

DRAFT CPUC Commissioner Code of Conduct

The California Public Utilities Commission promotes and serves the public interest by protecting consumers and ensuring the provision of safe, reliable utility service and infrastructure at reasonable rates, with a commitment to environmental enhancement and a healthy California economy.

CPUC Commissioners are public officials defined in the California Constitution, appointed by the Governor and subject to confirmation by the state Senate. CPUC Commissioners thus have the responsibility to conduct themselves with the highest degree of integrity and leadership. They must act in the public interest, not their private interests or any special interest, and must strictly adhere to all legal and ethical requirements. In both public and private interactions, Commissioners must follow carefully the ex parte rules of the Commission, which are intended to ensure due process and fairness for all interested parties and the public, and encourage all others to do the same.

CITATION OF LEGAL AUTHORITIES

Constitution Article XII, Section 1 and 2.

Public Utilities Code: Sections 301, 302 (take constitutional oath of office), 303 (no financial interest), 304 (salary), 305 (Governor shall designate a president; president shall direct the executive director, attorney (i.e., the General Counsel) and other staff (except ORA) and shall preside at meetings), 306 (office location, meetings at least once a month, meetings open, agenda, seal, Commission may procure supplies), 307 (Commission shall appoint attorney), 308 (Commission shall appoint executive director).

Responsibilities of All Commissioners

In addition to their statutory responsibilities and their obligation to follow the constitutional principles of due process, Commissioners are responsible for monitoring the CPUC's progress in attaining its goals and objectives, while pursuing its mission.

All Commissioners must adhere to all legal requirements for gubernatorial appointees in the State of California, including, but not limited to, the Political Reform Act, the Bagley-Keene Open Meeting Act, Government Code section 1090 (no financial interest in agency contracts), Government Code section 19990 (no incompatible activities), the statutory provisions and adopted Commission rules regarding ex parte contacts, the Commission Rules of Practice and Procedure, and the Governor's Office Statement of Incompatible Activities. It is the responsibility of each Commissioner to adhere to the statutory, regulatory and policy requirements and to seek appropriate legal advice if necessary.

Commissioners should avoid conduct that, even if lawful, reflects poorly on the agency or otherwise damages the credibility of the institution.

In order to govern the conduct between Commissioners and the public, among Commissioners, and between Commissioners and CPUC staff, all Commissioners shall at all times:

- Fully participate in Commission meetings and other public forums while demonstrating respect, kindness, consideration, and courtesy to others.
- Prepare in advance of Commission meetings and be familiar with issues on the agenda.
- Actively monitor the proceedings to which they are assigned and endeavor to meet applicable deadlines.
- Be respectful of other people's time. Stay focused and act efficiently during public meetings.
- Serve as a model of leadership and civility to the community.
- Demonstrate honesty and integrity in every action and statement.
- Participate in scheduled activities to review and increase the effectiveness of Commissioner procedures, such as this Code of Conduct.

Responsibilities of the President

The President will chair official meetings of the Commission, unless the President designates another Commissioner as the temporary chair. The President's responsibilities are to:

- Maintain order and decorum, and ensure the fair and equitable treatment of all speakers.
- Keep discussion and questions focused on the specific agenda item under consideration.
- Manage the meetings in a manner that complies with statutory requirements, including the Bagley-Keene Act and constitutional principles of due process, and seek advice from Commission attorneys as necessary to ensure that compliance.

Commissioner Conduct with the Public

In public meetings, Commissioners shall:

- Be welcoming to speakers and treat them with respect.
- Be fair and consistent in allocating public hearing time to individual speakers. The Chair will determine and announce limits on speakers at the start of the public meeting, consistent with the Commission's rules.
- Listen actively.
- Ask for clarification, but avoid debate and argument with the public. Questions by Commissioners to members of the public testifying should seek only to clarify or expand information, not belligerently challenge the speaker.

- Refrain from personal attacks of any kind, under any circumstance. Commissioners should be aware that their body language and tone of voice, as well as the words they use, can appear to be intimidating or aggressive.

Commissioner Conduct with One Another

In public meetings, Commissioners shall:

- Practice civility and decorum in discussions and debate. Differences of opinion and debate are to be expected, but belligerent comments, shouting or actions that could be construed as threatening or intimidating will not be tolerated.
- Honor the role of the Chair in maintaining order. It is the responsibility of the Chair to keep the meeting focused on the current agenda items. It is the responsibility of all Commissioners to be respectful of the public and keep their comments on topic.
- Avoid personal comments that could offend other Commission members.
- Demonstrate effective problem-solving approaches.
- Differing viewpoints are healthy in the decision-making process. Once the Commission takes action, Commission members should commit to implementing said action in accordance with their responsibilities as public officials.

In private encounters, Commissioners shall:

- Continue respectful behavior in private. The same level of respect and consideration of differing points of view that is deemed appropriate for public discussions should be maintained in private conversations.
- Commissioners should recognize that they should not engage in inappropriate conduct with regulated entities or parties in proceedings. In addition to following the formal rules regarding ex parte contacts with interested parties, Commissioners should avoid contacts that create an appearance of favoritism, including overly personal communications in a professional context, such as email, or at public events or private conferences or industry events, and avoid providing access to a Commissioner's time that is not made available to other community members who may have an interest in the policies or proceedings at issue.

Commissioner Conduct with CPUC Staff

- The primary responsibility of the Commissioner is the formulation and evaluation of policy and regulation for the industries subject to the Commission's jurisdiction. Pursuant to Public Utilities Code section 305, the President shall direct the executive director, attorney and other staff of the Commission (with the exception of the Office of Ratepayer Advocates). Routine matters concerning the operational aspects of the CPUC are to be delegated to professional staff members of the CPUC.

Commissioners shall:

- Treat all staff as professionals. Commissioners should engage in clear, honest communication that respects the abilities, experience, and dignity of each individual. Unprofessional or disrespectful behavior towards staff is not acceptable. Commission members should develop a working relationship with the Executive Director so that current issues, concerns and CPUC projects can be discussed comfortably and openly.
- Refrain from soliciting political or charitable support or other favors from staff or regulated entities.

Commissioner Conduct in Unofficial Settings

The needs of the CPUC's constituents should be the priority of Commissioners. When a Commissioner believes he or she may have a conflict of interest, he or she shall request guidance from the General Counsel.

Commissioners shall:

- Make no promises on behalf of the Commission. Commissioners will frequently be asked to explain a Commission action or to give their opinion about an issue as they meet and talk with constituents in the community. It is appropriate to give a brief overview of CPUC policy and to refer to CPUC staff for further information. It is inappropriate to overtly or implicitly promise Commission action, or to promise that CPUC staff will do something specific.
- Make no personal comments about other Commissioners. It is acceptable to publicly disagree about an issue, but it is unacceptable to make derogatory comments about other Commissioners or their opinions and actions.

Commissioner Conduct with Other Public Agencies

Commissioners shall:

- Be clear about whether they are representing the CPUC or personal interests. If a Commissioner appears before or corresponds with another governmental agency or organization to give a statement on an issue, the Commissioner must clearly state: 1) if his or her statement reflects personal opinion or is the official stance of the CPUC; and 2) whether this is the majority or minority opinion of the Commission. If the Commissioner Member is representing the CPUC, the Commissioner Member must support and advocate the official CPUC position on an issue, not a personal viewpoint.

Commissioner Conduct with the Media

Commissioner Members are frequently contacted by the media for background and quotes. It is acceptable, and indeed preferred, that any direct contacts be channeled through the Commission's Public Information office.

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Commissioners shall:

- Be clear about whether their comments represent the official CPUC position or a personal viewpoint when contacted by the media.