

**OTHER AGENCIES**

**ELECTION LAW ENFORCEMENT COMMISSION**

**Sufficient Public Interest for Public Hearings**

**Lobbying Mandatory Electronic Filing and Other Filing Clarifications**

**Adopted New Rule: N.J.A.C. 19:25-2.6**

**Adopted Amendments: N.J.A.C. 19:25-20.4, 20.5, 20.7 through 20.9C, 20.16, 20.19, and 20.20**

Proposed: October 19, 2015, at 47 N.J.R. 2627(a) (see also 47 N.J.R. 2695(a)).

Adopted: January 19, 2016, by the Election Law Enforcement Commission, Jeffrey M. Brindle, Executive Director.

Filed: January 20, 2016, as R. 2016 d.013, **without change**.

Authority: N.J.S.A. 52:13C-23.2.

Effective Date: February 16, 2016.

Expiration Date: March 25, 2017.

The Commission adopted new rule N.J.A.C. 19:25-2.6 to require a public hearing on a rulemaking notice of proposal if at least 20 individuals submit written requests to hold a public hearing, to present data, arguments, or views that raise a substantial issue as to the impact of the notice of proposal on the regulated community or the general public that has not been anticipated by the Commission.

The Commission adopted amendments to N.J.A.C. 19:25-20.4, 20.5, 20.7 through 20.9C, 20.16, 20.19, and 20.20, to require Governmental Affairs Agents (hereafter, GAAs) and represented entities to file lobbying forms and reports electronically.

The Commission removed reference to signatures in N.J.A.C. 19:25-20.4(a), 20.5(a), 20.7(c), and 20.16(b), as the registration number and PIN supplied pursuant to N.J.A.C. 19:25-20.9B acts as an electronic signature and/or acknowledgement for forms and reports submitted electronically.

The Commission adopted an amendment to N.J.A.C. 19:25-20.4(b) to state that when a group of individuals, each registered by the Commission as a GAA, together represent more than one entity, they can file a notice of representation for a represented entity on behalf of the group, provided that the person filing indicates the involvement of the group or indicates the involvement of specific GAA(s). Correspondingly, the Commission amended N.J.A.C. 19:25-20.7(c)2 to require that the notice of termination filed by such a group indicate whether termination applies to the entire group or to specific GAA(s). The Commission also amended N.J.A.C. 19:25-20.4(c) to require any changes to the notice of representation be made by electronically filing an amendment.

The Commission deleted N.J.A.C. 19:25-20.8(c), to remove an obsolete reference to “fees provided in N.J.A.C. 19:25-20.19.” The Commission deleted language referencing “software” in N.J.A.C. 19:25-20.9(c), 20.9A(c), 20.9B(a), and 20.16(e), as electronic filing may be accomplished through web-based or electronic filing programs rather than software packages provided to the regulated public.

The adopted amendment to N.J.A.C. 19:25-20.9C, Filing of an electronic report, changes the heading of the section to “Mandatory electronic filing,” and indicates that all Commission reports and forms required to be filed under Subchapter 20 are to be filed electronically, and sets forth the following exceptions to the mandatory electronic filing requirement in proposed new subsection (a): an exemption pursuant to proposed new subsection (e), which allows an individual to obtain an exemption by certifying in writing that electronic filing poses undue hardships, and gives the

Commission discretion to approve such exemption requests; application for registration and PIN under N.J.A.C. 19:25-20.9B; or a person filing for the first time as a GAA under N.J.A.C. 19:25-20.20(d). The Commission deleted existing subsections (a) and (b). New subsection (c) permits the Commission to update methodology for electronic filing based on technological changes by providing notice on the Commission's website, and through other means that the Commission deems appropriate.

The Commission adopted an amendment to N.J.A.C. 19:25-20.20, changing the heading to include registration, and specifying that an individual registering as a GAA for the first time must personally appear in Commission offices, and submit the annual fee and required identification photographs.

**Summary of Hearing Officer's Recommendations and Agency Response:**

A public hearing on the notice of proposal was conducted before the New Jersey Election Law Enforcement Commission (Commission) on December 15, 2015, in the Edward J. Farrell Memorial Conference Room, 28 West State Street, 12th Floor, Trenton, New Jersey. No witnesses appeared to testify. Advance written notice of the hearing was circulated on or about October 30, 2015, to the County Clerks, the State House press corps, and other interested individuals. The hearing officer recommended that the Commission adopt the amendment without change. The Commission voted on January 19, 2016, to adopt the new rule and amendment, with no change. The record of opportunity for the public to be heard may be reviewed by contacting Michelle R. Levy, Esq., Associate Legal Director, Election Law Enforcement Commission, P.O. Box 185, Trenton, NJ 08625-0185.

**Summary of Public Comment and Agency Response:**

The period for receipt of written comments expired on December 28, 2015, and one written comment was received.

COMMENT: Jean Public provided a comment suggesting that as many residents in New Jersey do not have computer access, they “should not be discriminated against by requiring electronic submission of electronic documents.” She further stated that anyone who writes in for an exemption from that requirement should be automatically given an exemption.

RESPONSE: The Commission thanked Ms. Public for her comment. The Commission notes that the proposed amendments include a provision for exemption under new subsection (e) of N.J.A.C. 19:25-20.9C, which provides that an individual may obtain an exemption from the mandatory electronic filing requirement if he or she certifies, in writing, that electronic filing poses an undue hardship. The Commission shall review each such application and may grant its approval to such application, in its discretion.

### **Federal Standards Statement**

#### **Sufficient Public Interest for Public Hearings for Commission Rulemaking**

A Federal standards analysis is not required because the new rule regarding “sufficient public interest” for public hearings for Commission rulemaking is adopted in implementation of the New Jersey Administrative Procedure Act, and is not subject to Federal standards or requirements.

## **Lobbying Mandatory Electronic Filing and Other Filing Clarifications**

A Federal standards analysis is not required because the adopted amendments concern New Jersey filing entities. The amendments are not subject to any Federal requirements or standards.

**Full text** of the adoption follows:

TEXT