
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 809 Session of
2019

INTRODUCED BY BAKER, FOLMER, MUTH, LEACH, COLLETT, KEARNEY,
BLAKE, SCHWANK, HUGHES, SANTARSIERO, YUDICHAK, COSTA,
BREWSTER AND HAYWOOD, AUGUST 7, 2019

REFERRED TO JUDICIARY, AUGUST 7, 2019

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in Judicial Conduct
3 Board, further providing for staff and operations and
4 establishing the Pennsylvania Commission on Legislative
5 Conduct.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 2104 of Title 42 of the Pennsylvania
9 Consolidated Statutes is amended to read:

10 § 2104. Staff and operations.

11 (a) Operations.--The Judicial Conduct Board shall [appoint]
12 do all of the following:

13 (1) Appoint a chief counsel and other staff.

14 (2) Subject to section 2107(a)(2) (relating to
15 Pennsylvania Commission on Legislative Conduct), prepare and
16 administer its own budget as provided by law[, exercise].

17 (3) Exercise supervisory and administrative authority
18 over all board staff and board functions[, establish].

19 (4) Establish and promulgate its own rules of

1 procedure[, prepare].

2 (5) Employ staff for the Pennsylvania Commission on
3 Legislative Conduct, consisting of an attorney at law to
4 serve as executive director. The board may utilize this staff
5 to perform other board functions which do not materially and
6 adversely impact commission functions.

7 (6) Prepare and disseminate an annual report [and take].

8 (7) Take other actions as are necessary to ensure its
9 efficient operation.

10 (b) Budget.--The budget request of the board shall be made
11 by the board as a separate item in the request submitted by the
12 Supreme Court on behalf of the [Judicial Board] board to the
13 General Assembly.

14 Section 2. Title 42 is amended by adding a section to read:
15 § 2107. Pennsylvania Commission on Legislative Conduct.

16 (a) Establishment and duties.--

17 (1) The Pennsylvania Commission on Legislative Conduct
18 is established as a unit of the Judicial Conduct Board.

19 (2) The commission shall prepare and administer its own
20 budget. The budget request of the commission shall be made as
21 a separate item in the board's budget under section 2104(a)
22 (2) (relating to staff and operations). The commission shall
23 exercise supervisory and administrative authority over:

24 (i) commission staff under section 2104(a)(5); and

25 (ii) commission functions.

26 (3) For conduct within the scope of their duties,
27 commissioners and commission staff under section 2104(a)(5):

28 (i) enjoy sovereign immunity and official immunity
29 and remain immune from suit under 1 Pa.C.S. § 2310
30 (relating to sovereign immunity reaffirmed; specific

1 waiver); and

2 (ii) are immune from professional or occupational
3 administrative disciplinary action.

4 (b) Membership.--

5 (1) Except for an appointee who is a member of the
6 General Assembly, all of the following subparagraphs apply:

7 (i) An appointee must not be an elected public
8 officer or a public employee of the Commonwealth.

9 (ii) An appointee must have expertise in one of the
10 following areas:

11 (A) Human relations.

12 (B) Personnel.

13 (C) Law related to discrimination or harassment
14 based on:

15 (I) race, national origin or ancestry;

16 (II) sex;

17 (III) age;

18 (IV) religion;

19 (V) education, specifically including the
20 type of high school diploma received; or

21 (VI) disability, including use of a guide or
22 support animal for disability and relationship to
23 an individual with a disability.

24 (D) Finance.

25 (E) Financial disclosure requirements.

26 (2) Commissioners shall be appointed as follows:

27 (i) The President pro tempore of the Senate shall
28 appoint:

29 (A) one commissioner who is a member of the
30 Senate; and

1 (B) two additional commissioners.
2 (ii) The Minority Leader of the Senate shall
3 appoint:

4 (A) one commissioner who is a member of the
5 Senate; and

6 (B) two additional commissioners.
7 (iii) The Speaker of the House of Representatives
8 shall appoint:

9 (A) one commissioner who is a member of the
10 House of Representatives; and

11 (B) two additional commissioners.

12 (iv) The Minority Leader of the House of
13 Representatives shall appoint:

14 (A) one commissioner who is a member of the
15 House of Representatives; and

16 (B) two additional commissioners.

17 (v) The board shall appoint one member.

18 (c) Terms.--

19 (1) Except as set forth in paragraph (2), a commissioner
20 shall serve at the pleasure of the appointing authority and
21 until a successor is appointed.

22 (2) A commissioner under subsection (b) (2) (i) (A), (ii)
23 (A), (iii) (A) or (iv) (A) shall serve ex officio.

24 (d) Procedure.--

25 (1) A majority of the commissioners constitute a quorum.

26 (2) Action of the commission must be taken by a majority
27 vote of the commissioners present.

28 (3) The commissioner under subsection (b) (2) (v):

29 (i) shall be counted for purposes of determining a
30 quorum; but

1 (ii) may only vote if there is a tie on a question
2 before the commission.

3 (4) All of the following apply to complaints under
4 subsection (e):

5 (i) A complaint may be made anonymously.

6 (ii) A complaint from a named source must be in
7 writing and verified.

8 (iii) A complaint is subject to 18 Pa.C.S. § 4904
9 (relating to unsworn falsification to authorities).

10 (iv) A civil action may not be predicated upon the
11 filing of a complaint.

12 (v) Professional or occupational administrative
13 disciplinary action may not be predicated upon the filing
14 of a complaint.

15 (5) The commission may promulgate regulations to govern
16 procedure.

17 (e) Jurisdiction.--The commission has jurisdiction over a
18 complaint filed by a person or initiated by the commission
19 against a seated member of the General Assembly alleging any of
20 the following:

21 (1) The member has engaged in conduct in violation of a
22 provision of the Constitution of Pennsylvania or a statutory
23 provision.

24 (2) The member has violated any of the following:

25 (i) The Ethical Conduct Rules of the Senate.

26 (ii) The Financial Operating Rules of the Senate.

27 (iii) The Ethical and Professional Conduct Rules of
28 the House of Representatives.

29 (3) The member has been sentenced for an offense graded
30 higher than a misdemeanor of the first degree.

1 (f) Hearing.--

2 (1) Upon filing of a complaint under subsection (e), the
3 commission may recommend interim action and shall conduct a
4 hearing. A hearing under this subsection is subject to 2
5 Pa.C.S. Ch. 5 Subch. A (relating to practice and procedure of
6 Commonwealth agencies).

7 (2) The commission may issue a subpoena to require
8 testimony or produce a document and may enforce the subpoena
9 in Commonwealth Court under section 761(a)(2) (relating to
10 original jurisdiction).

11 (3) If the subject of a hearing is charged with a felony
12 by indictment or by filing of an information, the hearing
13 shall be suspended pending resolution of the criminal charge.

14 (4) A civil action may not be predicated upon any of the
15 following:

16 (i) Submission of a document under paragraph (2).

17 (ii) Testimony in a hearing.

18 (5) Professional or occupational administrative
19 disciplinary action may not be predicated upon any of the
20 following:

21 (i) Submission of a document under paragraph (2).

22 (ii) Testimony in a hearing.

23 (g) Findings and recommendations.--Upon conclusion of a
24 hearing under subsection (f):

25 (1) The commission shall issue findings of fact.

26 (2) The commission shall recommend one of the following
27 to the appropriate chamber of the General Assembly:

28 (i) Exoneration of the member.

29 (ii) Reprimand of the member.

30 (iii) Removal of the member from assignments to

1 committees and from other assignments.

2 (iv) Expulsion of the member under section 11 of
3 Article II of the Constitution of Pennsylvania.

4 (v) Any other discipline authorized by the
5 Constitution of Pennsylvania or warranted by the hearing.

6 (h) Right-to-Know Law.--For purposes of paragraph (2) of the
7 definition of public record in section 102 of the act of
8 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law,
9 all of the following apply:

10 (1) The following are exempt from being disclosed:

11 (i) The contents of a complaint under subsection
12 (e), unless the exemption is waived by all of the
13 following:

14 (A) The subject of the complaint.

15 (B) The person that filed the complaint. This
16 clause does not apply to a complaint initiated by the
17 commission.

18 (ii) Information or evidence acquired by the
19 commission in the conduct of a hearing under subsection
20 (f), unless the exemption is waived by all of the
21 following:

22 (A) The subject of the complaint.

23 (B) The person that filed the complaint. This
24 clause does not apply to a complaint initiated by the
25 commission.

26 (2) The following are not exempt from being disclosed:

27 (i) The filing of a complaint under subsection (e).

28 (ii) Recommendations under subsection (g) (2).

29 (i) Annual report.--The commission shall submit an annual
30 report to the Secretary of the Senate and the Chief Clerk of the

1 House of Representatives.

2 Section 3. This act shall take effect immediately.