

CHAPTER 2

COMMISSION OPERATIONS

Section 1. Authority.

The State Commission is created by W.S. 21-18-201 and derives its authority from W.S. 21-18-202 through 21-18-226.

Section 2. Purpose.

This chapter governs the Commission's structure and procedures.

Section 3. Commission Structure.

- (a) The commissioners biennially shall elect a chair and vice chair from its members.
- (b) The commissioners may elect other officers and define their duties by rule or resolution.
- (c) The election of officers shall be held at the Commission's first meeting after March 1 during odd-numbered years. Officer vacancies shall be filled by action of the commissioners.
- (d) The chair shall preside over Commission meetings. The vice-chair shall act in the absence of the chair. In the absence of both the chair and vice-chair at a meeting, commissioners present shall elect a temporary presiding officer to preside over that meeting.

Section 4. Commission Meetings.

- (a) Meetings with simplified agendas may be conducted by teleconference or videoconference methods as long as all interested parties have access to the proceedings. Commission meetings shall be conducted according to the Wyoming Open Meetings Act W.S. 16-4-401 through 16-4-408.
- (b) The chair may change, as necessary, the meeting date, time, place, or agenda in advance of the meeting, providing notice of the change through Commission staff to all who received notice of the meeting.
- (c) The chair may call special meetings, as necessary, with the concurrence of a majority of commissioners, following the Wyoming Open Meetings Act.
- (d) The chair may call special telephone meetings of an emergency nature, with the concurrence of a majority of commissioners. Such meetings shall be in accordance with the Wyoming Open Meetings Act. All college presidents, the trustees' association, and the media as specified in (e)(iii) of this section shall be notified and invited to participate.

(e) Approximately two weeks prior to the meeting date, the executive director shall mail or provide electronically the meeting notices and/or tentative agendas. The official agendas shall be distributed at least one week prior to the meeting. Distribution of meeting notices and/or agendas shall be done in the following manner:

(i) Mail or provide electronically the meeting agendas to commissioners, community college presidents, board chairs and other appropriate parties as the agenda may dictate;

(ii) Post the meeting notices on the Commission website; and

(iii) Mail or provide electronically meeting notices and/or agendas to a newspaper with statewide circulation and to a general circulation newspaper in the community where the meeting will be held.

(f) The meeting agendas shall be developed in the following manner:

(i) Tentative agendas shall be developed by the executive director to include items necessary to carry out the Commission's business;

(ii) Any person may request that items be removed from or added to tentative agendas. Requests should be made to the chair or executive director;

(iii) Official agendas shall include items labeled "Other Business." During the designated time, any commissioner or person appearing before the Commission may request that items be added to the agenda and considered by the commissioners. Only those supplemental agenda items approved by majority vote of commissioners present shall be considered at that meeting.

(g) Except as otherwise provided by law or in *Commission Rules*, a quorum for the Commission to conduct business shall be four (4) or more commissioners. A simple majority of those present shall be needed to pass an item. The chair shall have the right to vote on all matters.

Section 5. Commission Ethics.

The Commission shall comply with the Executive Branch Code of Ethics, Executive Order 1997-4.

Section 6. Commission Responsibility.

(a) The Commission coordinates the community college system for and in the State of Wyoming. The Commission is responsible for making system recommendations to the governor and the legislature. The Commission normally serves as the state representative on community college matters for state, regional, and national postsecondary education organizations or activities.

(b) All documents received by, prepared by, or presented by the Commission or its staff shall be documents that are available for review (during normal business hours) and handled in compliance with the Wyoming Public Records Act W.S. 16-4-201 through 16-4-205.

(c) Commission members shall observe full media disclosure of public business, while providing for fair presentation of issues and recognition of concerned party dignity.

Section 7. Commission Executive Director.

(a) The executive director is the full-time professional advisor and executive officer of the Commission pursuant to W.S. 21-18-202(c)(v).

(b) The Commission shall delegate to the executive director the responsibility for administering the rules and policies adopted by the Commission and executing all decisions of the Commission requiring administrative action. In the initiation and formulation of Commission rules and policies, the executive director shall act as the professional advisor to the Commission and present to the Commission drafts of proposed rules and policies for the consideration of the Commission.

(c) The executive director shall be responsible for hiring and supervising other staff members to carry out the duties of the Commission pursuant to W.S. 21-18-202(c)(v).

(d) The executive director shall ensure the completion of the following tasks:

(i) Implement the role and mission of the Commission and as reflected in statutes, the *WY Community College Commission Statewide Strategic Plan*, rules, and policies;

(ii) Ensure the use of the *WCCC Policy on Consultation* adheres to the requirements identified in the *WY Community College Commission Statewide Strategic Plan*, applicable rules and statutes:

(iii) Prepare an agenda for each Commission meeting;

(iv) Record all proceedings/minutes of the Commission;

(v) Mail or provide electronically agendas of each meeting to commissioners, community college presidents, board chairs, and other appropriate parties, as the agenda dictates, so that recipients receive a copy one week prior to the next meeting; and

(vi) Post all meeting agendas to the commissions' website;

(vii) Post all approved Commission meeting minutes to the Commissions' website;

(viii) Attend all Commission meetings unless excused by the chair;

(ix) Sign documents that affect the operations of the Commission and which would otherwise require the signature of the chair; and

(x) Perform other duties as assigned by the Commission.

(e) The Executive Council is composed of the executive director and the presidents of the community colleges and chaired by the executive director. The Executive Council is the primary body by which the Commission accomplishes consultation. Agenda items scheduled for Commission action and reports shall be discussed at regularly scheduled meetings of the Executive Council. The Executive Council is advisory to the executive director and the executive director shall provide written proceedings of all meetings. These procedures assume that the college presidents, as members of the Executive Council, unless otherwise noted, speak for their respective institutions in making recommendations to the executive director of the Commission. Community college presidents, on approval of their boards, may represent the views of their local governing boards at Commission meetings on agenda items that have been considered in Executive Council or added to the agenda during a Commission meeting.

(f) Councils and committees further defined in the *WCCC Policy on Consultation* shall be utilized by the Executive Council to address the ongoing business of the community colleges with the Commission and chaired by Commission staff designated by the executive director. Issues raised by these councils and committees may be advanced through college presidents or Commission staff to be proposed for the Executive Council agenda.

(g) The executive director may create ad hoc committees of the Executive Council to consider such matters as may be delegated to the council and the ad hoc committee shall provide reports to the Executive Council.

Section 8. Communications Within the System.

(a) The Commission shall support broad involvement and consultation in the planning process for the Wyoming community colleges with the intent of assuring effective communication between the Commission, the college trustees, and the community colleges. Consultation seeks to achieve consensus, but does not require consensus.

(b) At its discretion, the Commission may convene open meetings with representatives of college boards of trustees. The principal function of these meetings is to maintain open communication between the policy making entities.

Section 9. Information Practices.

(a) The community colleges shall comply with the Wyoming Public Records Act W.S. 16-4-201 through 16-4-205 and the Wyoming Open Meetings Act W.S. 16-4-401 through 16-4-408.

(b) Persons with a valid interest may request that the official custodian correct any erroneous, inaccurate or misleading information that is contained in a public record relating to them by supplementing the record with corrective material. No public records shall be physically altered, destroyed or removed except by order of the Commission.

(c) No commissioner or Commission employee shall release originals of public records from Commission files except by order of the Commission or a court of law, or as recommended by the WY Attorney General.

(d) For all public records for which the Commission is custodian, the Commission incorporates into these rules the Department of Administration & Information's chapter 2, section 4 rules for electronic public records and section 5 rules for non-electronic public records. The Commission makes the following findings:

(i) Incorporating the full text in the Commission's rules would be inefficient given the nature of the rules;

(ii) This rule does not include any later amendments or additions to the incorporated matter; and

(iii) Copies of the incorporated matter are available for inspection at the Commission's offices or at <http://www.communitycolleges.wy.edu/rules-and-statutes.aspx>.

(e) The official custodian shall not release mailing lists unless approved by the Commission.

(f) All public records maintained by the Commission shall be stored and retained according to retention schedules and policies of the Commission and the State Archives section of the Department of State Parks and Cultural Resources.

(g) All public records for which public inspection may be denied under the Wyoming Public Records Act shall be identified, stored and maintained by an appropriate means that indicates and preserves their confidentiality. An index sufficient to indicate their existence, general content, and confidential nature shall be maintained and available to the public.

(h) Pursuant to notification by the U.S. Department of Education's Family Policy Compliance Office on August 23, 1999, the Commission is identified as a state educational authority engaged in the audit or evaluation of federal and state supported education programs. As such, the community colleges may disclose personally identifiable, non-directory information to the Commission's MIS on a non-consensual basis as long as the Commission complies with FERPA requirements. The Commission shall maintain secure physical and electronic storage for personally identifiable information.

(j) The requirements of the U.S. Department of Education for security of data shall be followed under the restricted use data license for research involving the National Center for Education Statistics IPEDS database.

(k) The official custodian annually shall inform the appropriate state office of any new public records maintained by the Commission for which inspection may be denied under the Wyoming Public Records Act W.S. 16-4-201 through 16-4-205.

(m) The Commission shall also collect data from non-community college entities to support the data requirements of the AE and High School Equivalency Certification programs.

Section 10. Hearings.

(a) Prior to formal proceedings, the Commission shall assist in the informal resolution of disputes between community colleges when requested and shall act as a board of appeal for disputes between community colleges that cannot be resolved informally.

(b) In matters involving the modification or maintenance of community college service areas, the Commission shall make determinations in accordance with W.S. 21-18-202(c)(viii).

(c) Contested cases for matters other than those referenced in (b) above shall be conducted pursuant to the Office of Administrative Hearings rules, Chapter 2, *Uniform Rules for Contested Case Practice and Procedure* (“Uniform Rules”), which are incorporated into this chapter by reference. In doing so, the Commission find as follows:

(i) Incorporating the full text of the Uniform Rules would be cumbersome and inefficient given the length and nature of the rules;

(ii) The incorporation is limited to the Uniform Rules adopted by the Office of Administrative Hearings and effective October 17, 2014, and shall not include any later editions of or amendments to the Uniform Rules;

(iii) Copies of the Uniform Rules are available to the public at the Wyoming Community College Commission offices at 2300 Capitol Ave., Hathaway Bldg. 5th Floor, Suite B, Cheyenne, Wyoming 82002.

(iv) An electronic copy of the Uniform Rules is available at the following web address: <http://soswy.state.wy.us/Rules/RULES/9644.pdf>.

(d) Where a contested case hearing is required by law, an aggrieved person may file a request according to the Uniform Rules § 5(a) with the Commission within thirty (30) days of the date of the administrative decision at issue or of the date of mailing of the administrative decision as evidenced by a postmark, whichever is later.

(e) The request for a hearing shall be served on the Commission and other necessary parties. Service shall be made to the Wyoming Community College Commission, 2300 Capitol Avenue, Hathaway Building, 5th Floor, Suite B, Cheyenne, Wyoming 82002-0206. Service may be made in person or by mail.

(f) A request for a contested case hearing shall include the following:

(i) The name, telephone number, and mailing address of the petitioner and the same information for the representing attorney;

(ii) A statement in ordinary and concise language of the facts and of the errors alleged to have been committed and issues that the petition is based on, including particular reference to statutory sections, contract provisions, or rules, regulations, and orders involved;

(iii) A copy of the decision or relevant material that relates to the decision at issue;

(iv) The specific relief sought; and

(v) The signature of the petitioner and the representing attorney.

(g) The notice of hearing required under the Uniform Rules § 6(b) shall be served on each party at least thirty (30) days before the hearing date unless an expedited hearing is otherwise required by law. In that event, parties shall be served the notice of hearing as soon as practicable.

(h) The Commission Chair may appoint a hearing officer to conduct the contested case and may request that the hearing officer issue a recommended decision.

(j) If a recommended decision is requested, the recommended decision and proposed order shall be submitted to the Commission no later than thirty (30) days after the end of the contested case hearing.

(k) The Commission shall make and enter a written decision and order containing findings of fact and conclusions of law stated separately.

(m) The written decision issued by the Commission shall be the final agency action and be subject to judicial review under Wyo. Stat. § 16-3-114.

Section 11. General Provisions.

The Commission's rules apply to the Wyoming Community College Commission, Wyoming community colleges, outreach centers, and programs of the Commission. Matters not covered by statutes and *Commission Rules*, or reasonably incident to them, shall be governed by the individual community college district boards, following all applicable laws.