

**§ 1700.735–108 Specific provisions of Commission regulations governing special Government employees.**

(a) The term “special Government employee” as used in this part means an officer or employee who is retained, designated, appointed, or employed by the Commission to perform, with or without compensation, for not more than 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis.

(b) Special Government employees shall adhere to the standards of conduct applicable to employees set forth in this part and adopted under § 1700.735–101, except that § 735.203(b) of this title is not applicable to a special Government employee.

(c) Pursuant to § 735.305(b) of this title, the Commission authorizes the same exceptions concerning gifts, entertainment, and favors for special Government employees as are authorized for employees by § 1700.735–104.

**§ 1700.735–109 Statements of employment and financial interests.**

(a) In addition to the employees required to submit statements of employment and financial interests under § 735.403(a) of this title, employees in the following named positions shall submit statements of employment and financial interest to the Executive Director:

Assistant Director, Taxation and Finance.

Assistant Director, Governmental Structure and Functions.

Assistant Director, Program Implementation.

(b) The statement of employment and financial interest required by this section shall be submitted by the Executive Director to the Chairman of the Commission.

(c) An employee who believes that his position has been improperly included in this section as one requiring the submission of a statement of employment and financial interests may obtain a review of his complaint under the agency’s grievance procedure.

(d) A statement of employment and financial interest is not required under this part from Members of the Commission. Members of the Commission are

subject to 3 CFR 100.735–31 and are required to file a statement only if requested to do so by the Counsel to the President.

NOTE: Notwithstanding the filing of the annual supplementary statement required by 5 CFR 735.406, each employee shall at all times avoid acquiring a financial interest that could result, or taking an action that would result, in a violation of the conflicts-of-interest provisions of section 208 of title 18, United States Code or the regulations in this part or adopted under § 735.101.

**PART 1701—ORGANIZATION AND PURPOSE**

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AUTHORITY: Pub. L. 86–380 of Sept. 24, 1959, 73 Stat 703 (42 U.S.C. 4271).

SOURCE: 51 FR 24800, July 9, 1986, unless otherwise noted.

**§ 1701.1 Establishment and locations.**

The Advisory Commission on Intergovernmental Relations was established as a permanent independent and bipartisan agency of the Federal Government by Pub. L. 86–380; 73 Stat 703 (43 U.S.C. 4272), enacted in 1959. The Commission’s offices are located at 1111 20th Street, NW., Washington, DC 20575.

**§ 1701.2 Name.**

The formal name of the agency is “Advisory Commission on Intergovernmental Relations.” It is also known, and sometimes referred to, as the “Commission,” or simply “ACIR.”

**§ 1701.3 Purpose.**

The underlying purpose of the Commission is to strengthen the ability of the United States federal system of government to meet the problems of an

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increasingly complex society by promoting greater cooperation, understanding and coordination of activities between the separate levels of government. More specifically the purpose of the Commission includes the objectives of:

(a) Bringing together representatives of the Federal, State, and local governments for the consideration of common problem;

(b) Providing a forum for discussing the administration and coordination of Federal grant and other programs requiring intergovernmental cooperation;

(c) Giving critical attention to the conditions and controls involved in the administration of Federal grant programs;

(d) Making available technical assistance to the executive and legislative branches of the Federal Government in the review of proposed legislation to determine its overall effect on the Federal system;

(e) Encouraging discussion and study at an early stage of emerging public problems that are likely to require intergovernmental cooperation;

(f) Recommending within the framework of the Constitution, the most desirable allocation of governmental functions, responsibilities, and revenues amount the several levels of government; and

(g) Recommending methods of coordinating and simplifying tax laws and administrative practices to achieve a more orderly and less competitive fiscal relationship between the levels of government and to reduce the burden of compliance for taxpayers.

### § 1701.4 Membership of the Commission.

The Commission is composed of twenty-six members, as follows:

(a) Six appointed by the President of the United States, three of whom are officers of the executive branch of the Government, and three private citizens, all of whom have had experience of familiarity with relations between the levels of government;

(b) Three appointed by the President of the Senate, who are Members of the Senate;

(c) Three appointed by the Speaker of the House of Representatives, who are Members of the House;

(d) Four appointed by the President from a panel of at least eight Governors submitted by the Governors' Conference;

(e) Three appointed by the President from panel of at least six members of State legislative bodies submitted by the board of managers of the Council of State Governments;

(f) Four appointed by the President from a panel of at least eight mayors submitted jointly by the American Municipal Association and the United States Conference of Mayors;

(g) Three appointed by the President from a panel of at least six elected county officers submitted by the National Association of County Officials.

### § 1701.5 Bipartisan nature of Commission.

The members appointed from private life under paragraph (a) of § 1701.4 are appointed without regard to political affiliation; of each class of members enumerated in paragraphs (b) and (c) of § 1701.4, two are from the majority party of the respective houses; of each class of members enumerated in paragraphs (d), (e), (f) and (g) of § 1701.4, not more than two may be from any one political party; of each class of members enumerated in paragraphs (e), (f) and (g) of § 1701.4, not more than one from any one State; at least two of the appointees under paragraph (f) are from cities under five hundred thousand population. The term of office of each member of the Commission is two years, but members are eligible for re-appointment.

### § 1701.6 Organization of Commission, vacancies, quorum.

(a) The President designates a Chairman and a Vice Chairman from among members of the Commission.

(b) Any vacancy in the membership of the Commission is filled in the same manner in which the original appointment was made; except that where the number of vacancies is fewer than the number of members specified in paragraphs (d), (e), (f) and (g) of § 1701.4, each panel of names submitted in accordance with the aforementioned

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paragraphs contains at least two names for each vacancy.

(c) Where any member ceases to serve in the official position from which he or she was originally appointed under §1701.4, that place on the Commission is deemed to be vacant.

(d) Thirteen members of the Commission constitute a quorum, but two or more members constitute a quorum for the purpose of conducting hearings.

### § 1701.7 Commission personnel.

(a) *Executive Director.* Is appointed by the Commission itself. He is appointed without regard to the Civil Service laws or Classification Act of 1949, and without regard to political affiliation. He is appointed solely on the basis of fitness to perform the duties of the position.

(b) *Other employees.* Subject to the provisions of part 1720 of this chapter and of such other rules and regulations as the Commission may adopt, the Chairman, without reference to the Civil Service laws and the Classification Act of 1949, and without regard to political affiliation, may appoint, fix the compensation of, and remove such other personnel as he deems necessary.

(c) *Temporary employees.* The Chairman may also procure temporary and intermittent services to the same extent as is authorized by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), but at rates not to exceed the daily rate for a GS-18.

### § 1701.8 Activities of the Commission.

The primary role of the Commission is to give advice. It issues no rules or regulations governing the general public, and the advice it gives is addressed to various levels of the American government, such as the Congress of the United States, and the States, counties, and cities. The advice it gives is contained in its recommendations and reports, and these in turn are based on research conducted by the Commission and its staff.

(a) *Selection of research topics—policy applied.* The policy applied by the Commission in the choice of research topics is to select ones which will strengthen the federal system, and promote the power balance and fiscal balance among the various levels of govern-

ment. Weight is given to new ways of dealing with practical intergovernmental problems. Routine and continual re-evaluation of the same topic will be avoided whenever possible.

(b) *Selection of research topics—criteria.* The Commission, by vote of its members, selects all research projects and approves acceptance of all research grants. Its selections take into account the following general criteria:

- (1) Importance of the subject area,
- (2) Timeliness of the issues,
- (3) Utility to the governmental levels,
- (4) Compatability with the competence of the staff, and
- (5) Appropriateness for the Commission's composition and procedures.

(c) *Outside requests for research.* The Commission undertakes research requested by the Congress and by executive agencies to the extent that its work program and resources allow. However, where such requests do not meet the Commission's research selection criteria or where undertaking the work would impede other important work in progress, the Commission will necessarily seek additional funding to expend its work capacity temporarily. The Commission does not make research grants to other outside parties on topics those parties have selected for study nor will it request appropriation for such studies.

(d) *Special funding of projects.* ACIR will seek and accept grants for work on intergovernmental subjects that accord with the Commission's finding that the subject is of prime intergovernmental importance, if it is within the capacity of the staff—or outside scholars and consultants engaged for this purpose—to produce a study that meets the Commission's usual standards of quality.

### § 1701.9 Step-by-step development of Commission recommendations.

The Commission itself selects the research projects to be undertaken and assigns the priority to be given among projects. In making its selection the Commission may consider exploratory research by the ACIR staff, the Commission members expertise, and any other information the Commission members have. Thereafter:

(a) *Working outline.* An outline of the project is prepared by the one or more staff members assigned to it by the Executive Director. In addition, the Chairman in his or her discretion, may assign one or more Commission members to monitor the staff work. The working outline covers the issues to be dealt with and the research techniques to be used. This outline is sent to the Commission members and reviewed at a "Thinkers" Session.

(b) *Thinkers session.* The participants at a Thinkers Session are selected by the staff, after seeking suggestions from Commission members. Participants are usually professors, researchers, and other experts who have a special knowledge and interest in the subject matter of the project. If Commission members have been assigned to oversee the work, every effort will be made to enable them to attend. Thinkers Sessions are held at times convenient to the participants and are usually held at the ACIR headquarters in Washington, but may be held elsewhere if necessary for the convenience of the participants.

(c) *Preliminary draft.* Following the Thinkers Session, the working outline will be appropriately revised and the staff will conduct the research work and prepare a preliminary draft of the study that may include a range of possible legislative recommendations for Commission consideration.

(d) *Critics session.* After being reviewed internally, the preliminary draft is subjected to review and criticism by an informal group of critics, some of whom may have been members of the thinkers group. The critics also provide expert knowledge and a diversity of substantive and philosophical viewpoints. Care is taken to include among the critics representatives of national associations of state and local officials, as well as of Congress and federal departments and agencies. If Commission members have been assigned to oversee the work, every effort is made to encourage them to attend any meeting of the critics. Participants in a critics session are selected by the staff after seeking suggestions from Commission members. Responses to the criticisms and suggestions presented at

a critics meeting are determined by the staff.

(e) *Revision and submission to Commission.* The draft report is then revised by the staff in light of criticisms and comments received both orally and in writing from critics, Commission members and others. A summary of the draft report, along with potential recommendations, is included in a "Docket Book" and transmitted to Commission members at least three weeks in advance of the meeting at which it is to be considered. To the maximum extent feasible, copies of the entire report are made available to all interested parties at least two weeks before the full Commission considers the study.

(f) *Advisory committee.* In exceptional projects the Executive Director, or the Commission, may appoint a committee of advisors to help guide the research. The committee will consist of academics and practitioners who have special competence and interest in the subject under study and, particularly, who are familiar with the latest developments in the field. The committee advises the staff and the Commission on all phases of the research, from initiating the research design to developing proposed recommendations. The committee's activities supplement but do not replace thinkers and critics sessions.

(g) *Adoption of recommendations.* The draft recommendations are then considered and separately voted upon by the Commission in meeting. Majority vote of those present is required for approval. Extensive amendments and new germane matter must be set forth in writing and be made available to each member attending the meeting before they can be voted upon. New matter determined to be non-germane by the Chairman is referred to the staff with instructions on how to deal with the material.

(h) *Dissent.* Members are free to dissent from actions adopted by the Commission and may have that dissent registered in any of several ways. If requested, the names of dissenting members will be shown in the minutes of the meeting where the vote was taken. To the extent dissenting members feel the minutes fail to reflect adequately

the nature of their dissent, they may, with Commission approval, have the minutes revised to present their viewpoint more fully. If a report is involved, the member may be listed as having dissented on a point at an appropriate location in the text of the report. In addition, if the member wishes, a statement of dissent may be included in the report at some appropriate place. On request, the staff will assist members in drafting explanatory dissent statements for inclusion in either the minutes or reports.

(i) *Informal action by the Commission—polling.* The Chairman, on his own motion, may poll the membership of the Commission to determine the views of members on matters on the agenda of a regular or special meeting of the Commission but which were not considered by the Commission. Votes so obtained may either be by mail or by telephone, but if by telephone, they must be confirmed in writing. The result of any poll is reported in the Docket Book for the next session of the Commission for ratification. At that time it is subject to a motion to reconsider, but not at any later time.

**§ 1701.10 Other activities of the Commission.**

(a) The Commission devotes the necessary amount of ACIR staff time to technical assistance, publications, and education activities so as to disseminate Commission reports and encourage study of emerging public problems which may require adoption of Commission legislative recommendations. In carrying out these implementation activities, Commission members and the staff conduct and participate in press conferences, briefings for legislative and policy officials, legislative hearings, seminars and workshops, technical assistance visits to specific jurisdictions, and other activities appropriate to its statutory mandate.

(b) *Support activities.* In support of its implementation activities, the Chairman and members of the Commission complement the staff work by participating in press conferences and briefings for legislative and policy officials, testifying before Congressional committees and state and local legislative bodies, participating in their home

states in press and legislative activities to generate interest in ACIR reports and recommendations and to advance their implementation, making speeches as representatives of the Commission, serving as a two-way communications channel with the ACIR staff, and undertaking such other assignments on behalf of the Commission as may be appropriate.

(c) *Publications.* ACIR reports containing legislative recommendations or Commission “findings” or “conclusions” (“A” series) and major research reports not containing legislative recommendations (“M” series) are published only after approval by the Commission. Other reports and publications may be published with the approval of the Executive Director as follows:

Public Opinion Survey (“S” series)  
Intergovernmental Perspective  
In Brief (“B” series)  
“What is ACIR?” Brochure  
Publications List  
Staff Working Papers  
Information Bulletins

(d) *Hearings.* Whenever in the opinion of the Commission it is necessary or desirable to have a factual determination based on the testimony of sworn witnesses in an adjudicatory-type hearing, or to provide a forum for receiving statements from interested persons or members of the public, or a part thereof, in a legislative-type hearing, the Commission, or a sub-committee of the Commission (when authorized by the Commission) or any number of members thereof (not less than two) may hold a public hearing. Factors weighed when determining whether or not to hold a hearing include, but are not limited to:

(1) The extent to which all directly affected interests were represented in the critics session.

(2) Whether directly affected interests have requested a hearing with the Commission.

(3) The extent to which a report contains findings, conclusions or potential recommendations on which identifiable interests are in sharp disagreement.

(4) The extent to which hearings may be a good device for directing public attention to the Commission, the report, or both.

(5) Whether in meetings away from Washington a hearing will be a good device for calling attention to the Commission's presence in a particular community or region.

### PART 1702—BYLAWS OF THE COMMISSION

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AUTHORITY: Pub. L. 86-380 of Sept. 24, 1959; 73 Stat. 703 (42 U.S.C. 4271).

SOURCE: 51 FR 24802, July 9, 1986, unless otherwise noted.

#### § 1702.1 Establishment.

The Act establishing the Advisory Commission on Intergovernmental Relations, 42 U.S.C. 4271 *et seq.* (1959), 73 Stat. 703, empowers the Commission to regulate to the extent it deems desirable for the purpose of carrying out the provisions of this Act the holding of hearings, taking of testimony and fixing the time and place of meetings (42 U.S.C. 4276(a)), rules covering the appointment and compensation of employees and the procurement of temporary and intermittent services (42 U.S.C. 4276(d)). In addition, the Commission is required to publish regulations implementing the provisions of the Freedom of Information Act (5 U.S.C. 552(a)), and the Privacy Act of 1974 (Pub. L. 93-579, 5 U.S.C. 552a). These bylaws are designed to carry out these regulatory obligations.

#### § 1702.2 Members.

Public Law 86-380, Sec. 3 (42 U.S.C. 4273), provides that the Commission consist of 26 members serving two-year terms—three U.S. Senators appointed by the President of the Senate, three members of the U.S. House of Representatives appointed by the Speaker of the House, three private citizens and three officers of the Executive Branch appointed by the President of the

United States, and fourteen elected officials of state and local governments nominated by their respective national associations and appointed by the President of the United States. Except for the private citizen and Executive Branch members, appointments must have bipartisan balance within each membership group. The state and local officials on the Commission are divided into the following groups: four governors, three state legislators, four mayors and three elected county officials. Members serve until their terms expire and their replacements have been appointed, or until they leave public office in the membership category they represent. Members are eligible for reappointment.

#### § 1702.3 Officers.

In accordance with section 4(b) of Pub. L. 86-380 (42 U.S.C. 4274(b)), the President designates the Chairman and Vice-Chairman from among the members of the Commission.

#### § 1702.4 Responsibilities and duties of the Commission and Commission members.

(a) *Studies, recommendations and reports.* In accordance with section 5 of Pub. L. 86-380 (42 U.S.C. 4275), the Commission is responsible for choosing topics to study and consider, for recommending “ways and means for fostering better relations between the levels of government,” and for submitting reports to the President, Congress and any other unit of government or organization, including an annual report to the President and Congress. The Commission, or the Chairman upon explicit delegation by the Commission, must approve publication of each formal report containing legislative recommendations (series “A” reports) and information reports (series “M” reports).

(b) *Meeting and hearings.* The Commission, by majority vote of those attending the meeting, may call meetings and hearings at such times and places as it deems appropriate.

(c) *Executive Director.* In accordance with section 6(c) of Pub. L. 86-380 (42 U.S.C. 4276(c)), as amended, the Commission appoints at a regular or special