

TITLE 1: GOVERNMENT
DIVISION 9: MISCELLANEOUS PROVISIONS

§ 9902. Definitions.

As used in this chapter, unless the context indicates otherwise:

(a) “Action” means the transaction of official business of a public agency by a governing body, including but not limited to receipt of public testimony, deliberation, discussion, consideration, review, evaluation, and final action.

(b) “Final action” means a collective positive or negative decision, or an actual vote by a majority of the members of a governing body when sitting as a body or entity, upon a motion, proposal, resolution, order or ordinance.

(c) “Governing body” means the multimember board, commission, committee, council or other policy or rule-making body of a public agency, or any committee thereof when the committee acts on behalf of the governing body, conducts hearings, or takes testimony or public comments. Agencies of the Commonwealth government with no apparent governing body, such as the Attorney General’s office and the Department of Public Safety, are nonetheless subject to the provisions of this chapter when they have a policy or rule-making body with the power to carry out actions on behalf of the agency, conduct hearings, or take testimony or public comments.

(d) “Meeting” means the convening of the full membership of a government corporation, council, commission, agency, board, or elected municipal council for which notice and a quorum is required in order to make a decision or to deliberate toward a decision upon a matter over which the corporation, council, commission, agency, board, or elected municipal council has supervision, control, jurisdiction, or advisory power. Standing committee meetings, subcommittee meetings, ad hoc and informal meetings shall not be compensable. Honorarium compensation shall be considered income and shall be taxable.

(e) “Public agency” means:

(1) Any Commonwealth board, commission, committee, department, education institution, or other Commonwealth agency which is created by or pursuant to statute, constitution, or the Covenant, except the judiciary;

(2) Any municipality or political subdivision of the Commonwealth; and

(3) Any subagency of a public agency which is created by or pursuant to statute, ordinance, or other legislative act.

(f) “Public record” means any record which a public agency is required by law to keep or which it is necessary to keep in discharge of duties imposed by law. Such public records may include, but are not limited to, any written or printed report, book or paper, map or plan, but shall not include records which invade the right of privacy of an individual or business entity.

Source: PL 8-41, § 3, modified; amended by PL 9-2, § 2; (d) amended by PL 15-32, § 4.

Commission Comment: PL 15-32 was enacted on September 28, 2006 and contained the following short title and findings and purpose provisions in addition to severability and savings clauses and an amendment to 1 CMC § 8247:

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Section 1. Short Title. This Act may be cited as the “Boards and Commissions Reform Act of 2006.”

Section 2. Findings and Purpose. The Commonwealth Legislature finds that the CNMI is experiencing a severe financial crisis. It is incumbent upon executive and legislative leaders to find methods of cutting the cost of doing the government’s business. The Legislature further finds that the Office of the Public Auditor (OPA) conducted a survey on the practice of members of government boards and commissions with respect to compensation for attendance at board or commission meetings. OPA found that excessive and unconscionable abuse of privilege and power exist among some boards and commissions. A few boards and commissions established excessive compensation rates, additional compensation such as official representation allowance, or both. Other boards and commissions claim compensation for attendance at informal meetings or non-committee meetings, and meetings outside the Commonwealth in violation of the Open Government Act of 1992.

The Legislature finds that, serving as a member of a government board or commission is a public service; therefore, such members must conduct themselves with the utmost propriety and comply with their fiduciary duties. Each member is charged with, among other things, the fiduciary duties of good faith, trust, confidence, and candor. At a minimum, these duties require that each member comply with Commonwealth laws with respect to boards and commissions and refrain from abusing and exploiting their privilege as a member of a government board or commission.

The Legislature further finds that inconsistency exists among enabling statutes with respect to the compensation of various government boards and commissions. Accordingly, the purpose of this legislation is to: (1) create a uniform standard of compensation among members of boards and commissions including travel and per diem rates, (2) amend the definition of “meeting,” (3) restrict certain compensation practices, and (4) hold members accountable for the transcription and adoption of minutes of board or commission meetings.