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TITLE 2

ADMINISTRATIVE LAW AND PROCEDURE

Chapter

- 1. General Provisions
- 3. Promulgation of Regulations (Reserved)
- 5. Practice and Procedure
- 7. Judicial Review

Enactment. Unless otherwise noted, the provisions of Title 2 were added April 28, 1978, P.L.202, No.53, effective in 60 days.

CHAPTER 1

GENERAL PROVISIONS

Sec.

- 101. Definitions.
- 102. Implementing regulations.
- 103. Administrative Agency Law.
- 104. Commonwealth Documents Law (Reserved).
- 105. Local Agency Law.
- 106. Effect of future legislation.

Enactment. Chapter 1 was added April 28, 1978, P.L.202, No.53, effective in 60 days.

§ 101. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Adjudication." Any final order, decree, decision, determination or ruling by an agency affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made. The term does not include any order based upon a proceeding before a court or which

involves the seizure or forfeiture of property, paroles, pardons or releases from mental institutions.

"Administrative proceeding." Any proceeding other than a judicial proceeding, the outcome of which is required to be based on a record or documentation prescribed by law or in which law or regulation is particularized in application to individuals. The term includes an appeal.

"Agency." A government agency.

"Appeal." Includes proceedings on petition for review.

"Certified interpreter." A person who:

- (1) is readily able to interpret; and
- (2) either:

- (i) is certified by the Department of Labor and Industry in accordance with Subchapter C of Chapter 5 (relating to administrative proceeding interpreters for persons with limited English proficiency); or

- (ii) is certified by the Department of Labor and Industry in accordance with Subchapter D of Chapter 5 (relating to administrative proceeding interpreters for persons who are deaf) or is registered with the department pursuant to the act of July 2, 2004 (P.L.492, No.57), known as the Sign Language Interpreter and Transliterator State Registration Act.

"Commonwealth agency." Any executive agency or independent agency.

"Commonwealth government." The government of the Commonwealth, including the courts and other officers or agencies of the unified judicial system, the General Assembly, and its officers and agencies, the Governor, and the departments, boards, commissions, authorities and officers and agencies of the Commonwealth, but the term does not include any political subdivision, municipal or other local authority, or any officer or agency of any such political subdivision or local authority.

"Court Administrator of Pennsylvania." The court administrator appointed by the Supreme Court under section 10(b) of Article V of the Constitution of Pennsylvania and 42 Pa.C.S. § 1901 (relating to Court Administrator of Pennsylvania).

"Deaf." An impairment of hearing or speech which creates an inability to understand or communicate the spoken English language.

"Department." The Department of Labor and Industry of the Commonwealth.

"Executive agency." The Governor and the departments, boards, commissions, authorities and other officers and agencies of the Commonwealth government, but the term does not include any court or other officer or agency of the unified judicial system, the General Assembly and its officers and agencies, or any independent agency.

"General rule." As defined in 42 Pa.C.S. § 102 (relating to definitions).

"Government agency." Any Commonwealth agency or any political subdivision or municipal or other local authority, or any officer or agency of any such political subdivision or local authority.

"Government unit." The General Assembly and its officers and agencies, any government agency or any court or other officer or agency of the unified judicial system.

"Independent agency." Boards, commissions, authorities and other agencies and officers of the Commonwealth government which are not subject to the policy supervision and control of the Governor, but the term does not include any court or other

officer or agency of the unified judicial system or the General Assembly and its officers and agencies.

"Interpret." Either one of the following:

(1) For purposes of Subchapter C of Chapter 5 (relating to administrative proceeding interpreters for persons with limited English proficiency), to convey spoken and written English into the language of the person with limited English proficiency and to convey oral and written statements by the person into spoken English.

(2) For purposes of Subchapter D of Chapter 5 (relating to administrative proceeding interpreters for persons who are deaf), to convey spoken English in a manner understood by the person who is deaf and to convey statements made by the person who is deaf into English through, but not limited to, American Sign Language and transliteration or the use of computer-aided real-time captioning (CART) or similar procedure.

"Interpreter." Includes both a certified interpreter and an otherwise qualified interpreter.

"Judicial proceeding." An "action," "appeal" or "proceeding" in any "court" of this Commonwealth as those terms are defined in 42 Pa.C.S. § 102 (relating to definitions).

"Limited ability to speak or understand English." The ability to speak exclusively or primarily a language other than English and the inability to sufficiently speak or understand English.

"Local agency." A government agency other than a Commonwealth agency.

"Matter." Action, proceeding or appeal.

"Otherwise qualified interpreter." A person who:

(1) For purposes of Subchapter C of Chapter 5 (relating to administrative proceeding interpreters for persons with limited English proficiency):

(i) is readily able to interpret; and

(ii) has read, understands and agrees to abide by the code of professional conduct for administrative proceeding interpreters for persons with limited English proficiency as established by the Department of Labor and Industry in accordance with Subchapter C of Chapter 5.

(2) For purposes of Subchapter D of Chapter 5 (relating to administrative proceeding interpreters for persons who are deaf):

(i) is readily able to interpret;

(ii) is certified by the National Association of the Deaf, the Registry of Interpreters for the Deaf or similar registry; and

(iii) has read, understands and agrees to abide by the code of professional conduct for administrative proceeding interpreters for persons who are deaf as established by the Department of Labor and Industry in accordance with Subchapter D of Chapter 5.

"Party." Any person who appears in a proceeding before an agency who has a direct interest in the subject matter of such proceeding.

"Person." Includes a government unit or an agency of the Federal Government.

"Person who is deaf." A party or witness who is deaf.

"Person with limited English proficiency." A party or a witness who has limited ability to speak or understand English.

"Presiding officer." An individual appointed by an agency to preside at an administrative proceeding.

"Transliteration." To convey spoken or written English in an English-based sign system and the process of conveying an English-based sign system in spoken or written English.

"Witness." A person who testifies in a proceeding before an agency.

(Nov. 29, 2006, P.L.1538, No.172, eff. 60 days)

Cross References. Section 101 is referred to in section 202 of Title 26 (Eminent Domain); section 4402 of Title 42 (Judiciary and Judicial Procedure).

§ 102. Implementing regulations.

(a) **General rule.**--An agency shall have power to promulgate, amend and repeal reasonable regulations implementing the provisions of this title.

(b) **Uniform rules.**--(Reserved).

§ 103. Administrative Agency Law.

(a) **General rule.**--The provisions of Subchapter A of Chapter 5 (relating to practice and procedure of Commonwealth agencies) and Subchapter A of Chapter 7 (relating to judicial review of Commonwealth agency action) shall be known and may be cited as the "Administrative Agency Law."

(b) **Rule making references.**--Whenever any statute makes reference to the Administrative Agency Law for procedures relating to the promulgation of administrative regulations, such reference shall hereafter be deemed to be a reference to the act of July 31, 1968 (P.L.769, No.240), known as the "Commonwealth Documents Law."

§ 104. Commonwealth Documents Law (Reserved).

§ 105. Local Agency Law.

The provisions of Subchapter B of Chapter 5 (relating to practice and procedure of local agencies) and Subchapter B of Chapter 7 (relating to judicial review of local agency action) shall be known and may be cited as the "Local Agency Law."

§ 106. Effect of future legislation.

No subsequent statute shall be held to supersede or modify the provisions of this title except to the extent that such statute shall do so expressly.

CHAPTER 3

PROMULGATION OF REGULATIONS

(Reserved)

Enactment. Chapter 3 (Reserved) was added April 28, 1978, P.L.202, No.53, effective in 60 days.

CHAPTER 5

PRACTICE AND PROCEDURE

Subchapter

- A. Practice and Procedure of Commonwealth Agencies
- B. Practice and Procedure of Local Agencies
- C. Administrative Proceeding Interpreters for Persons with Limited English Proficiency
- D. Administrative Proceeding Interpreters for Persons Who Are Deaf
- E. Child Victims and Witnesses

Enactment. Chapter 5 was added April 28, 1978, P.L.202, No.53, effective in 60 days.

Cross References. Chapter 5 is referred to in section 8533.1 of Title 24 (Education); sections 3370, 3370.1 of Title 75 (Vehicles).

SUBCHAPTER A
PRACTICE AND PROCEDURE OF
COMMONWEALTH AGENCIES

Sec.

- 501. Scope of subchapter.
- 502. Representation.
- 503. Discipline.
- 504. Hearing and record.
- 505. Evidence and cross-examination.
- 505.1. Interpreters for the deaf (Deleted by amendment).
- 506. Briefs and oral argument.
- 507. Contents and service of adjudications.
- 508. Notice to Department of Justice.

Cross References. Subchapter A is referred to in sections 103, 701, 704 of this title; sections 707, 1108.1, 1524, 1543, 2114, 2380.8, 2504, 6825, 6826, 6915, 6920, 7115, 9339 of Title 3 (Agriculture); sections 313, 328, 1518, 3304, 3905 of Title 4 (Amusements); sections 3507, 3517 of Title 5 (Athletics and Sports); section 6138 of Title 7 (Banks and Banking); section 6205 of Title 12 (Commerce and Trade); section 503 of Title 17 (Credit Unions); section 3022 of Title 18 (Crimes and Offenses); section 8617 of Title 20 (Decedents, Estates and Fiduciaries); section 5103 of Title 23 (Domestic Relations); section 8901 of Title 24 (Education); section 928 of Title 30 (Fish); sections 3705, 4904, 9506, 9702 of Title 40 (Insurance); section 762 of Title 42 (Judiciary and Judicial Procedure); section 323 of Title 57 (Notaries Public); section 3305 of Title 58 (Oil and Gas); sections 4506, 5904, 6137, 6139 of Title 61 (Prisons and Parole); section 13A02 of Title 65 (Public Officers); section 1102 of Title 67 (Public Welfare); section 5953.1 of Title 71 (State Government); sections 1510.1, 9104, 9303 of Title 74 (Transportation); sections 8510.4, 8520 of Title 75 (Vehicles).

§ 501. Scope of subchapter.

(a) **General rule.**--Except as provided in subsection (b), this subchapter shall apply to all Commonwealth agencies.

(b) **Exception.**--None of the provisions of this subchapter shall apply to:

(1) Proceedings before the Department of Revenue, Auditor General or Board of Finance and Revenue, involving the original settlement, assessment or determination or resettlement, reassessment or redetermination, review or refund of taxes, interest or payments made into the Commonwealth treasury.

(2) Proceedings before the Secretary of the Commonwealth under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(3) Proceedings before the Department of Transportation involving matters reviewable under 42 Pa.C.S. § 933 (relating to appeals from government agencies).

(4) Proceedings before the State System of Higher Education involving student discipline.

(Dec. 21, 1988, P.L.1895, No.186, eff. imd.)

§ 502. Representation.

Any party may be represented before a Commonwealth agency.

§ 503. Discipline.

Any Commonwealth agency may, upon hearing and good cause shown, preclude any person from practice before it.

§ 504. Hearing and record.

No adjudication of a Commonwealth agency shall be valid as to any party unless he shall have been afforded reasonable notice of a hearing and an opportunity to be heard. All testimony shall be stenographically recorded and a full and complete record shall be kept of the proceedings.

Cross References. Section 504 is referred to in section 9312 of Title 3 (Agriculture); sections 1205, 13A14 of Title 4 (Amusements).

§ 505. Evidence and cross-examination.

Commonwealth agencies shall not be bound by technical rules of evidence at agency hearings, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination shall be permitted.

Cross References. Section 505 is referred to in section 9312 of Title 3 (Agriculture); sections 1205, 13A14 of Title 4 (Amusements).

§ 505.1. Interpreters for the deaf (Deleted by amendment).

2006 Amendment. Section 505.1 was deleted by amendment Nov. 29, 2006, P.L.1538, No.172, effective in 60 days.

§ 506. Briefs and oral argument.

All parties shall be afforded opportunity to submit briefs prior to adjudication by a Commonwealth agency. Oral argument upon substantial issues may be heard by the agency.

§ 507. Contents and service of adjudications.

All adjudications of a Commonwealth agency shall be in writing, shall contain findings and the reasons for the adjudication, and shall be served upon all parties or their counsel personally, or by mail.

Cross References. Section 507 is referred to in section 1510.1 of Title 74 (Transportation).

§ 508. Notice to Department of Justice.

Before notice of any hearing leading to an adjudication is given by a Commonwealth agency (except the Pennsylvania Public Utility Commission), the agency shall submit the matter to its representative in the Department of Justice who shall pass upon the legality of the proposed action or defense. Failure of the agency to submit the matter to the department shall not invalidate any adjudication.

SUBCHAPTER B

PRACTICE AND PROCEDURE OF LOCAL AGENCIES

Sec.

- 551. Scope of subchapter.
- 552. Representation.
- 553. Hearing and record.
- 554. Evidence and cross-examination.
- 555. Contents and service of adjudications.

Cross References. Subchapter B is referred to in sections 105, 754 of this title; sections 6131, 8432, 8861 of Title 53 (Municipalities Generally); sections 3352, 7305 of Title 75 (Vehicles).

§ 551. Scope of subchapter.

This subchapter shall apply to all local agencies.

§ 552. Representation.

Any party may be represented before a local agency.

§ 553. Hearing and record.

No adjudication of a local agency shall be valid as to any party unless he shall have been afforded reasonable notice of a hearing and an opportunity to be heard. All testimony may be stenographically recorded and a full and complete record may be kept of the proceedings. In the event all testimony is not stenographically recorded and a full and complete record of the proceedings is not provided by the local agency, such testimony shall be stenographically recorded and a full and complete record of the proceedings shall be kept at the request of any party agreeing to pay the costs thereof.

Cross References. Section 553 is referred to in section 2304 of Title 68 (Real and Personal Property).

§ 554. Evidence and cross-examination.

Local agencies shall not be bound by technical rules of evidence at agency hearings, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination shall be permitted.

§ 555. Contents and service of adjudications.

All adjudications of a local agency shall be in writing, shall contain findings and the reasons for the adjudication, and shall be served upon all parties or their counsel personally, or by mail.

SUBCHAPTER C

ADMINISTRATIVE PROCEEDING INTERPRETERS
FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

Sec.

- 561. Scope of subchapter.
- 562. Duties of department.
- 563. Appointment of interpreter.
- 564. Replacement of interpreter.
- 565. Oath.
- 566. Confidential communications in presence of interpreter.
- 567. Cost of providing interpreter.
- 568. Funding.

Enactment. Subchapter C was added November 29, 2006, P.L.1538, No.72, effective in 60 days.

Cross References. Subchapter C is referred to in section 101 of this title.

§ 561. Scope of subchapter.

(a) **Commonwealth agencies.**--Except as provided in subsection (b), this subchapter applies to all Commonwealth agencies.

(b) **Exception.**--This subchapter does not apply to:

(1) Proceedings before the Department of Revenue, the Department of the Auditor General or the Board of Finance and Revenue involving the original settlement, assessment or determination or resettlement, reassessment or redetermination, review or refund of taxes, interest or payments made into the State Treasury.

(2) Proceedings before the Secretary of the Commonwealth under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(3) Proceedings before the Department of Transportation involving matters reviewable under 42 Pa.C.S. § 933 (relating to appeals from government agencies).

(4) Proceedings before the State System of Higher Education involving student discipline.

(c) Local agencies.--This subchapter applies to all local agencies.

§ 562. Duties of department.

(a) Interpreter program.--The department shall establish a program to appoint and use certified interpreters in administrative proceedings that is consistent with the program established by the Administrative Office of Pennsylvania Courts pursuant to 42 Pa.C.S. Ch. 44 (relating to court interpreters). As part of the program, the department may grant automatic certification to any interpreter that has been certified pursuant to 42 Pa.C.S. Ch. 44. To certify interpreters, the department may establish a program which may include:

(1) establishing and administering a comprehensive testing and certification program for interpreters;

(2) establishing and adopting standards of proficiency, written and oral, in English and the language to be interpreted, including, but not limited to, certification by the Court Administrator of Pennsylvania as provided in 42 Pa.C.S. Ch. 44;

(3) conducting periodic examinations to ensure the availability of certified interpreters pursuant to this subchapter;

(4) prescribing, determining and certifying the qualifications of persons who may serve as certified interpreters for persons with limited English proficiency;

(5) charging reasonable fees, as deemed necessary, for testing and certification;

(6) reciprocity of certification for interpreters from other jurisdictions, provided that, in the judgment of the department, the criteria for certification in the foreign jurisdiction is at least as stringent as that established by the department or the Court Administrator of Pennsylvania;

(7) providing for the audio recording of testimony that is the subject of interpretation; and

(8) providing a continuing education requirement for interpreters.

(b) List of certified interpreters.--The department shall compile, maintain and disseminate a current list of interpreters certified by the department to the agencies through any means deemed appropriate by the department, including, but not limited to, a written directory and publication on the official World Wide Web site of the department.

(c) Guidelines for selection of otherwise qualified interpreters.--The department shall provide guidelines to the agencies for the selection and use of otherwise qualified interpreters in order to ensure that the highest standards of accuracy are maintained in all administrative proceedings subject to this subchapter.

(d) Fee schedule.--The department shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by certified interpreters and otherwise qualified interpreters.

(e) Standards of professional conduct.--

(1) The department shall establish and adopt standards for a code of professional conduct for administrative proceeding interpreters for persons with limited English proficiency.

(2) The department shall establish, administer or recommend a process to review and respond to allegations of violations of the code of professional conduct for administrative proceeding interpreters for persons with limited English proficiency, including, but not limited to, decertification and other disciplinary measures.

(f) Certification by courts.--Any interpreter certified by the Administrative Office of Pennsylvania Courts pursuant to 42 Pa.C.S. Ch. 44 shall be deemed certified pursuant to this chapter.

§ 563. Appointment of interpreter.

(a) Appointment of certified interpreter.--Upon request or sua sponte, a presiding officer shall appoint a certified interpreter, unless a certified interpreter is unavailable as provided in subsection (b).

(b) Appointment of otherwise qualified interpreter when certified interpreter is unavailable.--

(1) An otherwise qualified interpreter shall be appointed by the presiding officer if a good faith effort was made to obtain a certified interpreter and a certified interpreter was not reasonably available, as determined by the presiding officer.

(2) Prior to the appointment of an otherwise qualified interpreter, the presiding officer shall state on the record that the otherwise qualified interpreter:

(i) is readily able to interpret; and

(ii) has read, understands and agrees to abide by the code of professional conduct for administrative proceeding interpreters for persons with limited English proficiency, as established by the department.

(c) Additional interpreters.--After consideration of the length of the administrative proceeding and the number of persons with limited English proficiency involved, a presiding officer may appoint, as provided in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding officer.

§ 564. Replacement of interpreter.

A presiding officer shall dismiss the interpreter and obtain the services of another interpreter in accordance with this subchapter if the interpreter:

(1) Fails to follow the standards prescribed by law or by the code of professional conduct for administrative proceeding interpreters for persons with limited English proficiency.

(2) Is unable to effectively communicate with the presiding officer or the person with limited English proficiency, including where the interpreter self-reports such inability.

§ 565. Oath.

Before the commencement of interpreter duties, an interpreter appointed under this subchapter shall take an oath or make an affirmation on the record that the interpreter will make a true interpretation to the person with limited English proficiency in the language which the person with limited English proficiency understands and that the interpreter will repeat the statements of the person with limited English proficiency to the court in English to the best of the interpreter's skill and judgment and in accordance with the code of professional conduct for administrative proceeding interpreters for persons with limited English proficiency.

§ 566. Confidential communications in presence of interpreter.

An interpreter appointed under this subchapter may not be compelled to testify, in any judicial proceeding or administrative proceeding, to statements made by the person with limited English proficiency and interpreted by the interpreter when the person with limited English proficiency is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

- (1) 42 Pa.C.S. § 5916 (relating to confidential communications to attorney).
- (2) 42 Pa.C.S. § 5928 (relating to confidential communications to attorney).
- (3) 42 Pa.C.S. § 5942 (relating to confidential communications to news reporters).
- (4) 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen).
- (5) 42 Pa.C.S. § 5944 (relating to confidential communications to psychiatrists or licensed psychologists).
- (6) 42 Pa.C.S. § 5945 (relating to confidential communications to school personnel).
- (7) 42 Pa.C.S. § 5945.1 (relating to confidential communications with sexual assault counselors).
- (8) 42 Pa.C.S. § 5945.2 (relating to confidential communications to crime stopper or similar anticrime program).

§ 567. Cost of providing interpreter.

An interpreter appointed in accordance with this subchapter is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses by the agency conducting the administrative proceeding.

Cross References. Section 567 is referred to in section 568 of this title.

§ 568. Funding.

Except as provided in section 567 (relating to cost of providing interpreter), the General Assembly shall appropriate to the department such sums as may be necessary to establish a program to facilitate the use of interpreters and otherwise fulfill the provisions of this subchapter. Implementation of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

SUBCHAPTER D

ADMINISTRATIVE PROCEEDING INTERPRETERS FOR PERSONS WHO ARE DEAF

Sec.

581. Scope of subchapter.
582. Duties of department.
583. Appointment of interpreter.
584. Replacement of interpreter.
585. Oath.
586. Confidential communications in presence of interpreter.
587. Cost of providing interpreter.
588. Funding.

Enactment. Subchapter D was added November 29, 2006, P.L.1538, No.72, effective in 60 days.

Cross References. Subchapter D is referred to in section 101 of this title.

§ 581. Scope of subchapter.

(a) **Commonwealth agencies.**--Except as provided in subsection (b), this subchapter applies to all Commonwealth agencies.

(b) **Exception.**--This subchapter does not apply to:

(1) Proceedings before the Department of Revenue, the Department of the Auditor General or the Board of Finance and Revenue involving the original settlement, assessment or determination or resettlement, reassessment or redetermination, review or refund of taxes, interest or payments made into the State Treasury.

(2) Proceedings before the Secretary of the Commonwealth under the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code.

(3) Proceedings before the Department of Transportation involving matters reviewable under 42 Pa.C.S. § 933 (relating to appeals from government agencies).

(4) Proceedings before the State System of Higher Education involving student discipline.

(c) **Local agencies.**--This subchapter applies to all local agencies.

§ 582. Duties of department.

(a) **Interpreter program.**--The department shall establish a program to appoint and use certified interpreters in administrative proceedings that is consistent with the program established by the Administrative Office of Pennsylvania Courts pursuant to 42 Pa.C.S. Ch. 44 (relating to court interpreters). As part of the program, the department may grant automatic certification to any interpreter that has been certified pursuant to 42 Pa.C.S. Ch. 44. To certify interpreters, the department may establish a program which may include:

(1) establishing and administering a comprehensive testing and certification program for interpreters pursuant to this subchapter;

(2) establishing and adopting standards of proficiency, including, but not limited to, certification by the Court Administrator of Pennsylvania as provided in 42 Pa.C.S. Ch. 44 and certification by the Registry for Interpreters for the Deaf or similar registry;

(3) conducting periodic examinations to ensure the availability of certified interpreters;

(4) prescribing, determining and certifying the qualifications of persons who may serve as certified interpreters;

(5) charging reasonable fees, as deemed necessary, for testing and certification;

(6) reciprocity of certification for interpreters from other jurisdictions, provided that, in the judgment of the department, the criteria for certification in the foreign jurisdiction is as least as stringent as that established by the department or the Court Administrator of Pennsylvania;

(7) providing for the audio recording of testimony that is the subject of interpretation; and

(8) providing a continuing education requirement for interpreters.

(b) **List of certified interpreters.**--The department shall compile, maintain and disseminate a current list of interpreters certified by the department to the agencies through any means deemed appropriate by the department, including, but not limited to, a written directory and publication on the official World Wide Web site of the department.

(c) **Guidelines for selection of otherwise qualified interpreters.**--The department shall provide guidelines to the agencies for the selection and use of otherwise qualified

interpreters in order to ensure that the highest standards of accuracy are maintained in all administrative proceedings subject to this subchapter.

(d) Fee schedule.--The department shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by certified interpreters and otherwise qualified interpreters.

(e) Standards of professional conduct.--

(1) The department shall establish and adopt standards for a code of professional conduct for administrative proceeding interpreters for persons who are deaf.

(2) The department shall establish, administer or recommend a process to review and respond to allegations of violations of the code of professional conduct for administrative proceeding interpreters for persons who are deaf, including, but not limited to, decertification and other disciplinary measures.

(f) Certification by courts.--Any interpreter certified by the Administrative Office of Pennsylvania Courts pursuant to 42 Pa.C.S. Ch. 44 shall be deemed certified pursuant to this chapter.

§ 583. Appointment of interpreter.

(a) Appointment of certified interpreter.--Upon request, a presiding officer shall appoint a certified interpreter unless the certified interpreter is unavailable as provided in subsection (b).

(b) Appointment of otherwise qualified interpreter when certified interpreter is unavailable.--

(1) An otherwise qualified interpreter shall be appointed by a presiding officer if a good faith effort was made to obtain a certified interpreter and a certified interpreter was not reasonably available, as determined by the presiding officer.

(2) Prior to the appointment of an otherwise qualified interpreter, the presiding officer shall state on the record that to the best of the knowledge of the presiding officer, the otherwise qualified interpreter:

(i) is readily able to interpret;

(ii) is certified by the National Association for the Deaf, the Registry of Interpreters for the Deaf or similar registry, to the best of the knowledge of the presiding officer; and

(iii) has read, understands and agrees to abide by the code of professional conduct for administrative proceeding interpreters for persons who are deaf, as established by the department.

(c) Additional interpreters.--After consideration of the length of the administrative proceeding, the special needs of the person who is deaf and the number of persons involved who are deaf, the presiding officer may appoint, as provided in subsections (a) and (b), an additional interpreter or provide for additional interpretation in a manner deemed appropriate by the presiding officer.

§ 584. Replacement of interpreter.

A presiding officer shall dismiss the interpreter and obtain the services of another interpreter in accordance with this subchapter if the interpreter:

(1) Fails to follow the standards prescribed by law or by the code of professional conduct for administrative proceeding interpreters for persons who are deaf.

(2) Is unable to effectively communicate with the presiding officer or person who is deaf, including where the interpreter self-reports such inability.

§ 585. Oath.

Before the commencement of interpreter duties, an interpreter appointed under this subchapter shall take an oath or make an affirmation on the record that the interpreter will make a true interpretation to the person who is deaf in the manner that the person who is deaf understands and that the interpreter will repeat the statements of the person who is deaf to the court in the spoken English language to the best of the interpreter's skill and judgment and in accordance with the code of professional conduct for administrative proceeding interpreters for persons who are deaf.

§ 586. Confidential communications in presence of interpreter.

An interpreter appointed under this subchapter may not be compelled to testify, in any judicial proceeding or administrative proceeding, to statements made by the person who is deaf and interpreted by the interpreter when the person who is deaf is engaged in a confidential communication as provided by any statute or general rule, including, but not limited to:

- (1) 42 Pa.C.S. § 5916 (relating to confidential communications to attorney).
- (2) 42 Pa.C.S. § 5928 (relating to confidential communications to attorney).
- (3) 42 Pa.C.S. § 5942 (relating to confidential communications to news reporters).
- (4) 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen).
- (5) 42 Pa.C.S. § 5944 (relating to confidential communications to psychiatrists or licensed psychologists).
- (6) 42 Pa.C.S. § 5945 (relating to confidential communications to school personnel).
- (7) 42 Pa.C.S. § 5945.1 (relating to confidential communications with sexual assault counselors).
- (8) 42 Pa.C.S. § 5945.2 (relating to confidential communications to crime stopper or similar anticrime program).

§ 587. Cost of providing interpreter.

An interpreter appointed in accordance with this subchapter is entitled to a reasonable fee for interpreter services and shall be reimbursed for actual and reasonable expenses by the agency conducting the administrative proceeding.

Cross References. Section 587 is referred to in section 588 of this title.

§ 588. Funding.

Except as provided in section 587 (relating to cost of providing interpreter), the General Assembly shall appropriate to the department such sums as may be necessary to establish a program to facilitate the use of interpreters and otherwise fulfill the provisions of this subchapter. Implementation of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

SUBCHAPTER E
CHILD VICTIMS AND WITNESSES

Sec.

591. Definitions.
592. Rights and services.

593. Alternative method of testimony.

Enactment. Subchapter E was added June 10, 2024, P.L.391, No.23, effective in 60 days.

§ 591. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Child abuse." As defined in 23 Pa.C.S. § 6303(b.1) (relating to definitions).

"Department." The Department of Human Services of the Commonwealth.

"Sexual abuse or exploitation." As defined in 23 Pa.C.S. § 6303(a).

§ 592. Rights and services.

(a) Designation of persons to act on behalf of children.--When necessary to protect and promote the best interests of child witnesses, the department may designate one or more persons as a child advocate to accompany and provide the following services on behalf of children who are involved in proceedings before the department as material witnesses:

(1) To explain, in language understood by the child, all legal proceedings in which the child will be involved.

(2) To advise the department, when appropriate, of the child's ability to understand and cooperate with any proceedings.

(3) To assist or secure assistance for the child and the child's family in coping with the emotional impact of the proceedings in which the child is involved.

(b) Qualifications.--Persons designated under subsection (a) may be attorneys at law or other persons who, by virtue of service as rape crisis or domestic violence counselors or by virtue of membership in a community service organization or of other experience acceptable to the department, possess education, experience or training in counseling for victims of child abuse or sexual abuse or exploitation.

§ 593. Alternative method of testimony.

(a) Applicability.--In a proceeding before the department, an alternative method of testimony shall be utilized if both of the following apply:

(1) A child is the subject or material witness to a substantiated report of child abuse or sexual abuse or exploitation by a party to a proceeding under this chapter.

(2) An alternative method of testimony is necessary to protect and promote the best interests of the child.

(b) Due process rights.--Nothing in this section is intended to deprive a party to the proceeding of the party's due process rights.

(c) Petition.--A petition on a form developed by the department to utilize the provisions of this section may be made on behalf of the child. The department shall approve or deny the petition. The petition may be made by:

(1) A parent.

(2) A guardian.

(3) A court-appointed special advocate.

(4) An attorney representing the department or a county agency in the proceeding in which the child will testify.

(5) A court-appointed attorney representing the child in any other matter.

(6) Any other individual in loco parentis to the child.

(d) Definition.--For purposes of this section, the term "alternative method of testimony" shall mean a procedural

accommodation that will aid a child in providing testimony in a proceeding before the department. The accommodation may include, but not be limited to:

(1) Allowing the child access to a person, animal or object to provide emotional support or mitigate emotional trauma to the child during the proceeding.

(2) A contemporaneous alternative method of testimony as defined in 42 Pa.C.S. § 5982 (relating to definitions).

(3) Other nontraditional methods of taking testimony as necessary to provide emotional support or mitigate emotional trauma to the child.

CHAPTER 7

JUDICIAL REVIEW

Subchapter

- A. Judicial Review of Commonwealth Agency Action
- B. Judicial Review of Local Agency Action

Enactment. Chapter 7 was added April 28, 1978, P.L.202, No.53, effective in 60 days.

Cross References. Chapter 7 is referred to in section 8533.1 of Title 24 (Education); section 5105 of Title 42 (Judiciary and Judicial Procedure); sections 5705, 57A05, 57A06.1, 8211 of Title 53 (Municipalities Generally); section 5953.1 of Title 71 (State Government); sections 3370, 3370.1 of Title 75 (Vehicles).

SUBCHAPTER A

JUDICIAL REVIEW OF COMMONWEALTH AGENCY ACTION

Sec.

- 701. Scope of subchapter.
- 702. Appeals.
- 703. Scope of review.
- 704. Disposition of appeal.

Cross References. Subchapter A is referred to in section 103 of this title; sections 707, 1108.1, 1524, 1543, 2114, 2362, 2380.8, 2504, 6825, 6826, 6915, 6920, 7115, 9339 of Title 3 (Agriculture); sections 313, 328, 1204, 1518, 3304, 3905 of Title 4 (Amusements); section 3517 of Title 5 (Athletics and Sports); section 6138 of Title 7 (Banks and Banking); section 6205 of Title 12 (Commerce and Trade); section 503 of Title 17 (Credit Unions); section 3022 of Title 18 (Crimes and Offenses); section 8617 of Title 20 (Decedents, Estates and Fiduciaries); section 5103 of Title 23 (Domestic Relations); section 8901 of Title 24 (Education); section 7923 of Title 35 (Health and Safety); sections 3705, 4904, 9702 of Title 40 (Insurance); section 763 of Title 42 (Judiciary and Judicial Procedure); section 323 of Title 57 (Notaries Public); sections 4506, 6137, 6139 of Title 61 (Prisons and Parole); section 13A02 of Title 65 (Public Officers); section 1105 of Title 67 (Public Welfare); sections 1510.1, 9104, 9303 of Title 74 (Transportation); sections 8510.4, 8520 of Title 75 (Vehicles).

§ 701. Scope of subchapter.

(a) **General rule.**--Except as provided in subsection (b), this subchapter shall apply to all Commonwealth agencies regardless of the fact that a statute expressly provides that

there shall be no appeal from an adjudication of an agency, or that the adjudication of an agency shall be final or conclusive, or shall not be subject to review.

(b) Exceptions.--None of the provisions of this subchapter shall apply to:

(1) Any matter which is exempt from Subchapter A of Chapter 5 (relating to practice and procedure of Commonwealth agencies).

(2) Any appeal from a Commonwealth agency which may be taken initially to the courts of common pleas under 42 Pa.C.S. § 933 (relating to appeals from government agencies).

§ 702. Appeals.

Any person aggrieved by an adjudication of a Commonwealth agency who has a direct interest in such adjudication shall have the right to appeal therefrom to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure).

Cross References. Section 702 is referred to in section 9518 of Title 13 (Commercial Code).

§ 703. Scope of review.

(a) General rule.--A party who proceeded before a Commonwealth agency under the terms of a particular statute shall not be precluded from questioning the validity of the statute in the appeal, but such party may not raise upon appeal any other question not raised before the agency (notwithstanding the fact that the agency may not be competent to resolve such question) unless allowed by the court upon due cause shown.

(b) Equitable relief.--The remedy at law provided by subsection (a) shall not in any manner impair the right to equitable relief heretofore existing, and such right to equitable relief is hereby continued notwithstanding the provisions of subsection (a).

§ 704. Disposition of appeal.

The court shall hear the appeal without a jury on the record certified by the Commonwealth agency. After hearing, the court shall affirm the adjudication unless it shall find that the adjudication is in violation of the constitutional rights of the appellant, or is not in accordance with law, or that the provisions of Subchapter A of Chapter 5 (relating to practice and procedure of Commonwealth agencies) have been violated in the proceedings before the agency, or that any finding of fact made by the agency and necessary to support its adjudication is not supported by substantial evidence. If the adjudication is not affirmed, the court may enter any order authorized by 42 Pa.C.S. § 706 (relating to disposition of appeals).

SUBCHAPTER B

JUDICIAL REVIEW OF LOCAL AGENCY ACTION

Sec.

- 751. Scope of subchapter.
- 752. Appeals.
- 753. Scope of review.
- 754. Disposition of appeal.

Cross References. Subchapter B is referred to in section 105 of this title; section 14408 of Title 11 (Cities); section 6114 of Title 18 (Crimes and Offenses); section 933 of Title 42 (Judiciary and Judicial Procedure); sections 6131, 8432, 8861 of Title 53 (Municipalities Generally).

§ 751. Scope of subchapter.

(a) **General rule.**--Except as provided in subsection (b), this subchapter shall apply to all local agencies regardless of the fact that a statute expressly provides that there shall be no appeal from an adjudication of an agency, or that the adjudication of an agency shall be final or conclusive, or shall not be subject to review.

(b) **Exception.**--The provisions of this subchapter shall apply to any adjudication which under any existing statute may be appealed to a court of record, but only to the extent not inconsistent with such statute.

§ 752. Appeals.

Any person aggrieved by an adjudication of a local agency who has a direct interest in such adjudication shall have the right to appeal therefrom to the court vested with jurisdiction of such appeals by or pursuant to Title 42 (relating to judiciary and judicial procedure).

§ 753. Scope of review.

(a) **General rule.**--A party who proceeded before a local agency under the terms of a particular statute, home rule charter, or local ordinance or resolution shall not be precluded from questioning the validity of the statute, home rule charter or local ordinance or resolution in the appeal, but if a full and complete record of the proceedings before the agency was made such party may not raise upon appeal any other question not raised before the agency (notwithstanding the fact that the agency may not be competent to resolve such question) unless allowed by the court upon due cause shown.

(b) **Equitable relief.**--The remedy at law provided by subsection (a) shall not in any manner impair the right to equitable relief heretofore existing, and such right to equitable relief is hereby continued, notwithstanding the provisions of subsection (a).

§ 754. Disposition of appeal.

(a) **Incomplete record.**--In the event a full and complete record of the proceedings before the local agency was not made, the court may hear the appeal de novo, or may remand the proceedings to the agency for the purpose of making a full and complete record or for further disposition in accordance with the order of the court.

(b) **Complete record.**--In the event a full and complete record of the proceedings before the local agency was made, the court shall hear the appeal without a jury on the record certified by the agency. After hearing the court shall affirm the adjudication unless it shall find that the adjudication is in violation of the constitutional rights of the appellant, or is not in accordance with law, or that the provisions of Subchapter B of Chapter 5 (relating to practice and procedure of local agencies) have been violated in the proceedings before the agency, or that any finding of fact made by the agency and necessary to support its adjudication is not supported by substantial evidence. If the adjudication is not affirmed, the court may enter any order authorized by 42 Pa.C.S. § 706 (relating to disposition of appeals).

**APPENDIX TO TITLE 2
ADMINISTRATIVE LAW AND PROCEDURE**

Supplementary Provisions of Admendatory Statutes

(Reserved)