

Regulations of Connecticut State Agencies

TITLE 9. Elections

Agency

State Elections Enforcement Commission

Subject

Organization and Rules of Practice

Inclusive Sections

§§ 9-7b-1—9-7b-97

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Organization and Rules of Practice

I. Definitions

Sec. 9-7b-1. Definitions

The definitions provided by Chapter 54 of the General Statutes and title 9 of the General Statutes shall govern the interpretation and application of sections 9-7b-1 through 9-7b-65, inclusive, and sections 9-7b-82 through 9-7b-97, inclusive, of the Regulations of Connecticut State Agencies. In addition, as used in such regulations, the following words and phrases shall have the following meanings except where such terms are used in a context which clearly indicates the contrary:

(a) “Commission” means the Elections Enforcement Commission of the State of Connecticut established under sections 9-7a and 9-7b of the General Statutes, and any other person duly authorized to act in behalf of the Commission.

(b) “Commissioner” means an individual appointed to serve as a member of the Commission when acting in such capacity.

(c) “Complaint” means a written statement, signed and sworn to under oath and notarized where required by law, alleging a violation or violations of the state election laws or the federal Help America Vote Act, public law 107-252, brought to the Commission under section 9-7b(a)(1) or section 9-7b(a)(17) of the General Statutes, as the case may be.

(d) “Complainant” means an individual who has filed a complaint with the Commission.

(e) “Hearing” means that portion of the Commission’s procedures in the disposition of matters delegated to its jurisdiction by law wherein an opportunity for presentation of evidence and argument occurs, which is preceded by due notice and which includes both an opportunity to present to the Commission such written and oral testimony as the presiding officer deems appropriate and an opportunity to examine and cross examine any witness giving testimony therein.

(f) “Party” means any person named or admitted by the Commission as a party to a contested case, or properly seeking and entitled as of right to be admitted as a party to a contested case.

(g) “Presiding officer” means any commissioner or other duly designated hearing officer appointed to preside at any hearing or other proceeding of the Commission.

(h) “Respondent” means any person against whom a complaint or statement has been filed with the Commission or who is named by the Commission as such in the notice of hearing.

(i) “Statement” means a written statement filed by the Secretary of the State or any town clerk which refers to an alleged violation of the state election law and is submitted to the Commission under section 9-7b(a)(1) of the General Statutes.

(Effective March 23, 1989; Amended July 31, 1998; Amended October 7, 2004)

II. Description Of Organization

Sec. 9-7b-2. Creation and authority

The Commission was established as an independent entity by Section 9-7a of the General Statutes and is described more particularly in said section.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-3. Functions

The Commission is generally empowered to exercise specific grants of authority pursuant to Section 9-7b of the General Statutes for the enforcement of statutes governing elections, primaries and referenda.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-4. Official address

All communications should be addressed to the Elections Enforcement Commission, 20 Trinity Street, Suite 101, Hartford, Connecticut 06106-1628.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-5. Public information

The public may inspect the regulations, decisions and public records of the Commission at its offices in Hartford. There is no prescribed form for requests for information. Written requests should be submitted to the Commission at its official address.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-6. Administration

(a) The Commission shall designate an executive director and general counsel who shall be the chief executive, administrator and legal officer of the Commission. The executive director and general counsel shall keep and maintain in an accessible place all the public records of the Commission.

(b) The Commission's orders, findings and decisions shall be signed on behalf of the Commission by the chairperson. In the absence of the chairperson or upon the delegation of the chairperson or the Commission, any Commissioner, or the executive director and general counsel shall be empowered to sign on the Commission's behalf. Such a signature of any Commissioner or the executive director and general counsel shall be presumed to be duly authorized by the Commission unless and until the contrary is demonstrated in any Commission proceeding or hearing. Where any such document is stamped with the chairperson's signature stamp, it shall be deemed to comply with the signature requirement set forth herein.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-7. Clerk of the Commission

(a) The executive director and general counsel shall designate a clerk of the Commission, who shall from time to time carry out such ministerial duties as the Commission shall require to provide the assistance needed to conduct the Commission's business pursuant to the directions of the executive director and general counsel, or his or her designee acting on behalf of the Commission.

(b) The clerk shall be empowered to sign and to certify as true and correct copies of records of the Commission.

(c) Upon the direction of the executive director and general counsel, or his or her designee, or any Commissioner acting on behalf of the Commission, the clerk shall sign and issue in the name of the Commission such notices, directives, orders, forms, instructions and other official acts of every description as are required for the performance of the duties of the Commission under law.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-8. Hearing officers

(a) The Commission, by its chairperson, may designate a member of the Commission or the Executive Director or Deputy Director of the Commission to be a hearing officer for the purpose of conducting any contested case the Commission shall conduct under the authority of Section 9-7b and Chapter 54 of the General Statutes, provided that, in the event the Executive Director or Deputy Director of the Commission is designated as a hearing officer, he or she shall not personally carry out any of the functions of an investigator in such contested case. The appointment of hearing officers for cases heard under the federal Help America Vote Act shall be governed by Section 9-7b-93 of the Regulations of Connecticut State Agencies.

(b) By such designation the hearing officer shall be empowered to exercise on behalf of the Commission all of the authority to conduct a contested case, hearing or other proceeding delegated to the Commission under Section 9-7b and Chapter 54 of the General Statutes within the limits hereinafter set forth.

(1) The hearing officer shall convene and conduct all hearings required by law within the scope of the Commission's designation.

(2) A member of the Commission's staff may provide technical assistance to the hearing officer and to the Commission. The person designated to provide such technical assistance may act as legal and procedural advisor, subject to the direction of the hearing officer. The designation of a member of the Commission's staff to serve in such capacity shall not in any way diminish the authority of the hearing officer.

(3) The hearing officer shall administer oaths, examine witnesses, receive oral and written evidence, rule on the admissibility of evidence, rule on the order in which the hearing is conducted and on all other aspects of its conduct on behalf of the Commission. Upon conclusion of the hearing, the hearing officer shall submit a proposed final decision to the Commission which shall contain the hearing officer's recommended findings of fact,

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conclusions of law and a recommended order.

(4) In the event the hearing officer finds it necessary to subpoena witnesses to compel their attendance or testimony, or the production of evidence for examination, the hearing officer is authorized to order on behalf of the Commission the issuance of such subpoena as is required for purposes of the hearing. Such subpoena may be signed on behalf of the hearing officer by the executive director or managing director. In the case of the failure to comply with the subpoena or to testify with respect to any matter at the hearing, investigation or other proceeding, the hearing officer shall report to the Commission the need to seek enforcement of the Commission's authority under Section 9-7b of the General Statutes. Upon a majority vote of a quorum of the Commission, the executive director and general counsel shall be empowered to take such action to enforce the subpoena or to compel testimony as may be provided by law.

(Effective July 31, 1998; Amended October 7, 2004; Amended April 26, 2007)

Sec. 9-7b-9—9-7b-10. Reserved

III. Rules of Practice

Article 1. General Provisions

Part 1. Scope and Construction of Rules

Sec. 9-7b-11. Procedure governed

Sections 9-7b-1 through 9-7b-65, inclusive, and sections 9-7b-82 through 9-7b-97, inclusive, of the Regulations of Connecticut State Agencies govern practice and procedure before the Commission except where otherwise provided by law.

(Effective March 23, 1989; Amended July 31, 1998; Amended October 7, 2004)

Sec. 9-7b-12. Construction

Sections 9-7b-1 through 9-7b-65, inclusive, of the regulations of Connecticut state agencies shall be so construed by the Commission and any presiding officer to secure just, speedy and inexpensive determination of the issues presented.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-13. Extensions of time

Except as may hereinafter be provided, the Commission or the presiding officer may, for good cause shown, extend any time limit prescribed or allowed by Sections 9-7b-1 through 9-7b-65, inclusive, of the regulations of Connecticut state agencies. All requests for extensions shall be made before the expiration of the period originally prescribed or as previously extended.

(Effective August 7, 1980; Amended July 31, 1998)

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Sec. 9-7b-14. Effect of filing

The filing with the Commission of any complaint, application, motion, petition or request of any nature whatsoever shall not relieve any person of the obligation to comply with any statute, or with any regulation or order of the Commission.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-15. Consolidation of proceedings

The executive director and general counsel may consolidate proceedings involving related questions of law or fact or involving the same parties.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-16. Rules of conduct

Commissioners and Commission employees are subject to all applicable statutes, codes and regulations governing their conduct as state officials and employees.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-17. Ex parte communication

(a) Unless required for the disposition ex parte of matters authorized by law, no Commissioner or hearing officer who, in a contested case, is to render a final decision or to make a proposed final decision shall communicate, directly or indirectly, in connection with any issue of fact with any person or party, or in connection with any issue of law with any party or his representative without notice and opportunity for all parties to participate.

(b) Notwithstanding the provisions of Subsection (a) of this Section, any Commissioner or other person designated as a hearing officer and the Commissioners may severally communicate with other Commissioners regarding a matter pending before the Commission and the Commission or a hearing officer may receive the aid and advice of members of the Commission's staff as are assigned to assist them in such contested case. This regulation shall not be construed to preclude such routine communications as are necessary to permit the Commission's staff to investigate facts and to conduct informal staff conferences at any time before, during, and after the hearing of a contested case. A staff member who has not been assigned to provide technical assistance to the hearing officer may be designated to communicate with any party or his representative for purposes of effecting a compromise or voluntary resolution of a contested case.

(Effective August 7, 1980; Amended July 31, 1998)

Part 2. Formal Requirements

Sec. 9-7b-18. Principal office

The principal office of the Commission is located at 20 Trinity Street, Suite 101, Hartford, Connecticut. The office of the Commission is open to the public from 8:00 a.m. to 5:00 p.m. each weekday except Saturdays, Sundays and legal holidays. If such office is relocated,

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the Commission shall identify the address of its successor principal office in a notice to be published in the Connecticut Law Journal, which address shall be deemed as the Commission's principal office until this regulation is amended accordingly.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-19. Date of filing

All papers and documents governed by Sections 9-7b-1 through 9-7b-65, inclusive, of the regulations of Connecticut state agencies shall be deemed to have been filed on the date they are recorded as having been received by the Commission at the Commission's principal office.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-20. Signatures

Every statement, report, complaint, application, notice, motion, request, petition, brief and memorandum shall be signed on behalf of the person filing the same. The Commission, in its sound discretion, may waive the requirements of this section where justice so requires.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-21. Identification of communications to the commission

Communications shall contain the name and address of the sender and an appropriate file reference to the subject of the communication. When the subject matter pertains to a proceeding pending before the Commission, the title of the proceeding and the Commission file number shall be given.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-22—9-7b-23. Reserved

Article 2. Complaints and Investigations

Part 1. Complaints and Statements

Sec. 9-7b-24. General rule

Unless otherwise provided by the Commission or the presiding officer, Section 9-7b-25 of the regulations of Connecticut state agencies sets forth the procedure to be followed by any individual asserting a complaint, or the secretary of the state or any town clerk submitting a statement under Sections 9-7b or 9-333y of the General Statutes.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-25. Form of complaint or statement

(a) All complaints shall be in writing and sworn to under oath by the individual submitting same and should include the following components:

- (1) The legal name, address and telephone number of each such individual.

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(2) A concise and explicit statement of facts bearing upon the violation asserted, including, but not limited to, the items that follow:

(A) The date of the alleged violation of any provision of the General Statutes pertaining to or relating to any election, primary or referendum and the appropriate statutory reference or references, if known.

(B) The identity of the person alleged to have committed such violation.

(C) The identity of any other person who may have knowledge of the facts asserted in the complaint.

(D) Any other document or real evidence bearing upon the violation alleged in the complaint.

(b) Any statement submitted by the secretary of the state or a town clerk shall be in writing and should include the same components as stated above for complaints.

(c) If the secretary of the state or town clerk is notifying the Commission of a person who has failed to file a required campaign finance statement in accordance with subsection (b) of Section 9-333y of the General Statutes, the secretary of the state or town clerk shall include, along with such referral, copies of the committee's registration form, delinquent notice and any such correspondence to and from the subject of the referral as may be relevant to the matter referred.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-26. Procedure in response to complaint or statement, or initiation of commission investigation

(a) Within seven calendar days of the receipt of a complaint or statement submitted pursuant to Sections 9-7b or 9-333y of the General Statutes, the Commission shall notify (1) the complainant in writing and (2) any respondent named or referred to in such complaint or statement of the charges made and facts alleged by sending a copy of such complaint or statement or a concise summary of the complaint or statement, whichever is appropriate.

(b) Within seven calendar days of the initiation of an investigation by the Commission, it shall notify in writing the person or persons to be investigated and provide such person or persons with a concise statement of the subject matter of the investigation.

(c) A complaint or statement filed with the Commission may not be withdrawn by the complainant or official filing the statement except with the permission of the Commission.

(Effective March 23, 1989; Amended July 31, 1998)

Part 2. Investigations

Sec. 9-7b-27. Investigations, generally

Statutory authority to conduct investigations on the Commission's own initiative, or with respect to statements filed with the Commission, or upon written complaint under oath by any individual, with respect to alleged violations of any provision of the General Statutes pertaining to or relating to any election, primary or referendum is derived from Section 9-

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7b of the General Statutes.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-28. Subpoenas issued by Commission

(a) With respect to any matter it deems relevant to an investigation or inquiry, the Commission may subpoena witnesses to compel their attendance and testimony, and require the production for examination of any records, documents and papers. A majority vote of a quorum of the Commission shall be required for the issuance of an investigatory subpoena. Any subpoena issued under this section shall be signed on behalf of the Commission by any Commissioner. The presumption of authority as referred to in Section 9-7b-6 of the regulations of Connecticut state agencies shall apply to any subpoena. If any person disobeys any subpoena issued under this section or, having appeared in obedience to it, refuses to answer any pertinent question put to him or her by the Commission or by the presiding officer or to produce any records, documents and papers pursuant to the subpoena, the Commission may apply to the Superior Court for the Judicial District of Hartford for enforcement of the subpoena.

(b) In connection with an investigation of an alleged violation of Chapter 145 or of section 9-359 or 9-359a of the General Statutes, the Commission may subpoena any municipal clerk and require the production of any absentee ballot, inner and outer envelope from which any such ballot has been removed, depository envelope under section 9-150a of the General Statutes, or any other record, form or document prescribed in connection with the absentee voting process, which is related to the investigation.

(c) In connection with an investigation concerning the operation, inspection of or outcome recorded on any voting machine used in any election, primary or referendum, the Commission may issue an order to the municipal clerk to impound such machine until the investigation is completed, pursuant to Section 9-7b(1) and Section 9-310 of the General Statutes.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-29—9-7b-31. Reserved

Article 3. Contested Cases

Part 1. Parties, Intervention and Participation

Sec. 9-7b-32. Designation of parties

(a) In issuing the notice of hearing, the executive director and general counsel or his designee shall designate as a party any person known to the Commission whose legal rights, duties or privileges are required by statute to be determined by a commission proceeding and who is required by law to be a party in a commission proceeding and any person whose participation as a party is then deemed to be necessary to the proper disposition of the proceeding. The respondent or respondents shall be a party or parties to the proceedings.

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Subsequent to the issuance of the notice of hearing, no person before the Commission other than a respondent who is identified in the notice of hearing has standing as a party within the definition set forth in subsection (8) of Section 4-166 of the General Statutes except (1) upon the express order of the hearing officer, and (2) that a complainant shall be a party to a hearing required under the federal Help America Vote Act.

(b) Any person who is not identified as a party in the notice of hearing may petition the hearing officer for admission as a party subsequent to the issuance of the notice and prior to the commencement of oral testimony in any hearing. The petition shall be in writing, signed by the petitioner or his authorized representative and shall be served on the Commission and the parties, at least five days before the hearing. The petition shall state facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the Commission's decision. The hearing officer shall rule on the petition prior to the commencement of any oral testimony in the hearing and shall notify the petitioner of the ruling in writing unless the petitioner is present at the contested case hearing.

(c) The hearing officer may remove as a party any person whose rights, duties or privileges are determined not to be at issue in the contested case.

(d) The conferring of party status shall not be deemed to be an admission by the Commission that such party may be aggrieved by any final decision, order or ruling of the Commission.

(Effective March 23, 1989; Amended July 31, 1998; Amended October 7, 2004)

Sec. 9-7b-33. Intervenor

(a) The hearing officer may grant any person status as an intervenor in a contested case if he or she finds that: (1) the person has submitted a written petition to the hearing officer and served copies to all parties and intervenors at least five days before the hearing; and (2) the petition states facts that demonstrate that the petitioner's participation is in the interest of justice and will not impair the ordinary conduct of the proceeding. An intervenor shall participate only in those portions of the contested case that the hearing officer shall expressly allow.

(b) The conferring of intervenor status by the hearing officer shall not be deemed to be an admission by the Commission that such intervenor may be aggrieved by any final decision, order or ruling of the Commission.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-34. Representation of parties and intervenors

Each person authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the clerk of the Commission. Such appearance may be filed on behalf of parties and intervenors by an attorney, subject to the rules hereinabove stated. The filing of a written appearance may be excused by the hearing officer.

(Effective March 23, 1989; Amended July 31, 1998)

Part 2. Hearings

Sec. 9-7b-35. Commencement of contested case

When a hearing is required by statute and for purposes of section 4-181 of the General Statutes, the contested case shall commence on the date that the notice of hearing is issued by the executive director and general counsel or his designee in accordance with section 9-7b-37 of the regulations of Connecticut state agencies. No contested case concerning an alleged violation of state election law shall be commenced unless a majority vote of a quorum of the Commission finds reason to believe that a violation of the General Statutes within the Commission's jurisdiction has been committed. Such a reason to believe finding shall not be required in cases heard under the federal Help America Vote Act where the commission is serving only as an adjudicator. The commission, however, in its discretion, may make such a reason to believe finding on a complaint brought under the federal Help America Vote Act and may direct its staff to prosecute the matter. Following the issuance of such notice of a contested case, it shall be the responsibility of any party or other person wishing to receive notice of any further proceedings, to notify the Commission of the party or person's change of address and include the Commission file number and title of the proceedings in such notification.

(Effective March 23, 1989; Amended July 31, 1998; Amended October 7, 2004)

Sec. 9-7b-36. Place of hearings

Unless otherwise provided by the Commission or the hearing officer, all hearings of the Commission shall be held at Hartford at the office of the Commission.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-37. Notice of hearings

(a) **Persons notified.** Except when the Commission or the hearing officer shall otherwise direct, the Commission shall give at least ten calendar days written notice of a hearing in any pending matter to all parties, to all persons who have been previously permitted to participate as intervenors and to all persons otherwise required by statute to be notified. Written notice shall be given to such additional persons as the Commission or the hearing officer shall direct.

(b) **Contents of notice.** Notice of a hearing shall include, but shall not be limited to, the following:

- (1) a statement of the time, place and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held and a reference to the particular sections of the statutes and regulations involved; and
- (3) a short and plain statement of the matters asserted or, in lieu thereof, a copy of the complaint.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-38. Continuances or postponements of hearings

After the notice of hearing has been issued, no request for continuance or postponement of hearing shall be granted or permitted unless such request:

(a) is in writing signed by each party to the contested case, or by each such party's attorney; and

(b) states as the reason for the continuance or postponement (1) that the parties are in the process of negotiating a settlement or other resolution of the case and that a continuance or postponement of the hearing is necessary to facilitate the successful completion of such settlement or resolution or (2) other good cause.

(Effective March 23, 1989; Amended July 31, 1998)

Part 3. Hearings, Procedure

Sec. 9-7b-39. General provisions

(a) **Purpose of hearing.** The purpose of any hearing the Commission conducts under Chapter 54 of the General Statutes is to provide all parties an opportunity to present evidence and argument on all issues to be considered by the Commission.

(b) **Conduct of hearing.** The conduct of the hearing shall be determined by the hearing officer subject to the provisions of Chapter 54 of the General Statutes and of these regulations. Each party to the contested case shall submit to the hearing officer a list of the names and addresses, if known, of all witnesses which such party intends to call to testify at the hearing. Such list shall be submitted by seven days prior to the hearing. Failure to provide a list of witnesses may result in exclusion of witness testimony, subject to the discretion of the hearing officer.

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

(d) **Written testimony.** The Commission may, by order of the hearing officer, permit any party or witness to offer testimony in written form. Such written testimony shall be received in evidence with the same force and effect as though it were stated orally by the party or witness who has given the evidence, provided that each such party or witness shall be present at the hearing at which the testimony is offered, shall adopt the written testimony under oath, and shall be made available for cross examination as directed by the hearing officer. Prior to its admission such written testimony shall be subject to objections by parties.

(e) **Order of presentation.** In hearings conducted under this article, the party that shall open and close the presentation of the case shall be the staff member of the Commission who is assigned to prosecute the matter.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-40. Witnesses, subpoenas, and production of records

(a) The hearing officer authorized to conduct the hearing shall have power to administer

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oaths and take testimony under oath relative to the matter of inquiry or investigation.

(b) At any hearing ordered by the Commission, the hearing officer may subpoena witnesses to compel their attendance and require the production or examination of any records, documents and papers pertinent to the subject matter of the hearing. Any party may request that such process be used. The request shall be in writing and contain the following: the name and address of each person upon whom such process is to be served; an adequate description of any records, documents and papers sought to be produced; and a short explanation of the testimony or evidence to be offered at the hearing and its materiality to the subject thereof. It shall be the sole responsibility of the party requesting such process to cause it to be served in accordance with law.

(c) If any person disobeys such process or, having appeared in obedience to it, refuses to answer any pertinent question put to him or her by the hearing officer or to produce any records, documents and papers pursuant to it, the hearing officer shall report the need for enforcement of the subpoena to the Commission. Upon a majority vote of a quorum of the Commission, the executive director and general counsel shall, on behalf of the Commission, seek such order by application to the Superior Court for the judicial district of Hartford, as provided in Section 9-7b of the General Statutes.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-41. Rules of evidence

The following rules of evidence shall be followed in the admission of testimony and exhibits in all hearings in contested cases held under Chapter 54 of the General Statutes.

(a) **General.** Any oral or documentary evidence may be received, but the hearing officer shall, as a matter of policy, exclude irrelevant, immaterial or unduly repetitious evidence. The Commission or hearing officer shall give effect to the rules of privilege recognized by law in Connecticut where appropriate to the conduct of the hearing. Subject to these requirements and subject to the right of any party to cross examine, any testimony may be received in written form as provided in Section 9-7b-39 of the regulations of Connecticut state agencies.

(b) **Documentary evidence, copies.** Documentary evidence may be received at the discretion of the Commission or hearing officer in the form of copies or excerpts, if the original is not found readily available. Upon request by any party an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies, within the provisions of section 52-180 of the General Statutes.

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

(d) **Facts noticed, Commission records.** The Commission or hearing officer may take administrative notice of judicially cognizable facts, including the records and the prior decisions and orders of the Commission. Any exhibit admitted as evidence by the Commission in a prior hearing may be offered as evidence in a subsequent hearing and admitted as an exhibit in such hearing.

(e) **Facts noticed, scope and procedure.** The Commission or hearing officer may take administrative notice of generally recognized technical or scientific facts within the Commission's specialized knowledge. Parties shall be afforded 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 Commission shall employ its experience, technical competence, and specialized knowledge in evaluating the evidence presented at the hearing for the purpose of making its finding of facts and arriving at a final decision.

(Effective March 23, 1989; Amended July 31, 1998)

Part 4. Decision in a Contested Case

Sec. 9-7b-42. Uncontested disposition of complaint or statement

Unless precluded by law, a complaint or statement filed pursuant to Section 9-7b of the General Statutes and Section 9-7b-25 of the regulations of Connecticut state agencies may be resolved by stipulation, agreed settlement, consent order, dismissal, administrative withdrawal without hearing or default. Upon such disposition a copy of the Commission action shall be sent to each party or intervenor and any attorney of record who has filed an appearance with the Commission.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-43. Proposal for decision in a contested case

(a) The Commission will proceed in the following manner in contested cases where a majority of the Commission has not heard the case or read the record. A final decision shall not be adopted by the Commission until a proposed final decision is served upon all of the parties, and until an opportunity has been afforded to each party adversely affected by the proposed final decision to file exceptions, to present briefs, and to make oral argument before the Commission at a Commission meeting. Compliance with this requirement concerning the proposed final decision may be waived by a written stipulation of the parties. The Commission may limit the period of time for argument by serving notice of such limitation upon all of the parties simultaneously with the proposed final decision. For good cause shown, the Commission may enlarge the period for argument if the request is made in writing, stating the reasons therefor, and filed with the Commission on or before the Wednesday immediately prior to the meeting at which such proposed final decision is scheduled to be discussed or acted upon by the Commission.

(b) In no event may new evidence, not admitted into evidence under Section 9-7b-41 of the regulations of Connecticut state agencies, be submitted or considered by the Commission at the Commission meeting at which the proposed final decision is considered. In addition, no party or intervenor may present any argument at the Commission meeting at which the proposed final decision is considered unless such argument had been raised (1) at the hearing in the contested case, or (2) in a bill of exceptions or brief filed with the Commission on

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before the Wednesday immediately prior to the meeting at which the proposed final decision is scheduled to be discussed or acted upon by the Commission, or (3) in the proposed final decision itself.

(c) In the proposed final decision to be served upon the parties, the Commission or hearing officer shall set forth each issue of fact or law that it finds necessary to reach the conclusions contained in the proposed final decision.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-44. Contents of the record in a contested case

The record in a contested case shall include:

- (1) written notices related to the case;
- (2) all petitions, pleadings, motions and intermediate rulings;
- (3) evidence received or considered;
- (4) questions and offers of proof, objections, and the hearing officer's rulings thereon;
- (5) the official transcript, if any, of the proceedings of the case, or, if not transcribed, any recording or stenographic record of the proceeding;
- (6) the proposed final decision and exceptions thereto; and
- (7) the final decision.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-45. Final decision in a contested case

All final decisions and orders of the Commission concluding a contested case shall be in writing or orally stated and shall be made part of the record of such case. The Commission shall serve a copy of its final decision on each party and intervenor in the manner required by Chapter 54 of the General Statutes.

(Effective August 7, 1980; Amended July 31, 1998)

Part 5. Authority to Impose Civil Penalties, Sanctions and to Take Other Action

Sec. 9-7b-46. Authority

(a) The Commission is authorized to act in accordance with the powers granted to it under Sections 9-7b and 9-369b and Chapter 150 of the General Statutes. Except in circumstances when its investigation reveals significant evidence of a criminal violation or violations of the state elections laws within its jurisdiction, the Commission shall attempt to resolve cases pending before it by use of its civil and administrative authority, including but not limited to, the issuance of orders necessary to secure compliance with such laws.

(b) The Commission is authorized to levy civil penalties against any person it finds to be in violation of any provision of the General Statutes enumerated in subsection (2) of Section 9-7b, and Subsection (b) of Section 9-369b of the General Statutes. The Commission shall use the factors specified in Section 9-7b-48 of the regulations of Connecticut state agencies to determine the amount of the civil penalty to be imposed but, in no event, shall

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the amount exceed the statutory authority prescribed in Sections 9-7b or 9-369b, as the case may be.

(c) The Commission is also authorized to issue orders which require (1) the return to the donor or payor or remittance to the state, of money or resources which is prohibited by any provision of Chapter 150 from being given or received, whichever is deemed by the Commission to be necessary to effectuate the purposes of Chapter 150 of the General Statutes; (2) removal of a campaign treasurer, deputy campaign treasurer or solicitor or prohibiting service in such capacity for a period not to exceed four years; (3) revocation of a person's eligibility to be appointed or serve as a primary, referendum or election official; (4) suspension of the political activities of a party or political committee; and (5) compliance with the federal Help America Vote Act.

(Effective March 23, 1989; Amended July 31, 1998; Amended October 7, 2004)

Sec. 9-7b-47. Proceeding which civil penalty or forfeiture is or may be imposed

Unless waived by written stipulation or consent agreement with the Commission, no civil penalty or forfeiture may be imposed by the Commission unless the respondent has had an opportunity to be heard at a hearing as required by Section 9-7b of the General Statutes. Each such hearing shall be considered a contested case within the meaning of Section 9-7b-1 of the regulations of Connecticut state agencies and Chapter 54 of the General Statutes. The proceedings in these cases shall be governed by Section 9-7b-8 and Sections 9-7b-11 through 9-7b-58, inclusive, of the regulations of Connecticut state agencies.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-48. Amount of civil penalty to be imposed, factors considered

In its determination of the amount of the civil penalty to be imposed, the Commission shall consider, among other mitigating or aggravating circumstances:

- (1) the gravity of the act or omission;
- (2) the amount necessary to insure immediate and continued compliance;
- (3) the previous history of similar acts or omissions; and
- (4) whether the person has shown good faith in attempting to comply with the applicable provisions of the General Statutes.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-49. Collection of penalties and forfeitures

Any civil penalty collected by, or monies remitted to the Commission pursuant to Sections 9-7b, 9-333y or 9-369b of the General Statutes and Sections 9-7b-46 through 9-7b-51 of the regulations of Connecticut state agencies shall be deposited in the general fund.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-50. Failure to pay penalties or comply with orders, enforcement

Upon an order or final decision of the Commission that a civil penalty or forfeiture of

money or resources shall be paid or made, as the case may be, it shall notify the person against whom such order or decision has been issued in writing by certified or registered mail of the Commission's order or decision. Unless the order or decision otherwise directs, such notice shall include a statement to the effect that in the event of failure to comply with such order or decision within thirty (30) days of the date of such notice by the Commission, the Commission may apply to the superior court for the judicial district of Hartford for enforcement of its decision or order. Any costs or fees incurred by the Commission to enforce its order or decision shall be recoverable from the respondent.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-51. Imposition of civil penalty or forfeiture not a bar to exercise of commission's other powers and duties

Unless the written stipulation, agreed settlement, order or decision expressly states otherwise, the imposition of a civil penalty or requirement of forfeiture by the Commission against a person shall not preclude the Commission from exercising its other powers and duties prescribed in Sections 9-7b, 9-333y or 9-369b of the General Statutes.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-52—9-7b-53. Reserved

Part 6. Consent Orders and Written Stipulations

Sec. 9-7b-54. General provisions

(a) A respondent may agree to enter into a written consent order or stipulation in any matter pending before the Commission and in lieu of a hearing in a contested case. The adoption of a consent order is within the complete discretion of the Commission.

(b) Any attorney who attempts to negotiate a settlement, consent order or stipulation on behalf of a respondent or other individual or entity shall file an appearance, letter of representation or statement of authority to conduct negotiations on behalf of such respondent, individual or entity.

(c) A consent order or stipulation shall contain:

- (1) an admission of all jurisdictional facts;
- (2) an express waiver of the requirements that the decision of the Commission contain findings of facts and conclusions of law separately stated;
- (3) an express waiver of the right to seek judicial review or otherwise contest the validity of the order;
- (4) a statement that the consent order or stipulation shall have the same force and effect as provided by statute for other final decisions or orders and shall become final when issued; and
- (5) the signature of the chairperson of the Commission or an authorized representative.

(Effective March 23, 1989; Amended July 31, 1998; Amended April 26, 2007)

Sec. 9-7b-55. Public records

Upon its adoption by the Commission, the consent order or written stipulation shall be a matter of public record and shall be available for public inspection in the office of the Commission.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-56. Notice to parties and intervenors

Upon its adoption by the Commission, the consent order or written stipulation shall be delivered or mailed within five (5) calendar days of its adoption to each party, intervenor or any attorney of record filing an appearance on behalf of such party or intervenor.

(Effective March 23, 1989; Amended July 31, 1998)

Sec. 9-7b-57. Force and effect

Upon its adoption by the Commission, the consent order or written stipulation shall have the same force and effect as a final decision and order issued following a hearing in a contested case.

(Effective March 23, 1989; Amended July 31, 1998)

Article 4. Miscellaneous Proceedings

Part 1. Informal Conference

Sec. 9-7b-58. General provisions

(a) Upon receipt of a complaint or statement, or upon initiation by a majority vote of a quorum of the Commission of an investigation, as provided in Section 9-7b of the General Statutes, the Director of Legal Affairs and Enforcement shall assign the matter for investigation by the staff of the Commission provided the complaint or statement sets forth sufficient facts and allegations which, if true, would constitute a violation of the Connecticut General Statutes or the federal Help America Vote Act within the Commission's jurisdiction. In the event of an initiation by the Commission, the Director of Legal Affairs and Enforcement shall assign the matter for an investigation.

(b) The Director of Legal Affairs and Enforcement may call in a respondent or any person who is being investigated for an informal conference concerning the subject matter of the complaint, statement or investigation. At least three (3) days written notice shall be given to the respondent or person, as the case may be, of such informal conference. Such notice shall contain:

- (1) the date, time and place of the conference;
- (2) a reference to the statute or regulation allegedly violated or which is the subject matter of the complaint, statement or investigation, or in lieu thereof, a copy of the complaint or statement;
- (3) a short summary of the facts surrounding the alleged violation or the matter of inquiry, or in lieu thereof, a copy of the complaint or statement; and

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(4) an explanation that the respondent or person, as the case may be, may be accompanied by counsel, if he so desires.

(c) Informal conferences need not be recorded and transcribed. Section 9-7b-8 and Sections 9-7b-32 through 9-7b-57, inclusive, and Sections 9-7b-88 through 9-7b-95, inclusive, of the Regulations of Connecticut State Agencies as amended from time to time shall not apply to informal conferences.

(Effective March 23, 1989; Amended July 31, 1998; Amended October 7, 2004; Amended April 26, 2007)

Part 2. Petitions Concerning Adoption of Regulations

Sec. 9-7b-59. Regulation making functions

Statutory authority to adopt, amend or repeal regulations is derived from Section 9-7b and Chapter 54 of the General Statutes.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-60. General rule

Sections 9-7b-61 and 9-7b-62 of the Regulations of Connecticut State Agencies set forth the procedure to be followed by the Commission in the disposition of a petition concerning the adoption, amendment or repeal of regulations.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-61. Form of petition

Any person may petition the Commission or the Commission may on its own motion initiate a proceeding to adopt, amend, or repeal any regulation. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment, or repeal. The petition shall contain the name and address of the petitioner. Such petition shall also state the facts and arguments that favor the action it proposes by including such data, facts, and arguments in the petition or in a brief annexed thereto. The petition shall be addressed to the Commission and delivered to it at its office.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-62. Procedure after petition filed

(a) **Decision on petition.** Upon receipt of the petition the Commission shall within thirty (30) days determine whether to deny the petition or to initiate regulation making proceedings in accordance with law.

(b) **Procedure on denial.** If the Commission denies the petition, the Commission shall give the petitioner notice in writing, stating the reasons for the denial based upon the data, facts, and arguments submitted with the petition by the petitioner and upon such additional data, facts and arguments as the Commission shall deem appropriate.

(Effective August 7, 1980; Amended July 31, 1998)

Part 3. Petitions For Declaratory Rulings

Sec. 9-7b-63. General rule

Sections 9-7b-63 through 9-7b-65, inclusive, of the Regulations of Connecticut State Agencies set forth the procedure to be followed by the Commission in the disposition of a petition for a declaratory ruling as to the applicability to specified circumstances of any provision of Chapter 150 of the General Statutes, or of any regulation or final decision on a matter within the Commission's jurisdiction, or the validity of any regulation of the Commission. The Commission shall not issue a declaratory ruling when the subject of the petition concerns actions of a third party which have occurred. However, the Commission shall notify the petitioner of the complaint procedure as contained in Section 9-7b-25 of the regulations of Connecticut state agencies.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-64. Form of petition for declaratory ruling

Any person may petition the Commission, or the Commission may on its own motion initiate a proceeding, for a declaratory ruling as to the validity of any of its regulations, or the applicability to specified circumstances of any provision of Chapter 150 of the General Statutes, a regulation, or a final decision on a matter within the Commission's jurisdiction. The petition shall conform to Section 9-7b-64 of the regulations of Connecticut state agencies. Such petition shall be addressed to the Commission and delivered to it at its office. The petition shall contain the name and address of such petitioner. The petition shall (1) state clearly and concisely the substance and nature of the petition; (2) identify the statute, regulation or order concerning which the petition is made; and (3) identify the particular aspect thereof to which the petition is directed. The petition for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the petitioner.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-65. Procedure after petition for declaratory ruling filed

(a) **Notice.** Within thirty days after receipt of a petition for a declaratory ruling, the Commission shall give notice of the petition to all persons who have requested notice of the declaratory ruling petitions on the subject matter of the petition.

(b) **Parties and intervenors.** If the Commission finds that a timely petition to become a party or to intervene has been filed according to Section 9-7b-32(b) of the regulations of Connecticut state agencies, the Commission: (1) may grant a person status as a party if the Commission finds that the petition states the facts demonstrating that the petitioner's legal rights, duties or privileges shall be specifically affected by the Commission proceedings; and (2) may grant a person status as an intervenor if the Commission finds that the petition states facts demonstrating that the petitioner's participation is in the interests of justice and will not impair the orderly conduct of the proceedings. The Commission may define an

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intervenor's participation in the manner set forth in Subsection (d) of Section 4-177a of the General Statutes.

(c) **Commission action.** Within sixty days after receipt of petition for a declaratory ruling, the Commission in writing shall: (1) issue a ruling declaring the validity of a Regulation or the applicability of the provision of the General Statutes, the Regulation, or the final decision in question to the specified circumstances, (2) order the matter set for specified proceedings, (3) agree to issue a declaratory ruling by a specified date, (4) decide not to issue a declaratory ruling and initiate regulation-making proceedings, under Section 4-168 of the General Statutes, on the subject, or (5) decide not to issue a declaratory ruling, stating the reasons for its action.

(d) **Provision for hearing.** If the Commission deems a hearing necessary or helpful in determining any issue concerning the petition for a declaratory ruling, the Commission shall schedule such hearing and give such notice thereof as shall be appropriate. Sections 9-7b-8, 9-7b-11 through 9-7b-21, inclusive, 9-7b-28, and 9-7b-32 through 9-7b-45, inclusive, of the regulations of Connecticut state agencies govern the practice and procedure of the Commission in any hearing concerning a declaratory ruling.

(Effective August 7, 1980; Amended July 31, 1998)

Sec. 9-7b-66—9-7b-68. Repealed

Repealed July 31, 1998.

Sec. 9-7b-69—9-7b-74. Reserved

Part 4. Personal Data System

Sec. 9-7b-75. Personal data, definitions

When used in Sections 9-7b-75 to 9-7b-81 of the regulations of Connecticut state agencies, inclusive, 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 of access to 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 is stored, in whole or part, in a computer or in computer accessible files.

(e) "Case file" means that compilation of personal data, in either manual or automated

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form, relating to a specific Commission audit, investigation, contested case, advisory opinion, declaratory ruling or court case.

(f) “Commission” means the State Elections Enforcement Commission.

(g) “Computer accessible files” means any personal data which is 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 any processing device, including computers or telecommunications control units, punched cards, paper or film which is optically scanned.

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

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

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

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

(l) “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 1-19 of the General Statutes.

(m) “Personal data system” means a collection of records containing personal data.

(n) “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.

(o) “Record” means any collection of personal data, defined in subsection (l), which is collected, maintained or disseminated.

(p) “Categories of personal data” means the classifications of personal information set forth in subdivision (9) of Section 4-190 of the General Statutes.

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

(Effective November 1, 1989; Amended July 31, 1998)

Sec. 9-7b-76. Categories of personal data in the commission’s personal data system

The categories of personal data maintained by the Commission consist of case files, employment records and personnel files. In addition, the Commission maintains a general correspondence file which contains other data. Records of personal data are maintained on agency personnel and employment applicants. Case files may also contain personal data

concerning parties, witnesses and other persons.

(Effective November 1, 1989)

Sec. 9-7b-77. 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 case files in fulfillment of its statutory duties under Sections 9-7a and 9-7b of the General Statutes;

(2) the qualifications of employment applicants; and

(3) employees' 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 office at 20 Trinity Street, Hartford, Connecticut 06106. The Commission is responsible for maintaining the system and requests for disclosure or amendment of information should be made in care of the Commission's executive director or managing director. The Commission's routine sources of personal data are witnesses, parties, public records, employment applications, personal resumes and Department of Administrative Services and State Comptroller forms.

(Effective November 1, 1989; Amended July 31, 1998)

Sec. 9-7b-78. 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) All employees who function as custodians for the Commission's personal data system, or are involved in its operation, shall be given a copy of the provisions of the Personal Data Act, these regulations, and a copy of the Freedom of Information Act.

(c) 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.

(d) 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.

(e) 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 and 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

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Commission's personal data system.

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

(g) 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.

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

(i) 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.

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

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

(Effective November 1, 1989; Amended July 31, 1998)

Sec. 9-7b-79. 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 the information. The Commission promptly shall mail or deliver to the requesting individual a written response in plain language.

(b) Where required by law, the Commission shall disclose to any person upon request all personal data concerning that person which is maintained by the Commission. Where required by law, such disclosure shall be made 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 identity 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 non-disclosure 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 provided by Section 4-195 of the General Statutes.

(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 Section 4-195 of the General Statutes.

(f) The Commission shall maintain a record of each person, individual, agency or organization who has obtained access to or to whom disclosure has been made of personal data in accordance with subsection (c) of Section 4-193 of the General Statutes, together with a reason for each such disclosure or access. This record shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer. This record shall be disclosed to any person upon written request.

(Effective November 1, 1989)

Sec. 9-7b-80. Procedures for contesting content

The following procedure shall be used in order to provide an opportunity to contest the accuracy, completeness or relevancy of 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 days of receipt of such request, the Commission shall notify such individual that it will 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 records.

(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 he or she 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 is disclosed.

(Effective November 1, 1989)

Sec. 9-7b-81. Uses to be made of the personal data

(a) Case files are routinely used in the performance of the Commission's statutory mandate under Section 9-7b to administer and enforce Chapter 150, the campaign financing act, and to enforce the provisions of General Statutes relating to elections, primaries and referenda.

(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 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 requesting the personal data;
- (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.

(Effective November 1, 1989; Amended July 31, 1998)

Article 5. Help America Vote Act Administrative Complaint Procedure

Part 1. Complaints under Title III of the federal Help America Vote Act

Sec. 9-7b-82. Help America Vote Act complaints

A person who believes that a violation of Title III of the federal Help America Vote Act of 2002, Public Law 107-252, 42 USC 15481 to 15502, inclusive, as amended from time to time, has occurred, is occurring or is about to occur may file a complaint with the Commission. Such complaints may encompass voting system standards, identification requirements for voting at federal elections if registration was by mail, statewide computerized voter registration and list maintenance, provisional ballot voting, voting information requirements and content of voter registration forms, and shall be subject to the uniform and non-discriminatory complaint process set forth in sections 9-7b-83 to 9-7b-97, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective October 7, 2004)

Sec. 9-7b-83. Contents of complaint

A complaint filed pursuant to the federal Help America Vote Act shall be:

- (1) in writing, notarized and signed and sworn by the complainant, and shall include the complainant's address and telephone number;
- (2) provide the name or title of the respondent or respondents and a concise statement of facts alleged in support the claim that a violation of 42 USC 15481 to 15502, inclusive, occurred, is occurring or is about to occur;
- (3) filed at the Commission's offices in Hartford, Connecticut, not later than 30 days after the action, occurrence or event that forms the basis for the complaint or the belief of the complainant that a violation of 42 USC 15481 to 15502, inclusive, is about to occur; or

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(4) filed at the Commission's offices in Hartford, Connecticut, not later than 30 days after the complainant knew or, with the exercise of reasonable diligence, should have known of the action, occurrence or event that forms the basis for the complaint or the belief of the complainant that a violation of 42 USC 15481 to 15502, inclusive, is about to occur, whichever is later.

(Adopted effective October 7, 2004)

Sec. 9-7b-84. Copies of the complaint

Within four calendar days of the receipt of such a complaint, the Commission shall notify the complainant and all respondents as prescribed in section 9-7b-26(a) of the Regulations of Connecticut State Agencies.

(Adopted effective October 7, 2004)

Sec. 9-7b-85. Review of complaint

(a) The executive director and general counsel of the Commission or his or her designee shall review each complaint filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies to determine whether the complaint:

(1) Alleges facts, which if proven true, would constitute a violation of 42 USC 15481 to 15502, inclusive; and

(2) Complies with the requirements of section 9-7b-83 of the Regulations of Connecticut State Agencies.

(b) If the complaint fails to allege facts, which if proven true, would constitute a violation of 42 USC 15481 to 15502, inclusive, or does not comply with section 9-7b-83 of the Regulations of Connecticut State Agencies, the complaint will be dismissed without further action and notice of the dismissal as well as the reason therefore will be provided to the complainant, and any respondent identified by the complainant. Such determination shall also be available to the public, pursuant to 42 USC 15512.

(Adopted effective October 7, 2004)

Sec. 9-7b-86. Re-filing of dismissed complaint

A complainant whose complaint has been dismissed for failure to allege a violation of 42 USC 15481 to 15502, inclusive, or which does not comply with section 9-7b-83 of the Regulations of Connecticut State Agencies, may re-file a single time within the time period set forth in section 9-7b-83 of the Regulations of Connecticut State Agencies.

(Adopted effective October 7, 2004)

Sec. 9-7b-87. Consolidation of complaints

The executive director and general counsel of the Commission may consolidate complaints filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies if the complaints (1) relate to the same action, occurrence or event; (2) involve the same parties; or (3) raise a common question of law or fact. All interested parties shall

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be notified if two or more complaints have been consolidated. Any complaints that are consolidated may be subsequently severed by the executive director and general counsel if justice so requires.

(Adopted effective October 7, 2004)

Part 2. Hearings

Sec. 9-7b-88. Hearings

At the request of the complainant, there shall be a hearing on the record with respect to a complaint filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies. Any such request by a complainant shall be submitted to the Commission in writing and signed by the complainant, and the Commission shall send written notice of such request to any respondent.

(Adopted effective October 7, 2004)

Sec. 9-7b-89. Time for hearing request

A complainant shall request a hearing with respect to a complaint filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies not later than 30 days after the date that the complaint is filed with the Commission. A complainant may withdraw his or her complaint and/or request for a hearing in writing at any time prior to the taking of evidence at the hearing, and the Commission shall send written notice of such withdrawal to any respondent.

(Adopted effective October 7, 2004)

Sec. 9-7b-90. Time for hearing and final determination

A hearing requested by the complainant with respect to a complaint filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies shall be held not later than 60 days after the date that the complaint is filed with the Commission, unless the complaint is dismissed pursuant to section 9-7b-85 of the Regulations of Connecticut State Agencies. The Commission shall make a final determination with respect to the complaint not later than 90 days after the complaint is filed with the Commission, unless the complainant waives the 90 day time period or consents to a longer period for making such a determination. Any such waiver of the 90 day time period for making a determination shall be in writing and signed by the complainant.

(Adopted effective October 7, 2004)

Sec. 9-7b-91. Notice of hearings

Except when the Commission or the hearing officer shall otherwise direct, the Commission shall give at least seven calendar days written notice of a hearing conducted pursuant to the federal Help America Vote Act in any pending matter to all parties, to the complainant, respondent and all persons who have been previously permitted to participate

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as intervenors and to all persons otherwise required by statute to be notified. The notice of hearing shall otherwise comport with the requirements of section 9-7b-37 of the Regulations of Connecticut State Agencies.

(Adopted effective October 7, 2004)

Sec. 9-7b-92. Request for continuance

Once a complaint filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies has been scheduled for a hearing, no continuances may be granted unless: (1) the complainant files an express written waiver of the 90 day time period for a final determination required by the federal Help America Vote Act; or (2) the respondent files a written request for a continuance that is supported by good cause, if such request for continuance would not cause the matter to continue beyond the 90 day time period for a final determination required by the federal Help America Vote Act.

(Adopted effective October 7, 2004)

Sec. 9-7b-93. Hearing officers

The Commission, by its chairperson or executive director and general counsel, may designate a member of the Commission or an attorney who is a staff member of the Commission to serve as a hearing officer for the purpose of hearing any contested case conducted pursuant to a complaint alleging a violation of Title III of the federal Help America Vote Act and filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies, except that a staff member who participated in an investigation or prosecution of a complaint shall not be eligible to serve as a hearing officer in the same matter.

(Adopted effective October 7, 2004)

Sec. 9-7b-94. Conduct of hearing

A hearing on a complaint filed pursuant to section 9-7b-82 of the Regulations of Connecticut State Agencies shall be a contested case within the meaning of section 4-166 of the Connecticut General Statutes and such hearing shall be conducted in accordance with Chapter 54 of the Connecticut General Statutes. The complaint process and hearing of complaints brought under the federal Help America Vote Act shall also comport with the procedures established in sections 9-7b-1 to 9-7b-65, inclusive, of the Regulations of Connecticut State Agencies, except as otherwise provided in sections 9-7b-82 to 9-7b-97, inclusive, of the Regulations of Connecticut State Agencies.

(Adopted effective October 7, 2004)

Sec. 9-7b-95. Order of presentation

In hearings conducted on complaints filed pursuant to the federal Help America Vote Act and section 9-7b-82 of the Regulations of Connecticut State Agencies, the party that shall open and close the presentation of the case shall be the complainant, who shall have the

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burden of proving a violation of Title III of the federal Help America Vote Act of 2002, Public Law 107-252, 42 USC 15481 to 15502, inclusive, as amended from time to time, unless the complainant waives the 90 day time period for a determination and the matter is consolidated with a complaint or investigation alleging a violation of state election law or the Commission makes a finding that there is reason to believe that a violation of the Help America Vote Act occurred, is occurring or is about to occur and directs staff to prosecute the matter, pursuant to section 9-7b-35 of the Regulations of Connecticut State Agencies. In such instance, the order of presentation shall be as prescribed in section 9-7b-39 of the Regulations of Connecticut State Agencies.

(Adopted effective October 7, 2004)

Sec. 9-7b-96. Remedy

If the Commission determines that a violation of Title III of the federal Help America Vote Act has occurred, is occurring or is about to occur, it shall provide the appropriate remedy, including, but not limited to, an order to a respondent commanding the respondent to take specified action or prohibiting the respondent from taking specified action, with respect to a past, present or future election. Such a remedy shall not include an award of money damages or attorney's fees, but may include a civil penalty if the violation also constitutes a violation of sections 83 to 90 of June 30 Special Session public act 03-6, pursuant to public act 04-74, and in accordance with section 9-7b-48 of the Regulations of Connecticut State Agencies.

(Adopted effective October 7, 2004)

Part 3. Alternative Dispute Resolution Procedure

Sec. 9-7b-97. Alternative procedure in the event of failure to meet deadline for determination

If the Commission fails to meet the deadline applicable under section 9-7b-90, the complaint shall be resolved within 60 days thereafter under the following procedure, as required by 42 USC 15512 and public act 04-74:

A member of the Commission shall be assigned by the Chairperson of the Commission within five days of the expiration of the 90 day period to resolve the matter within 60 days of the expiration of the 90 day period. If a hearing has been conducted, the member of the Commission assigned to resolve the matter shall have access to the record of the hearing, including any exhibits and testimony received by the hearing officer. If no hearing has been conducted, but the complainant has requested one, the Commission member shall forthwith conduct a hearing, and report a recommended decision to the Commission, which shall decide the matter not later than 60 days following the expiration of the 90 day period following the filing of the complaint. Such Commissioner shall have access to any records or materials that were part of the complaint process prior to the expiration of the 90 day

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period.

(Adopted effective October 7, 2004)