who provide advice, guidance and support to the commission's executive director who is responsible for administering the day-to-day operations of the commission.

(Adopted effective September 18, 2009)

Sec. 10-392-3a. Commissioners; appointment and term of office; course and method of operation

(a) The commission is comprised of thirty (30) voting commissioners and five non-voting ex-officio members. The voting commissioners are appointed to the commission in the manner established by the provisions of section 10-393 (a)(1) through and inclusive of section 10-393(a)(7) of the Connecticut General Statutes. The term of each commissioner is coterminous with the term of each such commissioner's appointing authority. The ex-officio members of the commission are the executive directors of the Connecticut Trust for Historic Preservation and the Connecticut Humanities Council, the State Poet Laureate, the State Historian and the State Archaeologist.

(b) The commissioners work in cooperation with the executive director to help ensure that the mission of the commission is carried out effectively and efficiently.

(c) The voting commissioners annually elect a voting commissioner to serve as chairperson, vice-chairperson and such other voting commissioners as officers as may be deemed necessary. The commissioners meet quarterly and at such other times as the chairperson may deem necessary or upon the request of a majority of the voting commissioners then in office.

(d) All actions of the commissioners are taken and motions and resolutions adopted by

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the affirmative vote of a majority of the voting commissioners present at any meeting. Thirteen voting commissioners constitute a quorum and no vacancy of a voting commissioner shall impair the right of a quorum to exercise all the rights and perform all the duties of the commissioners.

(Adopted effective September 18, 2009)

Sec. 10-392-3b. Commission executive director

The executive director is the chief executive officer of the commission and is appointed by the Governor in accordance with the provisions of Chapter 46 of the Connecticut General Statutes. The executive director has the overall responsibility for the effectiveness and welfare of the agency. The executive director, along with the program division directors, has the responsibility to foster effective communication and coordination among all commission staff members. Except as otherwise set forth in the Connecticut General Statutes or these regulations, the executive director is responsible for, and authorized to conduct, all tasks and duties necessary for the proper functioning of the agency, including, but not limited to, the commission's budget, day-to-day operations, contracting, staffing needs, hiring and termination of all commission employees, equipment, record and database maintenance and storage, both in electronic and hard copy format. In determining specific budgetary and staffing needs of the commission, the executive director may consult with the commission program division directors. The executive director is responsible for the commission's external relations with the public and other state agencies regarding the programs, priorities and mission of the commission. The executive director is also responsible for coordinating the commission's legislative strategy and priorities. Unless precluded by law, the executive director may delegate specific authority to conduct functions of the commission to one or more of the program division directors.

(Adopted effective September 18, 2009)

Sec. 10-392-4. Program divisions; organization; functions

(a) The commission is currently composed of four program divisions which are under the overall direction of the executive director. Each program division is under the supervision of a program division director who is responsible for administering and coordinating the activities in the program director's division. The executive director may delegate the authority to conduct hearings to a program director when the subject matter of such hearing relates to the functions of that director's program division. The current program divisions of the Commission are:

(1) The Arts Division. This division is responsible for supporting, developing and strengthening the arts in all its forms. This division strives to broaden the reach of the arts by making available to state residents and visitors various artistic experiences. The commission's grant programs administered by the division invest in state artists and arts organizations and encourage public participation in creating, learning about, supporting and enjoying the arts.

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(2) The Film Division. This division is responsible for coordinating the commission's efforts to develop and maintain a thriving film, television and digital media industry statewide. This division is the principal contact point for entertainment media producers and developers desiring to do business in this state and serves as a one-stop clearinghouse for production information to help ensure this state's status as an ideal production locale. This division also administers, in cooperation with the Department of Revenue Services, the film production, digital animation and entertainment media infrastructure tax credit programs.

(3) The Historic Preservation and Museum Division. This division functions under state and federal law as the State's Historic Preservation Office. This division is responsible for administering a broad range of federal and state statutes and programs designed to identify, register and protect and maintain the buildings, structures sites, districts, artifacts and objects that comprise this state's cultural heritage. The division also operates a number of historic properties statewide.

(4) The Tourism Division. This division is responsible for coordinating the commission's efforts to make tourism a source of pride and a leading contributor to the State's economy. This division works in concert with the State's business community and five regional tourism districts to encourage strategic tourism industry investment to help ensure that this state is positioned as a prime destination for both leisure and business travelers. The division offers the tourism industry a broad range of services including marketing, research, hospitality services and direct sales assistance. The division also operates six welcome centers in various gateway locations statewide.

(b) The administrative support division in the office of the executive director provides administrative and fiscal support to the program divisions and executive director. The commission's human resources service and support is provided by the SmART unit within the Department of Administrative Services.

(Adopted effective September 18, 2009)

Sec. 10-392-5. Official address

All communications should be addressed to the Connecticut Commission on Culture and Tourism, One Constitution Plaza, 2nd floor, Hartford, Connecticut 06103.

(Adopted effective September 18, 2009)

Sec. 10-392-6. Public information

The public may inspect regulations, declaratory rulings and public records of the Connecticut Commission on Culture and Tourism at its offices in Hartford. There is no prescribed form for requests for information although all such requests must be in writing. Requests should be submitted to the Connecticut Commission on Culture and Tourism at the address set forth in section 10-392-5 of the Regulations of Connecticut State Agencies. All such requests for information should be sufficiently specific to allow facile identification

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of the matters or materials requested.

(Adopted effective September 18, 2009)

ARTICLE II

Rules of Practice

General Provisions

Part I

Scope and Construction of Rules

Sec. 10-392-7. Procedure governed

Sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies govern practice and procedure before the executive director of the Commission on Culture and Tourism, or before any individual to whom the executive director's authority may be lawfully delegated under the applicable laws of the State of Connecticut.

(Adopted effective September 18, 2009)

Sec. 10-392-8. Waiver of rules

Where good cause is shown, the executive director or any lawful delegatee may permit deviation from sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies, except where precluded by law.

(Adopted effective September 18, 2009)

Sec. 10-392-9. Construction and amendment

Sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies shall be construed by the executive director or any lawful delegatee so as to secure just and speedy determination of the matter or issues presented. Amendments and additions to sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies may be adopted by the executive director by being duly promulgated as regulations in accordance with Chapter 54 of the Connecticut General Statutes.

(Adopted effective September 18, 2009)

Sec. 10-392-10. Computation of time

Computation of any period of time referred to in sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies, begins with the first day following that on which the act which initiates such period of time occurs and ends on the last day of the period so computed. This last day of that period is to be included unless it is a day on which the commission offices are closed, in which event the period shall run until the end of the next following business day. When such period of time, with the intervening

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Saturdays, Sundays, and legal holidays counted, is five (5) days or less, the said Saturdays, Sundays, and legal holidays shall be excluded from the computation; otherwise, such days shall be included in the computation.

(Adopted effective September 18, 2009)

Sec. 10-392-11. Extension of time

Except where mandated by statute, the executive director or any lawful delegatee, may extend the time limit allowed or prescribed by sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies, for good cause. All requests for extensions shall be made before the expiration of the period originally allowed or prescribed or as previously extended. The executive director, or any lawful delegatee, shall cause all parties to be notified of the decision upon any such request for an extension.

(Adopted effective September 18, 2009)

Sec. 10-392-12. Effect of filing

(a) **Obligation to comply.** The filing with the executive director of any application, petition, complaint, request for declaratory ruling, or any other filing of any nature whatsoever shall not relieve any person or entity of the obligation to comply with any statute, regulation or order of the commission.

(b) **Non-waiver.** Unless the executive director or any lawful delegatee otherwise specifies in an express written waiver, by accepting the filing of any petition, application, exhibit or document of any kind whatsoever, the commission shall not have waived any failure to comply with sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies or any other duly adopted commission regulation.

(Adopted effective September 18, 2009)

Sec. 10-392-13. Consolidation of proceedings

Two or more proceedings involving related questions of law or fact may be consolidated upon the determination of the executive director or any lawful delegatee.

(Adopted effective September 18, 2009)

Part 2

Formal Requirements

Sec. 10-392-14. Date of filing

All orders, decisions, findings of fact, correspondence, petitions, applications, motions and any other documents shall be deemed to have been filed or received on the date on which they are received by the executive director at the commission's principal office as set forth in section 10-392-5 of the Regulations of Connecticut State Agencies.

(Adopted effective September 18, 2009)

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Sec. 10-392-15. Signatures

Every application, petition, notice, brief, motion and recommendation filed with the commission shall be signed by the filing person or by the filing person's or entity's attorney.

(Adopted effective September 18, 2009)

Sec. 10-392-16. Formal requirements as to documents and other papers filed in proceedings

(a) **Copies.** Except for routine correspondence and inquiries by the public, and as may be otherwise required by sections 10-392-7 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies, or by any other regulations of the commission adopted pursuant to the provisions of Chapter 54 of the Connecticut General Statutes or as ordered or expressly requested by the executive director or any lawful delegatee, at the time petitions, motions, applications, documents, or other papers are filed with the commission, there shall be furnished to the commission the original of such papers. In addition to the original there shall also be filed three (3) copies of such submission unless a greater number of copies is requested by the executive director or any lawful delegatee.

(b) **Filing.** All papers relating to matters requiring action by the executive director shall be filed with the commission at its principal office as set forth in section 10-392-5 of the Regulations of Connecticut State Agencies.

(c) **Noncompliance.** In the event of failure to comply with the provisions of this section, such noncompliant papers may be returned by the executive director or any lawful delegatee.

(Adopted effective September 18, 2009)

Sec. 10-392-17. Service of papers

(a) **General rule.** Service of all documents and papers filed in all commission proceedings shall be by personal delivery, facsimile, or first class mail, unless otherwise ordered by the executive director or any lawful delegatee.

(b) **On whom served.** In addition to the filing of such original and copies as provided in subsection 10-392-16(a) of the Regulations of Connecticut State Agencies by the person or entity filing, one copy shall be served on each person or entity that has been designated a party in any commission proceedings. Certification of such service shall be endorsed on all papers filed with the commission.

(c) **Service by the commission.** A copy of any documents or other papers served by the commission showing the addresses to whom the document or other paper was mailed or sent by means of facsimile or other form of electronic delivery shall be placed in the commission's files and shall be prima facie evidence of such service and the date thereof.

(d) **Service as written notice.** Written notice of all orders, decisions or authorizations issued by the commission shall be given to the party affected thereby and to such other persons or entities the commission may deem appropriate by personal delivery, first class mail, facsimile or other electronic means of delivery as the commission may determine.

(Adopted effective September 18, 2009)

ARTICLE III

Contested Case Hearings

Part I

Parties, Intervention and Participation

Sec. 10-392-18. Designation of parties

In issuing a notice of hearing, the executive director or any lawful delegatee will designate as parties those persons and entities known to them whose legal rights, duties or privileges are being determined in a contested case and any person whose participation as a party is then deemed necessary to the proper disposition of such proceeding. All other persons proposing to be named or admitted as parties shall apply for such designation in the manner herein after described. No other person or entity shall be or have standing before the commission as a party within the definition of section 4-166(8) of the Connecticut General Statutes.

(Adopted effective September 18, 2009)

Sec. 10-392-19. Application to be designated a party

(a) **Filing of petition.** Any other person that proposes to be designated or admitted as a party to any commission proceeding, as defined by section 4-166(8) of the Connecticut General Statutes, shall file a written petition to be so designated not later than five (5) days before the date of the proceeding.

(b) **Contents of petition.** The petition to be designated a party shall state the name and address of the petitioner. It shall describe the manner in which the petitioner claims to be substantially and specifically affected by the proceeding. It shall state the contention of the petitioner concerning the issue of the proceedings, the relief sought by the petitioner, the statutory or other authority therefore, and a summary of any evidence that the petition intends to present in the event that the petition is granted.

(c) **Designation as party.** The executive director or any lawful delegatee presiding shall consider all such petitions and shall designate or admit as a party any person or entity whose legal rights, duties, or privileges will be determined by the decision of the commission after the hearing if the petitioner is entitled as of right to the designated a party or if the participation of the petitioner as a party is necessary to the proper disposition of such proceeding.

(Adopted effective September 18, 2009)

Sec. 10-392-20. Participation by nonparties

(a) **Requests to participate.** At any time prior to the commencement of testimony in any hearing any person may request that the executive director or any lawful delegatee presiding over the hearing permit that person or entity to participate in the proceeding. Any

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person or entity not a party that is so permitted to participate in the proceeding will be identified as an intervenor in the proceeding.

(b) **Contents of request.** The request of the proposed intervenor shall state such person's name and address and shall describe the manner in which that person is affected by the proceeding. The proposed intervenor shall further state in what way and to what extent he will participate in the proceeding, and shall summarize any evidence that is intended to be offered.

(c) **Designation as intervenor.** The executive director or any lawful delegatee presiding shall act to determine the proposed intervenor's participation in the hearing, taking into account whether or not such participation will furnish assistance to the commission in resolving the issues of the proceeding. The presiding officer may grant the request if it is found that the proposed participation as an intervenor will add evidence or arguments as to the issues presented that otherwise would not be available to the commission.

(Adopted effective September 18, 2009)

Sec. 10-392-21. Participation by persons admitted to participate as intervenors

The intervenor's participation shall be limited to those particular issues, that stage of the proceeding, and that degree of involvement in the presentation of evidence and argument which the presiding officer shall permit at the time such intervention is allowed, and thereafter by express order upon further application by the said intervenor.

(Adopted effective September 18, 2009)

Sec. 10-392-22. Status of party and of intervenor as party in interest

(a) **Party as party in interest.** By the decision in a contested case the commission shall dispose of the legal rights, duties and privileges of each party designated or admitted to participate as a party in the proceeding. Each such party shall be deemed to be a party in interest who may be aggrieved by any final decision, order or ruling of the commission.

(b) **Status of a nonparty that has been admitted to participate.** Status of a nonparty or as an intervenor shall not be deemed to be an expression by the commission that the person or entity permitted to intervene is a party in interest who may be aggrieved by any final decision, order or ruling of the commission unless the executive director or any lawful delegatee presiding over the hearing explicitly so states.

(Adopted effective September 18, 2009)

Sec. 10-392-23. Representation of parties and intervenors

Each person authorized to participate in a contested case as a party or as an intervenor shall file with the presiding officer a written notice of appearance. Such appearance may be filed in behalf of parties and intervenors by an attorney who is not required to be a member of the Connecticut Bar or other duly authorized representative subject to the rules herein stated.

(Adopted effective September 18, 2009)

Part 2

Hearings, General Provisions

Sec. 10-392-24. Place of hearings

All hearings conducted by the executive director or any lawful delegatee shall be held at the commission's principal office unless a different location is designated by statute or by direction of the executive director.

(Adopted effective September 18, 2009)

Sec. 10-392-25. Notice of hearings

(a) **Persons notified.** Except when the executive director or any lawful delegatee shall otherwise direct, written notice of a hearing in any pending matter before the commission shall be given to all persons designated as parties, to all persons who have been permitted to participate as intervenors, to all persons otherwise required by statute to be notified, and to such other persons as have filed with the executive director or lawful delegatee their written request for notice of hearing in the particular matter. Written notice may be given to such additional persons as the executive director or presiding officer may direct.

(b) **Contents of notice.** Notice of a hearing shall include, but not necessarily be limited to, the following: (1) a statement of the time, place and nature of the hearing; (2) a statement of the legal authority under which the hearing is to be held and the identification of statutes or regulations that are involved; (3) a short and plain statement of fact describing the purpose of the hearing. Notice of all commission hearings shall comply with the requirements of section 4-177(b) of the Connecticut General Statutes.

(Adopted effective September 18, 2009)

Sec. 10-392-26. General provisions

(a) **Purpose of hearing.** The purpose of any hearing that the executive director or any lawful delegatee conducts under Chapter 54 of the Connecticut General Statutes shall be to provide to all parties an opportunity to present evidence and argument on all issues to be considered.

(b) **Order of presentation.** The party that shall open and close the presentation of any part of the matter shall be the petitioner unless otherwise provided by the presiding officer.

(c) **Limiting the number of witnesses.** To avoid unnecessary cumulative evidence, the presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(d) **Burden of proof.** The petitioner shall have the burden of proving with substantial evidence that his, her or its position is justified in any hearing.

(e) **Discovery.** The commission is not required to respond to pre-hearing interrogatories or to other requests for discovery other than to provide those public records which are in

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the possession of the commission.

(Adopted effective September 18, 2009)

Sec. 10-392-27. Rules of evidence

The following rules of evidence shall be followed in the adduction of testimony and exhibits in hearings held by the commission.

(a) **General.** Any oral or documentary evidence may be received; but the presiding officer shall, as a matter of policy, exclude irrelevant, immaterial, or unduly repetitious evidence. The presiding officer shall give effect to the rules of privilege recognized by Connecticut law where appropriate to the conduct of the hearing. Subject to these requirements, any testimony may be received in written form as herein provided.

(b) **Documentary evidence copies.** Documentary evidence should be submitted in original form, but may be received in the form of copies or excerpts in the discretion of the presiding officer.

(c) **Cross-examination.** Cross-examination may be conducted as the presiding officer shall find required for a full and true disclosure of the facts.

(d) **Facts noticed, scope and procedure.** The presiding officer may take administrative notice of generally recognized technical or scientific facts within the presiding officer's specialized knowledge. Parties shall be offered an opportunity to contest the material so noticed by being notified before or during the hearing, or by an appropriate reference in preliminary reports or otherwise of the material noticed. The presiding officer shall nevertheless employ his or her experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making his or her findings of facts and arriving at a final decision.

(e) **Facts noticed, commission records.** The presiding officer may take administrative notice of judicially cognizable facts, including the records and the prior decisions and orders of the commission.

(Adopted effective September 18, 2009)

Sec. 10-392-28. Uncontested disposition

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order or default upon the order of the presiding officer. Upon such disposition, a copy of the order of the presiding officer shall be served on each party.

(Adopted effective September 18, 2009)

Sec. 10-392-29. Record in contested case

The record before the presiding officer shall include:

- (1) All motions, applications, petitions, pleadings, notices of hearing and intermediate rulings;
- (2) The evidence received by the presiding officer;
- (3) Questions and offers of proof, objections and rulings thereon during the hearing;

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(4) The decision, opinion or report by the presiding officer.

(Adopted effective September 18, 2009)

Sec. 10-392-30. Final decision in a contested case

All decisions and orders of the presiding officer concluding a contested case shall be in writing. Findings of fact and conclusions of law shall be separately stated. The presiding officer shall serve a copy of the commission's final decision on each party.

(Adopted effective September 18, 2009)

Sec. 10-392-31. Transcript of contested case proceedings

(a) **Proceedings recorded.** All hearings in contested cases shall be either electronically or stenographically recorded.

(b) **Written transcript.** At the close of the reception of evidence, the petitioner or any other party of record may file a written request with the presiding officer for a written transcript of the proceedings. If no such written request is filed, the presiding officer may order that a written transcript be prepared.

(c) **Reasonable costs.** If any party of record desires a copy of the transcript, such transcript will be made available upon written request and payment of reasonable costs to the commission.

(Adopted effective September 18, 2009)

ARTICLE IV

Rule Making

Sec. 10-392-32. Authority to promulgate regulations

The executive director derives the statutory authority to promulgate regulations from Chapters 184b, 208 and 54 of the Connecticut General Statutes.

(Adopted effective September 18, 2009)

Sec. 10-392-33. Form of petition

Any person may at any time petition the executive director to promulgate, amend, or repeal any regulation. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment or repeal. Such petition shall also state the facts and arguments that support the action proposed by including such facts and arguments in the petition or in an accompanying legal brief. The petition shall be addressed to the executive director at the commission's principal office as set forth in section 10-392-5 of the Regulations of Connecticut State Agencies. The petition shall be signed by or in behalf of the petitioner and shall include the petitioner's address and address of petitioner's attorney if applicable.

(Adopted effective September 18, 2009)

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Sec. 10-392-34. Procedure after petition filed

(a) **Decision on petition.** The executive director shall within thirty (30) days following receipt of the petition, deny the petition or initiate the regulation promulgation process.

(b) **Procedure on denial.** If the executive director denies the petition, the petitioner shall be given written notice stating the reasons for the denial based upon the facts and argument submitted with the petition and upon such additional facts and arguments as the commission's executive director may deem appropriate.

(Adopted effective September 18, 2009)

ARTICLE V

Miscellaneous Proceedings

Declaratory Rulings

Sec. 10-392-35. General rule

Sections 10-392-35 through 10-392-37, inclusive, of the Regulations of Connecticut State Agencies set forth the procedure to be followed by the commission's executive director in the disposition of a request for declaratory ruling as to the validity or applicability of any statutory provision or of any regulation or order of the commission. Such a ruling of the commission disposing of a petition for a declaratory ruling shall have the same status as a decision or order of the commission's executive director in a contested case.

(Adopted effective September 18, 2009)

Sec. 10-392-36. Form of petition for declaratory ruling

Any person may at any time request a declaratory ruling of the commission with respect to the validity or applicability to such person of any statute, regulation or order enforced, administered or promulgated by the commission through its executive director. Such request shall be in writing and shall include the name and address of the person or entity requesting the declaratory ruling and the name and address of such person's or entity's attorney if applicable. The request shall be directed to the commission's executive director at the commission's principal office address as set forth in section 10-392-5 of the Regulations of Connecticut State Agencies. The request shall state clearly and concisely the substance and nature of the request, shall identify the statute, regulation or order concerning which the request is made and shall identify the statute, regulation or order concerning which the request is made and shall identify the particular aspect thereof to which the request is directed. The request for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the person making the request.

(Adopted effective September 18, 2009)

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Sec. 10-392-37. Procedure after declaratory ruling request is filed

(a) **Notice to other persons.** The executive director may give notice to any person that such a declaratory ruling has been requested and may receive and consider data, facts, argument and opinion from persons or entities other than the person or entity requesting such ruling.

(b) **Provision for hearing.** If the executive director deems a hearing necessary or helpful in determining any issue concerning the request for a declaratory ruling, the executive director shall schedule such hearing and give such notice thereof as shall be appropriate. The provisions of sections 10-392-7 through 10-392-31, inclusive, of the Regulations of Connecticut State Agencies shall govern the practice and procedure of the commission in any hearing convened in connection with the issuance of a declaratory ruling.

(c) **Decision on petition, issuance of ruling denied.** If the executive director determines that a ruling will not be issued or rendered in response to a request, the executive director shall within thirty (30) days thereafter notify the person submitting the request that such request has been denied and furnish a statement of the reasons upon which the executive director relied in declining to issue or render a ruling.

(d) **Decision on petition, ruling to be issued.** If the executive director determines to issue a declaratory ruling in response to a request, a copy of the ruling rendered shall be sent to the person or entity requesting it and to that person's or entity's attorney, if applicable, and to any other person who has filed with the executive director a written request for a copy.

(Adopted effective September 18, 2009)

Personal Data Action Provisions

Sec. 10-392-38. Definitions

When used in sections 10-392-38 to 10-392-44, inclusive, of the Regulations of Connecticut State Agencies, the following terms shall have the meanings herein specified, unless the context otherwise indicates.

(a) "Agency" means each state or municipal board, commission, department or officer, other than the legislature, courts, governor, lieutenant governor, attorney general or town or regional boards of education, which maintains a personal data system.

(b) "Attorney" means an attorney at law empowered by a person to assert the confidentiality of or right to access personal data under chapter 55 of the general statutes.

(c) "Authorized representative" means a parent, or a guardian or conservator, other than an attorney, appointed to act on behalf of a person and empowered by such person to assert the confidentiality of or right of access to personal data under chapter 55 of the general statutes.

(d) "Automated personal data system" means a personal data system in which data are stored, in whole or part, in a computer or in computer accessible files.

(e) "Application file" means that compilation of personal data in either manual or

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automated form, relating to a specific application for a tax credit or grant.

(f) “Computer accessible files” means any personal data which are stored on-line or off-line, which can be identified by use of electronic means, including but not limited to microfilm and microfilm devices, which includes but is not limited to magnetic tape, magnetic film, magnetic disks, magnetic drums, internal memory utilized by a processing device, including computers or telecommunications control units, punched cards, optically scanable paper or film.

(g) “Employment record” means that compilation of personal data, in either manual or automated form, which relates to the qualifications of employment applications.

(h) “Maintain” means collect, maintain, use or disseminate.

(i) “Manual personal data system” means a personal data system other than an automated personal data system.

(j) “Person” means an individual of any age concerning whom personal data are maintained in a personal data system, or a person’s attorney or authorized representative.

(k) “Personal data” means any information about a person’s education, finances, medical or emotional condition or history, employment or business history, family or personal relationships, reputation or character which because of name, identifying number, mark or description can be readily associated with a particular person. “Personal data” shall not be construed to make available to a person any record described in subdivision (3) of subsection (b) of section 1-210 of the general statutes.

(l) “Personal data system” means a collection of records containing personal data. (m) “Personnel file” means that compilation of personal data, in either manual or automated form, relating to a commission employee’s employment and personnel activities, including, but not limited to, his or her performance, evaluation and payroll and other employment-related record-keeping which is necessary for the conduct of the commission’s business and which is kept and maintained by the commission’s business office.

(n) “Record” means any collection of personal data which is collected, maintained or disseminated.

(o) “Categories of personal data” means the classifications of personal information set forth in the subdivision (9) of section 4-190 of the general statutes.

(p) “Other data” means any information which because of name, identifying number, mark or description can be readily associate with a particular person.

(Adopted effective September 18, 2009)

Sec. 10-392-39. Categories of personal data in the commission’s personal data system

The categories of personal data maintained by the commission consist of tax credit and grant application files, employment records and personnel files. In addition, the commission maintains general correspondence files which contain other data. Tax credit and grant application files may also contain personal data concerning persons other than the applicant

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for such tax credit or grant.

(Adopted effective September 18, 2009)

Sec. 10-392-40. General nature and purpose of personal data system

(a) The commission has a single designated personal data system consisting of three parts and whose nature and purpose is to maintain accurate and current information regarding:

(1) commission tax credit and grant application files in fulfillment of its statutory duties under chapters 184b, 208 and 54 of the general statutes;

(2) the qualifications of employment applicants; and

(3) employee's employment and personnel activities necessary for the conduct of the commission's business.

(b) The commission's personal data system is both manual and automated and is located at the commission's principal office. The commission is responsible for maintaining the system and requests for disclosure of, or amendment to, information should be made in care of the commission's executive director or managing director. The commission's routine sources of personal data are applicants' public records, parties, employment applications, personal resumes and department of administrative services and state comptroller forms.

(Adopted effective September 18, 2009)

Sec. 10-392-41. Maintenance of personal data

(a) The commission shall strive to collect and maintain all personal data with accuracy and completeness. Any personal data not relevant and necessary to accomplish the lawful purpose of the commission shall be disposed of in accordance with the commission's record retention schedule, or upon permission from the public records administrator to dispose of said records under section 11-8a of the general statutes.

(b) The commission shall, when practical and consistent with its needs and purpose, collect personal data directly from the person to whom a record pertains.

(c) All employees who function as custodians for the commission's personal data system, or are involved in the operation thereof, shall be given a copy of the provisions of the personal data act; these regulations; and a copy of the Freedom of Information Act.

(d) All such commission employees shall take reasonable precautions to protect personal data under their control or custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(e) The commission shall incorporate by reference the provisions of the personal data act and these regulations in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the commission or on its behalf.

(f) When the commission requests personal data from any other state agency, it shall have an independent obligation to ensure that the personal data are properly maintained, unless otherwise provided by law.

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(g) Access to the commission's personal data system is available to commission employees who require such information in the performance of their official and lawful duties to such other persons who are entitled to access under law. The commission shall keep an up-to-date roster of commission employees entitled to access to the commission's personal data system.

(h) The commission shall ensure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records shall be sent in envelopes or boxes sealed and marked "confidential," where such records are required by law to be kept confidential.

(i) The commission shall ensure that all records in its manual personal data system are kept under lock and key, and, to the greatest extent practical, are kept in controlled access areas.

(j) The commission shall, to the greatest extent practical, locate automated equipment and records in a limited access area.

(k) Where required by law, to the greatest extent practical, the commission shall require visitors to such area to sign a visitor's log and permit access to said area on a bona fide need-to-enter basis only.

(l) The commission, to the greatest extent practical, shall ensure that regular access to automated equipment is limited to operations personnel and other authorized persons.

(m) The commission shall use appropriate access control mechanisms to prevent disclosure to unauthorized individuals of personal data required to be kept confidential by law.

(Adopted effective September 18, 2009)

Sec. 10-392-42. Disclosure of personal data

(a) Any individual may request from the commission whether it maintains personal data on that individual, the category and location of the personal data maintained on that individual, and procedures available to review said information. The commission promptly shall mail or deliver to the requesting individual a written response in plain language.

(b) Except where prohibited by law, the commission shall disclose to any person upon request all personal data concerning that person which are maintained by the commission. Where required by law, such disclosure shall be conducted so as not to disclose any personal data concerning persons other than the individual requesting such information.

(c) Where required by law, commission personnel shall verify the identify of any person requesting access to his or her own personal data.

(d) The commission may refuse to disclose to a person medical, psychiatric or psychological data regarding that person if it is determined by the commission that such disclosure would be detrimental to the person, or if such nondisclosure is otherwise permitted or required by law. If the commission refuses to disclose medical, psychiatric or psychological data to a person, it must inform the person of his or her right to seek judicial relief pursuant to the personal data act.

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(e) If the commission refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and the nondisclosure is not mandated by law, the commission shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If nondisclosure is recommended by such person's medical doctor, the commission shall not disclose the personal data and shall inform such person of the judicial relief provided under the personal data act.

(f) Where required by law, a record shall be maintained of each person, individual, agency or organization that has obtained access to or to which disclosure has been made of personal data in accordance with subsection (c) of section 4-193 of the general statutes, not less than five (5) years from the date of such disclosure or access or for the life of the personal data record, whichever is longer.

(Adopted effective September 18, 2009)

Sec. 10-392-43. Procedures for contesting content

The following procedure shall be used in order to provide an opportunity to contest the accuracy, completeness or relevancy or personal data:

(a) Any individual may file a written request with the commission for correction of personal data pertaining to him or her.

(b) Within thirty (30) days of receipt of such request, the commission shall notify such individual that it shall make the correction, or if the correction is not to be made as submitted, the commission shall state the reason for its denial of such request and notify the person of his or her right to add his or her own statement to his or her employee personal data record.

(c) Following such denial by the commission, the individual requesting such correction shall be permitted to add a statement to his or her personal data record setting forth what that person believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the commission's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data are disclosed.

(Adopted effective September 18, 2009)

Sec. 10-392-44. Uses to be made of personal data

(a) Application files are routinely used in the performance of the commission's statutory mandate to administer and enforce various tax credit and grant programs.

(b) Employment records are routinely used for evaluating the qualifications of employment applicants.

(c) Personnel files are routinely used for recording and evaluating the work performance of commission employees. Personnel files are used also for payroll and other employment-related record-keeping, as required by the department of administrative services, the office

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of the comptroller, the office of policy and management and other legal authorities.

(d) Records contained in the commission's personal data system shall be retained for the period indicated for such records in the commission's retention and destruction of records schedule, as amended from time to time, approved by the state records administrator pursuant to section 11-8a of the general statutes.

(e) When an individual is asked by the commission to supply personal data, the commission, upon request, shall disclose to that individual:

- (1) the name of the commission;
- (2) the legal authority under which the commission is empowered to collect and maintain the personal data;
- (3) the individual's rights pertaining to such records under the personal data act and commission regulations;
- (4) the known consequences arising from supplying or refusing to supply the requested personal data;
- (5) the proposed use to be made of the requested personal data.

(Adopted effective September 18, 2009)