

EX PARTE STATUTES AND RULES

<u>State</u>	<u>Statute</u>	<u>Relevant Language</u>
FERC	18 C.F.R. § 385.2201	<p>§ 385.2201 Rules governing off-the-record communications. (Rule 2201).</p> <p>The purpose of FERC’s ex parte prohibition is to permit “fully informed decision making by the Commission while ensuring the integrity and fairness of the Commission's decisional process.” 18 C.F.R. § 385.2201(a). FERC prohibits ex parte communications in “all contested on-the-record proceedings.” <i>Id.</i> at § 385.2201. FERC exempts communications in “notice-and-comment rulemakings under 5 U.S.C. Section 553 investigations under part 1b of this chapter, or any proceeding in which no party disputes any material issue” from this requirement. <i>Id.</i> at § 385.2201(c)(1)(ii). The statute specifies that unless expressly permitted, “in any contested on-the-record proceeding, no person outside the commission shall make or knowingly cause to be made to any decisional employee, and no decisional employee shall make or knowingly cause to be made to any person outside the Commission, any off-the-record communication.” <i>Id.</i> at § 385.2201(b)(d).</p>
Alabama	Ala. Admin. Code r. 770-X-4-.25	<p><u>770-X-4-.25 Ex Parte Communications.</u></p> <p>Parties or their representatives in a contested issue or proceeding which has been the subject of a formal public and open hearing or in a proceeding which has been set for hearing shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, issue or proceeding with any Commissioner, Administrative Law Judge or other individual assigned to render a proposed order or final decision or to make findings of fact and conclusions of law in that contested case, issue or proceeding except upon notice and opportunity for all parties to participate and none of the Commissioners or Administrative Law Judges will allow ex parte argument to be made concerning such case, issue or proceeding.</p>
Alaska	Alaska Admin. Code tit. 3, § 48.020(g)-(h)	<p>3 AAC 48.020. Communications</p> <p>(g) A commissioner, presiding officer, or commission staff member may not, except upon reasonable notice and opportunity for all parties to participate, communicate with a party, and other affected persons, about any issue of fact, law, or policy in a pending adjudicatory proceeding.</p> <p>(h) Communications not prohibited by (g) of this section include communications</p> <ul style="list-style-type: none"> (1) to discuss scheduling or procedural matters; (2) between the presiding officer and parties, designed to produce a settlement; with the consent of all parties, the presiding officer may continue to preside in the same proceeding; (3) between a regulated entity and the commission staff in a preliminary investigation of a tariff filing before suspension under AS 42.05.421; (4) between the commission staff and an applicant for certification, registration, or another ruling by the commission, if the applicant is the only party to a proceeding; or (5) during a scheduled meeting between commissioners or commission staff members and a regulated entity to discuss utility and pipeline projects, industry trends, technology, and developments, if those persons do not discuss an issue in a pending adjudicatory proceeding; within two business days after that meeting, a commissioner or commission staff member involved in the communication shall submit, by electronic mail or in writing to the commission staff member who supervises the commission's records and filings section, a statement that includes the following information: <ul style="list-style-type: none"> (A) to the extent known, the names and addresses of the persons involved in the scheduled meeting;

EX PARTE STATUTES AND RULES

		<p>(B) the date and time of the scheduled meeting, its duration, and the means and circumstances under which it was made;</p> <p>(C) a summary of matters discussed.</p>
Arkansas	126-00 Code Ark. R. § 001	<p>Rule 1.06 Ex Parte Communication.</p> <p>In order to avoid all possibilities of prejudice, real or apparent, to the public interest and Persons involved in proceedings pending before the Commission:</p> <p>(a) No Person shall submit Ex Parte Communications to any Commissioner or Presiding Officer in such proceeding, reasonably designed to influence a decision on any issue of law or fact in any such proceeding. Independent advice and counsel rendered by the Commissioners' Staff to the Commission or Presiding Office is not Ex Parte Communication, nor is attendance by the Commissioners or a Presiding Officer at public conferences and other educational events. No Commissioner or Presiding Officer shall request or entertain any Ex Parte Communication herein prohibited.</p> <p>(b) A Commissioner or Presiding Officer in such proceeding who receives an offer of any Ex Parte Communication concerning any issue of law or fact in any such proceeding shall decline to listen to such communication and shall explain that the matter is pending for determination. If unsuccessful in preventing such communication, the recipient thereof shall advise the communicator that he/she will not consider the communication, and he/she shall promptly and fully inform the Commission and all other Parties to the proceeding of the substance of the communication and circumstances thereof.</p> <p>(c) A Party may request an opportunity to rebut, on the record, any facts or contentions contained in any prohibited Ex Parte Communication. The Commission or Presiding Officer shall grant such requests only where fairness so requires. If the Commission or Presiding Officer declines to grant such request, the requesting party may proffer its rebuttal for the record. Where the Ex Parte Communication contains assertions of fact not a part of the record of which the Commission or Presiding Officer cannot take official notice, the Commission or Presiding Officer in lieu of receiving rebuttal material normally will direct that the alleged factual assertion in the Ex Parte Communication and any proposed rebuttal be disregarded in arriving at a decision.</p>
Arizona	Ariz. Admin. Code § 14-3-113	<p>R14-3-113. Unauthorized communications</p> <p>A. Purpose. It is the purpose of this rule to assist the members of the Arizona Corporation Commission and its employees in avoiding the possibility of prejudice, real or apparent, to the public interest in proceedings before the Commission and hearings before the Arizona Power Plant and Transmission Line Siting Committee.</p> <p>B. Application. The provisions of this rule apply from the time a contested matter is set for public hearing before the Commission and from the time a notice of siting hearing is published pursuant to R14-3-208(A). The provisions of this rule do not apply to rulemaking proceedings.</p> <p>C. Prohibitions.</p> <p>1. No person shall make or cause to be made an oral or written communication, not on the public record, concerning the substantive merits of a contested proceeding or siting hearing to a commissioner or commission employee involved in the decision-making process for that</p>

EX PARTE STATUTES AND RULES

		<p>proceeding or siting hearing.</p> <p>2. No commissioner or commission employee involved in the decision-making process of a contested proceeding or siting hearing shall request, entertain, or consider an unauthorized communication concerning the merits of the proceeding or siting hearing.</p> <p>3. The provisions of this rule shall not prohibit:</p> <ul style="list-style-type: none"> a. Communications regarding procedural matters; b. Communications regarding any other proceedings; c. Intra-agency or non-party communications regarding purely technical and legal matters; d. Comments from the general public; e. Communications among hearing officers, non-party staff and commissioners. <p>D. Remedy.</p> <p>1. A commissioner or commission employee who receives an oral or written offer of any communication prohibited by this rule must decline to receive such communication and will explain that the matter is pending for determination and that all communication regarding it must be made on the public record. If unsuccessful in preventing such communications, the recipient will advise the communicator that the communication will not be considered, a brief signed statement setting forth the substance of the communication and the circumstances under which it was made, will be prepared, and the statement will be filed in the public record of the case or proceeding.</p> <p>2. Any person affected by an unauthorized communication will have an opportunity to rebut on the record any facts or contentions contained in the communication.</p> <p>3. If a party to a contested proceeding or siting hearing makes an unauthorized communication, the party may be required to show cause why its claim or interest in the proceeding or siting hearing should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.</p>
California	<p>Cal Pub Util Code § 1701.1</p> <p>Cal Pub Util Code § 1701.3(c)</p> <p>Cal. Code Regs. tit. 20, § 8.3</p> <p>Cal. Code Regs. tit. 20, § 8.4</p> <p>Cal. Code Regs. tit. 20, § 8.5</p>	<p>§ 1701.1. Determination of whether hearing is required; Types of hearings; Ex parte communications</p> <p>(c)(4) "Ex parte communication," for purposes of this article, means any oral or written communication between a decisionmaker and a person with an interest in a matter before the commission concerning substantive, but not procedural issues, that does not occur in a public hearing, workshop, or other public proceeding, or on the official record of the proceeding on the matter. "Person with an interest," for purposes of this article, means any of the following:</p> <ul style="list-style-type: none"> (A) Any applicant, an agent or an employee of the applicant, or a person receiving consideration for representing the applicant, or a participant in the proceeding on any matter before the commission. (B) Any person with a financial interest, as described in Article 1 (commencing with Section 87100) of Chapter 7 of Title 9 of the Government Code, in a matter before the commission, or an agent or employee of the person with a financial interest, or a person receiving consideration for representing the person with a financial interest. (C) A representative acting on behalf of any civic, environmental, neighborhood, business, labor, trade, or similar organization who intends to influence the decision of a

EX PARTE STATUTES AND RULES

		<p>commission member on a matter before the commission.</p> <p>The commission shall by regulation adopt and publish a definition of decisionmakers and persons for purposes of this section, along with any requirements for written reporting of ex parte communications and appropriate sanctions for noncompliance with any rule proscribing ex parte communications. The regulation shall provide that reportable communications shall be reported by the party, whether the communication was initiated by the party or the decisionmaker. Communications shall be reported within three working days of the communication by filing a "Notice of Ex Parte Communication" with the commission in accordance with the procedures established by the commission for the service of that notice. The notice shall include the following information:</p> <ul style="list-style-type: none">(i) The date, time, and location of the communication, and whether it was oral, written, or a combination.(ii) The identity of the recipient and the person initiating the communication, as well as the identity of any persons present during the communication.(iii) A description of the party's, but not the decisionmaker's, communication and its content, to which shall be attached a copy of any written material or text used during the communication. <p>§ 1701.3. Procedure for hearing ratesetting cases</p> <p>(c) Ex parte communications are prohibited in ratesetting cases. However, oral ex parte communications may be permitted at any time by any commissioner if all interested parties are invited and given not less than three days' notice. Written ex parte communications may be permitted by any party provided that copies of the communication are transmitted to all parties on the same day. If an ex parte communication meeting is granted to any party, all other parties shall also be granted individual ex parte meetings of a substantially equal period of time and shall be sent a notice of that authorization at the time that the request is granted. In no event shall that notice be less than three days. The commission may establish a period during which no oral or written ex parte communications shall be permitted and may meet in closed session during that period, which shall not in any circumstance exceed 14 days. If the commission holds the decision, it may permit ex parte communications during the first half of the interval between the hold date and the date that the decision is calendared for final decision. The commission may meet in closed session for the second half of that interval.</p> <p>§ 8.3. (Rule 8.3) Ex Parte Requirements</p> <ul style="list-style-type: none">(a) In any quasi-legislative proceeding, ex parte communications are allowed without restriction or reporting requirement.(b) In any adjudicatory proceeding, ex parte communications are prohibited.(c) In any ratesetting proceeding, ex parte communications are subject to the reporting requirements set forth in Rule 8.4. In addition, the following restrictions apply:<ul style="list-style-type: none">(1) All-party meetings: Oral ex parte communications are permitted at any time with a Commissioner provided that the Commissioner involved (i) invites all parties to attend the meeting or sets up a conference call in which all parties may participate, and (ii) gives notice of this meeting or call as soon as possible, but no less than three days before the meeting or call.(2) Individual oral communications: If a decisionmaker grants an ex parte communication meeting or call to any interested person individually, all other parties shall be granted an individual meeting of a substantially equal period of time with that decisionmaker. The interested person requesting the initial individual meeting shall notify the parties that its request
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EX PARTE STATUTES AND RULES

		<p>has been granted, and shall file a certificate of service of this notification, at least three days before the meeting or call.</p> <p>(3) Written ex parte communications are permitted at any time provided that the interested person making the communication serves copies of the communication on all parties on the same day the communication is sent to a decisionmaker.</p> <p>(4) Ratesetting Deliberative Meetings and Ex Parte Prohibitions:</p> <p>(A) The Commission may prohibit ex parte communications for a period beginning not more than 14 days before the day of the Commission Business Meeting at which the decision in the proceeding is scheduled for Commission action, during which period the Commission may hold a Ratesetting Deliberative Meeting. If the decision is held, the Commission may permit such communications for the first half of the hold period, and may prohibit such communications for the second half of the period, provided that the period of prohibition shall begin not more than 14 days before the day of the Business Meeting to which the decision is held.</p> <p>(B) In proceedings in which a Ratesetting Deliberative Meeting has been scheduled, ex parte communications are prohibited from the day of the Ratesetting Deliberative Meeting at which the decision in the proceeding is scheduled to be discussed through the conclusion of the Business Meeting at which the decision is scheduled for Commission action.</p> <p>(d) Notwithstanding Rule 8.5, unless otherwise directed by the assigned Administrative Law Judge with the approval of the assigned Commissioner, the provisions of subsections (b) and (c) of this rule, and any reporting requirements under Rule 8.4, shall cease to apply, and ex parte communications shall be permitted, in any proceeding in which (1) no timely answer, response, protest, or request for hearing is filed, (2) all such responsive pleadings are withdrawn, or (3) a scoping memo has issued determining that a hearing is not needed in the proceeding.</p> <p>(e) Ex parte communications concerning categorization of a given proceeding are permitted, but must be reported pursuant to Rule 8.4.</p> <p>(f) Ex parte communications regarding the assignment of a proceeding to a particular Administrative Law Judge, or reassignment of a proceeding to another Administrative Law Judge, are prohibited. For purposes of this rule, "ex parte communications" include communications between an Administrative Law Judge and other decisionmakers about a motion for reassignment of a proceeding assigned to that Administrative Law Judge.</p> <p>(g) The requirements of this rule, and any reporting requirements under Rule 8.4, shall apply until (1) the date when the Commission serves the decision finally resolving any application for rehearing, or (2) where the period to apply for rehearing has expired and no application for rehearing has been filed.</p> <p>(h) Upon the filing of a petition for modification, the requirements of this rule, and any reporting requirements under Rule 8.4, that applied to the proceeding in which the decision that would be modified was issued shall apply until and unless (1) no timely response, protest or request for hearing is filed, (2) all such responsive pleadings are withdrawn, or (3) a scoping memo has issued determining that a hearing is not needed in the proceeding or that a different category shall apply.</p> <p>(i) Where a proceeding is remanded to the Commission by a court or where the Commission re-opens a</p>
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EX PARTE STATUTES AND RULES

		<p>proceeding, the requirements of this rule and any reporting requirements under Rule 8.4 that previously applied to the proceeding shall apply until and unless a Commission order or a scoping memo has issued determining that a hearing is not needed in the proceeding or that a different category shall apply.</p> <p>(j) When the Commission determines that there has been a violation of this rule or of Rule 8.4, the Commission may impose penalties and sanctions, or make any other order, as it deems appropriate to ensure the integrity of the record and to protect the public interest.</p> <p>(k) The Commission shall render its decision based on the evidence of record. Ex parte communications, and any notice filed pursuant to Rule 8.4, are not a part of the record of the proceeding.</p> <p>§ 8.4. (Rule 8.4) Reporting Ex Parte Communications</p> <p>Ex parte communications that are subject to these reporting requirements shall be reported by the interested person, regardless of whether the communication was initiated by the interested person. Notice of ex parte communications shall be filed within three working days of the communication. The notice may address multiple ex parte communications in the same proceeding, provided that notice of each communication identified therein is timely. The notice shall include the following information:</p> <ul style="list-style-type: none">(a) The date, time, and location of the communication, and whether it was oral, written, or a combination;(b) The identities of each decisionmaker (or Commissioner's personal advisor) involved, the person initiating the communication, and any persons present during such communication;(c) A description of the interested person's, but not the decisionmaker's (or Commissioner's personal advisor's), communication and its content, to which description shall be attached a copy of any written, audiovisual, or other material used for or during the communication. <p>§ 8.5. (Rule 8.5) Ex Parte Requirements Prior to Final Categorization</p> <p>(a) Applications.</p> <ul style="list-style-type: none">(1) The ex parte requirements applicable to ratesetting proceedings shall apply from the date the application is filed through the date of the Commission's preliminary determination of category pursuant to Rule 7.1(a).(2) The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(a) shall apply until the date of the assigned Commissioner's scoping memo finalizing the determination of categorization pursuant to Rule 7.3. <p>(b) Rulemakings. The ex parte requirements applicable to the category preliminarily determined by the Commission pursuant to Rule 7.1(d) shall apply until the date of the assigned Commissioner's ruling on scoping memo finalizing the determination of category pursuant to Rule 7.3.</p> <p>(c) Complaints. The ex parte requirements applicable to adjudicatory proceedings shall apply until the date of service of the instructions to answer finalizing the determination of category pursuant to Rule 7.1(b).</p>
Colorado	4 Colo. Code Regs. § 723-1	<p>4 CCR 723-1. PRACTICE AND PROCEDURE</p> <p>1106. Prohibited Communications - Generally.</p> <p>Ex parte communications concerning any disputed substantive or procedural issue, or facts or allegations at issue, are strictly prohibited. Commission staff members shall not act as conduits of communication in a manner that would violate this rule if the communication had occurred directly. Prohibited communication includes any oral or written communication that:</p>

EX PARTE STATUTES AND RULES

		<p>(a) occurs during the pendency of an adjudicatory proceeding or occurs when the persons engaging in the communication know or reasonably should know that the adjudication will commence within 30 days;</p> <p>(b) occurs between any advisory staff, Commissioner, or Administrative Law Judge, on the one hand, and, on the other hand, any person, including trial staff, related to, acting as, or acting on behalf of a party, amicus curiae, or member of the public submitting comments pursuant to rule 1509; and</p> <p>(c) is made without providing other parties notice and an opportunity to respond.</p> <p>1107. Prohibited Communications - Disclosure.</p> <p>(a) Any person communicating with any advisory staff, Commissioner, or Administrative Law Judge concerning a pending adjudicatory proceeding shall state the party with whom he or she is associated and the number and short title of the proceeding.</p> <p>(b) Any person, party, Commissioner, Administrative Law Judge, or member of Commission staff engaging in prohibited communications shall forthwith serve a notice on all parties describing:</p> <ul style="list-style-type: none">(I) the name and number of the proceeding;(II) a summary of the matters discussed;(III) the persons involved and their relationship, if any, to the parties;(IV) the date, time, and place of the communication and the circumstances under which it was made; and(V) any other relevant information concerning the communication. <p>1108. Prohibited Communications - Remedies.</p> <p>Upon determining that a party has engaged in prohibited communication, the Commission shall ensure that all parties have the opportunity to respond; this includes, if necessary, calling and cross-examining witnesses. In addition, the Commission may, upon its own motion or upon the motion of a party, order any of the following remedial measures:</p> <ul style="list-style-type: none">(a) dismissal of the proceeding, in whole or in part;(b) striking evidence or pleadings when the evidence or pleading is tainted by the prohibited communication;(c) a public statement of censure; or(d) such alternative or additional sanctions as may be appropriate under the circumstances. <p>1109. Disqualification of Commissioner or Administrative Law Judge.</p> <p>(a) Whenever any party has a good faith belief that a Commissioner or Administrative Law Judge has engaged in a prohibited communication or may not be impartial, the party may file a motion to disqualify the Commissioner or Administrative Law Judge. Such a motion shall be supported by an affidavit describing the nature and extent of the alleged prohibited communication or bias. Within ten days after any response has been filed, the Commissioner or Administrative Law Judge shall rule on the motion on the record. If the motion is denied, the movant may file a request within ten days,</p>
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EX PARTE STATUTES AND RULES

		<p>requesting the full Commission to review the denial of the motion. All Commissioners may fully participate in such review.</p> <p>(b) If at any time a Commissioner or Administrative Law Judge believes that his or her impartiality may reasonably be questioned, the Commissioner or Administrative Law Judge shall withdraw, as provided in § 40-6-124, C.R.S.</p> <p>1110. Commissioner and Administrative Law Judge Communications - Generally.</p> <p>(a) Prohibited communications do not include:</p> <ul style="list-style-type: none">(I) procedural, scheduling, status inquiries, E-Filings System support, or requests for information that have no bearing on the merits, substance, or outcome of the proceeding;(II) protests or comments made by any customer of a utility concerning any proposed tariff, price list, or time schedule;(III) communications that occur in educational programs or conferences, or that occur in meetings of an association of regulatory agencies, except for substantive issues involving pending matters;(IV) communications relating to pending legislative proposals, appropriations, budget, or oversight matters, except for substantive issues involving pending matters; or(V) communications relating to a pending administrative or rulemaking proceeding. <p>(b) Every Commissioner and Administrative Law Judge shall comply with the disclosure requirements of § 40-6-122, C.R.S.</p> <ul style="list-style-type: none">(I) All disclosures shall include:<ul style="list-style-type: none">(A) the date, time, and place of the communication;(B) the names of the persons present;(C) the interested persons' affiliations;(D) the subject matter of the communication;(E) a statement that the communication did not relate to any pending adjudicatory proceeding before the Commission; and(F) the signature of the Commissioner or Administrative Law Judge to certify that the disclosure is complete and accurate.(II) The Director shall ensure the completeness of all disclosures.(III) All disclosures shall be posted on the Commission's website within three business days of the receipt by the Director.(IV) If a disclosure is required by § 40-6-122, C.R.S., such disclosure shall be completed for all methods of communications including communications in person, by phone, and by e-mail exchange. <p>1111. Permit, but Disclose Process.</p> <p>(a) In administrative proceedings, the Commission may choose to allow interested persons to schedule ex parte presentations to a Commissioner in a meeting that may include Commission Staff. Any such ex parte contacts must relate to matters being</p>
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EX PARTE STATUTES AND RULES

		<p>reviewed in the specific administrative proceeding and cannot concern any matter pending before the Commission in another proceeding. The Commission will attempt to accommodate all reasonable requests for ex parte meetings, subject to the schedule and availability of each Commissioner. There is no requirement that an interested person must make the same presentation to each of the three Commissioners.</p> <p>(b) To schedule an ex parte meeting under the permit, but disclose process, the interested person should contact the Commission's executive assistant and identify the proceeding with which the presentation is associated.</p> <p>(c) Within two business days following a permitted ex parte presentation, the person requesting the meeting shall file with the Commission in the particular proceeding, a letter disclosing the contact. The letter shall include the following information:</p> <ul style="list-style-type: none"> (I) the date, time, and place of the meeting; (II) a list of all individuals in attendance; (III) the affiliations of all individuals in attendance; (IV) a summary description of the presentation; and (V) a statement that the subject matter of the communications did not relate to any pending adjudicatory proceeding before the Commission. (VI) If materials were provided to the Commissioner during the meeting, those materials must be identified in the letter and attached to the filing. <p>(d) The disclosure letter and any materials will become part of the official record of the proceeding.</p>
Connecticut	Conn. Agencies Regs. § 16-1-28	<p>Sec. 16-1-28. Ex parte communication</p> <p>Unless required for the disposition of ex parte matters authorized by law, neither the commissioners nor any member of the commission staff designated as a presiding officer shall communicate directly or indirectly with any person or party concerning any issue of fact or law involved in any contested case that has been commenced under these rules, except upon notice and opportunity for all parties to participate. The commission staff member designated as presiding officer and the commissioners may severally communicate with each other ex parte and may have the aid and advice of such members of the commission staff as are designated to assist them in such contested case. This rule shall not be construed to preclude such necessary routine communications as are necessary to permit the commission staff to investigate facts and to audit the applicable records of any party in a contested case at any time before, during and after the hearing thereof. (See Sec. 16-1-27)</p>
Delaware	http://dep.sc.delaware.gov/exparte.shtml	<p><u>Ex Parte Communications</u></p> <p>Ex Parte Communications are any oral or written communications with a Commissioner or Commission Staff member that addresses the merits of an adjudicatory proceeding on which the Commissioner or Staff member must render a decision and that was neither on the record nor on reasonable prior notice to all the parties. Such communications with Commissioners and Commission Staff are inappropriate between the time of the initial application filing and the rendering of a final decision on the case. When the Commissioners or Staff members receive such communications, they will be posted on the website for 30 days with notification sent to all parties of record on the proceeding.</p>
District of Columbia	D.C. Code Mun. Regs. tit. 15 § 108	<p><u>15-108. Ex Parte Communications.</u></p> <p>108.1 No interested person may, with respect to any case, make (or knowingly cause to be made) to any</p>

EX PARTE STATUTES AND RULES

		<p>Commissioner, Hearing Agent, or personal assistant to the Commissioners, any ex parte communication while the proceeding is pending before the Commission.</p> <p>108.2 The provisions of § 108.1 do not apply to any of the following communications:</p> <ul style="list-style-type: none"> (a) Those specifically authorized by law to be made on an ex parte basis; (b) Those related to a matter of procedure; or (c) Those made in the course of another proceeding of the Commission to which it primarily relates, and is on the public record. <p>108.3 Any employee of the Commission or person may apply to the Office of General Counsel for an advisory opinion as to whether any provision of this section is applicable to a communication.</p> <p>108.4 A proceeding is considered pending before the Commission when it is noticed for hearing, or when a communicator who reasonably believes it will be noticed for hearing obtains such knowledge (but not before the proceeding is docketed).</p> <p>108.5 A proceeding ends when the Commission's decision becomes final for purposes of judicial review.</p> <p>108.6 If a proceeding is phased or segmented so that one or more parts of the proceeding constitute informal rulemaking and one or more parts constitute contested proceedings, the Commission may, by order, provide that each phase or segment shall constitute a separate proceeding for purposes of this rule.</p> <p>108.7 Any Commissioner, personal assistant to a Commissioner, hearing agent or person appointed to advise the Commission, who receives an ex parte communication prohibited by this section shall, within forty-eight (48) hours after first having reason to believe that the communication is prohibited, prepare and deliver to the Secretary a written statement setting forth the substance of the communication if it is in oral form, or deliver to the Secretary the actual communication if it is in written form.</p> <p>108.8 The Secretary shall place any statement or communication in public files associated with the proceeding, but separate from the record upon which the Commission will rely in reaching its decision. The Secretary shall mail to each person on the official service list of the proceeding a copy of any such statement or communication.</p> <p>108.9 If the Commission determines that a communication was knowingly made (or caused to be made) by a party acting in violation of this section, the Commission may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his or her claim or interest in the proceeding should not be dismissed, denied, or otherwise adversely affected.</p>
Florida	Fla. Stat. Ann. § 350.042	<p>§ 350.042. Ex parte communications.</p> <p>(1) A commissioner should accord to every person who is legally interested in a proceeding, or the person's lawyer, full right to be heard according to law, and, except as authorized by law, shall neither initiate nor consider ex parte communications concerning the merits, threat, or offer of reward in any proceeding under s. 120.569 or s. 120.57 that is currently pending before the commission or that he or she knows or reasonably expects will be filed with the commission within 180 days after the date of any such communication, other than a proceeding under s. 120.54 or s. 120.565, workshops, or internal affairs meetings. An individual may not discuss ex parte with a commissioner the merits of any issue that he or she knows will be filed with the commission within 180 days. This subsection does not apply to commission staff.</p> <p>(2) The provisions of this section shall not prohibit an individual residential ratepayer from communicating with a commissioner, provided that the ratepayer is representing only himself or herself, without compensation.</p> <p>(3)</p> <p style="padding-left: 40px;">(a) The Legislature finds that it is important to have commissioners who are educated and</p>

EX PARTE STATUTES AND RULES

		<p>informed on regulatory policies and developments in science, technology, business management, finance, law, and public policy which are associated with the industries that the commissioners regulate. The Legislature also finds that it is in the public interest for commissioners to become educated and informed on these matters through active participation in meetings that are scheduled by organizations that sponsor such educational or informational sessions, programs, conferences, and similar events and that are duly noticed and open to the public.</p> <p>(b) As used in this subsection, the term “active participation” or “participating in” includes, but is not limited to, attending or speaking at educational sessions, participating in organization governance by attending meetings, serving on committees or in leadership positions, participating in panel discussions, and attending meals and receptions associated with such events that are open to all attendees.</p> <p>(c) The prohibition in subsection (1) remains in effect at all times at such meetings wherever located. While participating in such meetings, a commissioner shall:</p> <ol style="list-style-type: none">1. Refrain from commenting on or discussing any proceeding under s. 120.569 or s. 120.57 which is currently pending before the commission or that he or she knows or reasonably expects will be filed with the commission within 180 days after the meeting.2. Use reasonable care to ensure that the content of the educational session or other session in which the commissioner participates is not designed to address or create a forum to influence the commissioner on any proceeding under s. 120.569 or s. 120.57 which is currently pending before the commission or that he or she knows or reasonably expects will be filed with the commission within 180 days after the meeting. <p>(4) If a commissioner knowingly receives an ex parte communication relative to a proceeding other than as set forth in subsection (1), to which he or she is assigned, he or she must place on the record of the proceeding copies of all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received and all oral responses made, and shall give written notice to all parties to the communication that such matters have been placed on the record. Any party who desires to respond to an ex parte communication may do so. The response must be received by the commission within 10 days after receiving notice that the ex parte communication has been placed on the record. The commissioner may, if he or she deems it necessary to eliminate the effect of an ex parte communication received by him or her, withdraw from the proceeding, in which case the chair shall substitute another commissioner for the proceeding.</p> <p>(5) Any individual who makes an ex parte communication shall submit to the commission a written statement describing the nature of such communication, to include the name of the person making the communication, the name of the commissioner or commissioners receiving the communication, copies of all written communications made, all written responses to such communications, and a memorandum stating the substance of all oral communications received and all oral responses made. The commission shall place on the record of a proceeding all such communications.</p> <p>(6) Any commissioner who knowingly fails to place on the record any such communications, in violation of the section, within 15 days of the date of such communication is subject to removal and may be assessed a civil penalty not to exceed \$5,000.</p> <p>(7)</p>
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EX PARTE STATUTES AND RULES

		<p>(a) It shall be the duty of the Commission on Ethics to receive and investigate sworn complaints of violations of this section pursuant to the procedures contained in ss. 112.322-112.3241.</p> <p>(b) If the Commission on Ethics finds that there has been a violation of this section by a public service commissioner, it shall provide the Governor and the Florida Public Service Commission Nominating Council with a report of its findings and recommendations. The Governor is authorized to enforce the findings and recommendations of the Commission on Ethics, pursuant to part III of chapter 112 and to remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this section. The Governor shall remove from office a commissioner who is found by the Commission on Ethics to have willfully and knowingly violated this section after a previous finding by the Commission on Ethics that the commissioner willfully and knowingly violated this section in a separate matter.</p> <p>(c) If a commissioner fails or refuses to pay the Commission on Ethics any civil penalties assessed pursuant to the provisions of this section, the Commission on Ethics may bring an action in any circuit court to enforce such penalty.</p> <p>(d) If, during the course of an investigation by the Commission on Ethics into an alleged violation of this section, allegations are made as to the identity of the person who participated in the ex parte communication, that person must be given notice and an opportunity to participate in the investigation and relevant proceedings to present a defense. If the Commission on Ethics determines that the person participated in the ex parte communication, the person may not appear before the commission or otherwise represent anyone before the commission for a period of 2 years.</p>
Georgia	Ga. Comp. R. & Regs. r. 515-2-1-.14	<p><u>515-2-1-.14 Open Hearing Process</u></p> <p>(1) As used in this Rule, the term:</p> <p>(a) "Commissioner Advisory Staff" means the staff members assigned to serve in a non-Party advisory capacity in a particular proceeding.</p> <p>(b) "Party" means a party to a Proceeding pending before the Commission, including any officers, directors, managers, or employees of the party; a representative or agent of a party to a proceeding pending before the Commission; the consumer's utility counsel division; the Public Interest Advocacy Staff; and any person knowingly acting on behalf of or in concert with a party to a proceeding.</p> <p>(c) "Proceeding" means a contested case as that term is defined in O.C.G.A. 50-13-2(2).</p> <p>(d) "Public Interest Advocacy Staff" means the staff members assigned to participate in a particular proceeding as a Party.</p> <p>(e) "Emergency Situation" means a situation in which the public health, welfare or safety are jeopardized due to the utility's inability to safely and reliably provide public utility services to Georgia customers.</p> <p>(f) "As soon as possible after the communication" means as soon as physically practicable, but not later than two (2) business days after the date of the <i>ex parte</i> communication.</p> <p>(2) Proceedings before the Commission shall be open and transparent to all Parties and to the public. Except for any trade secret information provided pursuant to Commission Rule 515-3-1-.11 or any other statute or rule regarding trade secret filings with the Commission, all communications, directly or indirectly, between a Party and</p>

EX PARTE STATUTES AND RULES

	<p>the Commission, an individual Commissioner, a Commission hearing officer, or a member of the Commissioner Advisory Staff relating to a Proceeding shall be made in a public and open manner that allows all other Parties the opportunity to respond to such communication or information. Copies of all written or electronic communications relating to a Proceeding shall be contemporaneously filed with the Executive Secretary and served on all Parties. All oral communications relating to a Proceeding shall be made at a properly noticed meeting, hearing, or workshop of the Commission.</p> <p>(3) If, due to an emergency situation, a Party making a communication cannot comply with the notice requirements in subsection (2) of this rule, or if a Party inadvertently makes a communication in violation of this rule, the Party shall file with the Commission the information described below in subsection (4)(a) to (d), as well as a description of the emergency situation or an explanation of how the violation was inadvertent, as soon as possible after the communication.</p> <p>(4) If a member of the Commission, a Commission hearing officer, or a member of the Commissioner Advisory Staff receives or makes a communication in violation of this rule, he or she shall place the following on the record of the proceeding as soon as possible after the communication:</p> <ul style="list-style-type: none">(a) The substance of the communication;(b) All written or electronic documentation of the communication;(c) The identity of each person who participated in the communication; and(d) The date and time of the communication. <p>(5) Nothing in this rule shall prohibit a member of the public who is not a Party to a Proceeding from communicating with the Commission or with an individual Commissioner relating to the Proceeding. Nothing in this rule shall prohibit a Party from providing any information relating to a Proceeding to the Commission, to an individual Commissioner, a Commission hearing officer, or to a member of the Commissioner Advisory Staff, provided that such information is provided openly pursuant to subsections (2) or (3) of this rule. Nothing in this rule shall prohibit a member of the Commission or a member of the Commissioner Advisory Staff from communicating with other members of the Commission and other members of the Commissioner Advisory Staff regarding a Proceeding pending before the Commission. Members of the Commissioner Advisory Staff shall not communicate regarding the Proceeding with any other Party including the Public Interest Advocacy Staff unless such communication is made openly utilizing the procedures set forth in subsection (3) of this rule. A "Chinese Wall" procedure shall be utilized to provide for independence between the Commissioner Advisory Staff and the Public Interest Advocacy Staff. The team leaders of the Commissioner Advisory Staff and the Public Interest Advocacy Staff shall not be in a career path reporting position to anyone on the other team. In those instances where a team member is in a career path reporting position to someone on the other team, only the team leader, not the career path manager, may direct the team member's participation or positions on the team.</p> <p>(6) This rule shall apply commencing immediately upon the conclusion of the hearings to receive testimony in the Proceeding and end the day after the official time for filing for reconsideration. Provided, however, that if a motion for reconsideration is made, the rule shall continue to apply until the Commission has rendered its final decision on such motion.</p> <p>(7) This Rule shall not apply to non-substantive inquiries about procedural and scheduling issues.</p> <p>(8) Penalties. Failure of a Party to abide by the Commission's rule prohibiting <i>ex parte</i> communications may result in reprimand or exclusion of the Party from the hearing pursuant to O.C.G.A. § 50-13-13(a)(6) and/or penalties under O.C.G.A. § 46-2-91.</p>
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EX PARTE STATUTES AND RULES

Hawaii	Haw. Code R. § 6-61-29	<p>§ 6-61-29 Ex parte communications. (a) No person, whether or not a party to or participant in an agency hearing, shall consult or communicate with any commissioner or hearings officer or any member of the commission staff on any issue of fact in a contested case proceeding before the commission, except as otherwise authorized in this section or by law.</p> <p>(b) All written and oral ex parte communications received by any commissioner or hearings officer, containing facts or contentions in a contested case proceeding, which may affect the decision in the proceeding and which are known or believed to be unauthorized at the time of receipt, shall be immediately sent to all interested parties to the proceeding and made an official part of the record.</p> <p>(c) The following classes of ex parte communications are authorized:</p> <ol style="list-style-type: none"> (1) Communication between the commission and commission staff; (2) Communication that relates solely to matters which a commissioner or hearings officer is authorized to dispose of on an ex parte basis; (3) Communication with counsel or staff for the commission relating solely to matters of practice and procedure; and (4) Communication had after adequate notice and opportunity for all parties to participate.
Idaho	Idaho Admin. Code r. 04.11.01.417	<p><u>417. EX PARTE COMMUNICATIONS (RULE 417).</u></p> <p>Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. However, when a presiding officer becomes aware of a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. Effective Date (7-1-93)</p> <p>**Only somewhat relevant rule I could find in Idaho; however, it falls under IDAPA 04: OFFICE OF THE ATTORNEY GENERAL -> TITLE 11 -> CHAPTER 01: IDAHO RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL -> SUBCHAPTER B: CONTESTED CASES -- RULES 100 THROUGH 800 -- CONTESTED CASES.</p>
Illinois	Ill. Admin. Code tit. 83, § 200.710	<p><u>§ 200.710 Ex Parte Communications</u></p> <p>a) Unless waived by written stipulation of the parties in the proceeding as provided by Section 10-70 of the Illinois Administrative Procedure Act [5 ILCS 100/10-70], once notice of hearing has been given in a contested case or licensing proceeding, Commissioners, Commission employees and Hearing Examiners shall not communicate directly or indirectly with:</p> <ol style="list-style-type: none"> 1) Any party to the proceeding on any issue in the proceeding; or 2) A party's representative on any issue in the proceeding; or 3) Any other person concerning an issue of fact in the proceeding; without notice and opportunity for all parties to participate. <p>b) The following communications are not subject to subsection (a) of this Section:</p>

EX PARTE STATUTES AND RULES

		<p>1) Communications between Commission employees who are engaged in investigatory, prosecutorial or advocacy functions and other parties to the proceeding, provided that such Commission employees are still prohibited from communicating on an ex parte basis, as designated in subsection (a), directly or indirectly, with members of the Commission, any Hearing Examiner in the proceeding, or any Commission employee who is or may reasonably be expected to be involved in the decisional process of the proceeding (this language derived from Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103] and applies only to proceedings under that Act);</p> <p>2) Communications between a Commissioner and other Commissioners, and between a Commissioner or hearing examiner and one or more personal assistants. [5 ILCS 100/10-60]</p> <p>c) Any Commissioner, Hearing Examiner, or other Commission employee who is or may reasonably be expected to be involved in the decisional process of a proceeding, who receives, or who makes or knowingly causes to be made, a communication prohibited by Section 10-60 of the Illinois Administrative Procedure Act as modified by Section 10-103 of the Public Utilities Act [220 ILCS 5/10-103] shall place on the public record of the proceeding:</p> <p style="padding-left: 40px;">1) All such written communications;</p> <p style="padding-left: 40px;">2) Memoranda stating the substance of all such oral communications; and</p> <p style="padding-left: 40px;">3) All written responses and memoranda stating the substance of all oral responses to the materials described in subsections (c)(1) and (2). [220 ILCS 5/10-103]</p> <p>d) The material specified in subsection (c) shall be disclosed to the parties of record by:</p> <p style="padding-left: 40px;">1) Service on the parties at the next hearing; or</p> <p style="padding-left: 40px;">2) If no hearing is scheduled within the next seven days, service by mail on all parties of record.</p>
Indiana	170 IAC 1-1.5-1 170 IAC 1-1.5-3 170 IAC 1-1.5-4 170 IAC 1-1.5-6	<p><u>170 IAC 1-1.5-1 Definitions</u></p> <p>Sec. 1.</p> <p>(a) The definitions in this section apply throughout this rule.</p> <p>(b) "Commission" refers to the Indiana utility regulatory commission.</p> <p>(c) "To file a report" means written testimony filed by or oral testimony presented by, or both, a technical employee in a pending proceeding.</p> <p>(d) "Proceeding" means a formally docketed proceeding before the commission. The term does not include any of the following:</p> <p style="padding-left: 40px;">(1) A rulemaking.</p> <p style="padding-left: 40px;">(2) A thirty (30) day filing under IC 8-1-2-42(a).</p> <p style="padding-left: 40px;">(3) A filing under IC 8-1-2-61.5(a).</p> <p style="padding-left: 40px;">(4) A petition under 170 IAC 7-4.</p> <p style="padding-left: 40px;">(5) An informal investigation.</p> <p style="padding-left: 40px;">(6) An investigation and disposition by the consumer affairs division of the commission.</p> <p style="padding-left: 40px;">(7) An application or notice of change form filed under IC 8-1-32.5.</p> <p style="padding-left: 40px;">(8) An application or notice of change form filed under IC 8-1-34.</p> <p>(e) "Technical employee" means an employee within one (1) of the commission's technical divisions.</p> <p><u>170 IAC 1-1.5-3 Violations</u></p>

EX PARTE STATUTES AND RULES

		<p>Sec. 3.</p> <p>(a) Unless required for the disposition of ex parte matters specifically authorized by statute, rule, or order of the commission, all members of the commission, an attorney assigned to a particular proceeding as an administrative law judge, and a technical employee assigned to advise the commission in a particular proceeding may not communicate, directly or indirectly, regarding any issue in a proceeding while the proceeding is pending with any:</p> <ol style="list-style-type: none">(1) party;(2) party's employee, attorney, or representative;(3) entity known to act on behalf of a party;(4) person who has:<ol style="list-style-type: none">(A) a direct interest in the outcome of the proceeding; or(B) served as an investigator or advocate in the proceeding or in its pre-adjudicative stage;(5) attorney assigned as a settlement judge in a particular proceeding; or(6) technical employee directed to file a report in the proceeding; without notice and opportunity for all parties to participate in the communication. <p>(b) Unless required for the disposition of ex parte matters specifically authorized by statute, rule, or order of the commission, a person described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) may not communicate, directly or indirectly, regarding any issue in a proceeding while the proceeding is pending with any:</p> <ol style="list-style-type: none">(1) member of the commission;(2) attorney assigned to a particular proceeding as an administrative law judge; or(3) technical employee assigned to advise the commission in a particular proceeding; without notice and opportunity for all parties to participate in the communication. <p>(c) This section does not prohibit any person from communicating ex parte with any member or employee of the commission with respect to undisputed administrative or procedural matters in connection with a proceeding.</p> <p>(d) Only to the extent not otherwise inconsistent with this rule, any person may make educational or informational communications that are not intended to persuade or advocate a position on an issue in a particular proceeding while the proceeding is pending.</p> <p><u>170 IAC 1-1.5-4 Communication within the commission</u></p> <p>Sec. 4. Members of the commission, its attorneys, and technical employees may communicate with each other regarding a particular proceeding pending before the commission. However, an attorney assigned as a settlement judge or a technical employee directed to file a report in a particular proceeding may not communicate regarding the particular proceeding with members of the commission, attorneys not assigned as settlement judges, or technical employees not assigned to file a report in that particular proceeding.</p> <p><u>170 IAC 1-1.5-6 Disclosure</u></p> <p>Sec. 6.</p> <p>(a) A member of the commission, an attorney, or a technical employee who receives a communication, which that person reasonably believes violates this rule shall:</p> <ol style="list-style-type: none">(1) tender to the record of the proceeding:
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EX PARTE STATUTES AND RULES

		<p>(A) all written communications received;</p> <p>(B) all written responses to the communication; and</p> <p>(C) a memorandum stating:</p> <p>(i) the substance of all oral communications received;</p> <p>(ii) all oral responses made; and</p> <p>(iii) the identity of each person from whom an ex parte communication was received; and</p> <p>(2) advise all parties that the items in subdivision (1) have been tendered to the record. The presiding officer shall admit into the record all items tendered under this section.</p> <p>(b) Any party shall be permitted an opportunity to respond on the record of the affected proceeding within ten (10) days after notice of the disclosed communication.</p> <p>(c) In any proceeding in which a communication has been disclosed in accordance with subsection (a), the commission may determine whether any additional action is necessary in order to maintain a fair and impartial proceeding.</p>
Iowa	Iowa Admin. Code r. 199-7.22 Iowa Code § 17A.17	<p><u>199-7.22(17A,476) Ex parte communication.</u></p> <p>Ex parte communication is prohibited as provided in Iowa Code section 17A.17. Parties or their representatives shall not communicate directly or indirectly with the board or presiding officer in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate. The board or presiding officer shall not communicate directly or indirectly with parties or their representatives in connection with any issue of fact or law in a contested case except upon notice and an opportunity for all parties to participate.</p> <p>17A.17 Ex parte communications and separation of functions. [Effective July 1, 2016]</p> <p>1.</p> <p>a. Unless required for the disposition of ex parte matters specifically authorized by statute, a presiding officer in a contested case shall not communicate directly or indirectly with any person or party in connection with any issue of fact or law in that contested case, except upon notice and opportunity for all parties to participate as shall be provided for by agency rules.</p> <p>b. However, without such notice and opportunity for all parties to participate, a presiding officer in a contested case may communicate with members of the agency, and may have the aid and advice of persons other than those with a personal interest in, or those engaged in personally investigating, prosecuting or advocating in, either the case under consideration or a pending factually related case involving the same parties so long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.</p> <p>2. Unless required for the disposition of ex parte matters specifically authorized by statute, parties or their representatives in a contested case and persons with a direct or indirect interest in such a case shall not communicate, directly or indirectly, in connection with any issue of fact or law in that contested case, with a presiding officer in that contested case, except upon notice and opportunity for all parties to participate as shall be provided for by agency rules.</p>

EX PARTE STATUTES AND RULES

		<p>3. If, before serving as the presiding officer in a contested case, a person receives an ex parte communication relating directly to the merits of the proceeding over which that person subsequently presides, the person, promptly after starting to serve, shall disclose to all parties any material factual information so received and not otherwise disclosed to those parties pursuant to section 17A.13, subsection 2, or through discovery.</p> <p>4. A presiding officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all such written communications received, all written responses to the communications, and a memorandum stating the substance of all such oral and other communications received, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the prohibited ex parte communication must be allowed to do so, upon requesting the opportunity for rebuttal within ten days after notice of the communication.</p> <p>5. If the effect of an ex parte communication received in violation of this section is so prejudicial that it cannot be cured by the procedure in subsection 4, a presiding officer who receives the communication shall be disqualified and the portions of the record pertaining to the communication shall be sealed by protective order.</p> <p>6. The agency and any party may report any violation of this section to appropriate authorities for any disciplinary proceedings provided by law. In addition, each agency by rule shall provide for appropriate sanctions, including default, suspending or revoking a privilege to practice before the agency, and censuring, suspending, or dismissing agency personnel, for any violations of this section.</p> <p>7. A party to a contested case proceeding may file a timely and sufficient affidavit alleging a violation of any provision of this section. The agency shall determine the matter as part of the record in the case. When an agency in these circumstances makes such a determination with respect to an agency member, that determination shall be subject to de novo judicial review in any subsequent review proceeding of the case.</p> <p>8. An individual who participates in the making of any proposed or final decision in a contested case shall not have personally investigated, prosecuted, or advocated in connection with that case, the specific controversy underlying that case, or another pending factually related contested case, or pending factually related controversy that may culminate in a contested case, involving the same parties. In addition, such an individual shall not be subject to the authority, direction, or discretion of any person who has personally investigated, prosecuted, or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy, involving the same parties. However, this section shall not be construed to preclude a person from serving as a presiding officer solely because that person determined there was probable cause to initiate the proceeding.</p>
Kansas	Kan. Admin. Regs. § 82-1-207	<p><u>82-1-207. Ex parte communications in non-KAPA proceedings.</u></p> <p>(a)</p> <p>(1) After the commission has determined and announced that a hearing shall be conducted in a proceeding and before the issuance of a final order, no parties to the proceeding, or their attorneys, shall discuss the merits of the proceeding with the commissioners or the presiding officer unless reasonable notice that allows attendance is given to all parties to the proceeding.</p>

EX PARTE STATUTES AND RULES

		<p>(2) After the commission has determined and announced that a hearing shall be conducted in a proceeding and before the issuance of a final order, each party shall mail copies of any written communications regarding the proceeding that are directed to the commission or any member of its staff, to all parties of record. Each party shall furnish proof that service of the written communication was made to all parties to the proceeding.</p> <p>(3) The person or persons to whom any ex parte communication is made shall promptly and fully inform the full commission of the substance and circumstances of the communication to enable the commission to take appropriate action.</p> <p>(b) For purposes of this regulation only, no member of the technical staff shall be considered a party to any proceeding before the commission, regardless of participation in staff investigations in the proceeding or of participation in the proceeding as a witness. Any staff member may be conferred with at any time by the commissioners. However, no facts that are outside the record and that reasonably could be expected to influence the decision in any matter pending before the commission shall be furnished to any commissioner unless all parties to the proceeding are likewise informed and afforded a reasonable opportunity to respond. The rule against ex parte communications shall apply to staff counsel in regard to any adjudicative proceeding before the commission.</p> <p>(c) All letters and written communications in the nature of ex parte communications received by the commission, or any commissioner, from interested parties and members of the general public shall be made a part of the file in the docket and shall be made available to all persons who desire to see them. The deposit of these written communications and letters in the file shall not make them a part of the official transcript of the case.</p>
Kentucky	<p>5 U.S.C.S. § 557(d)</p> <p><i>Louisville Gas & Electric Co. v. Cowan</i>, 862 S.W.2d 897 (1993).</p> <p><i>Prof'l Air Traffic Controllers Org. v. Fed. Labor Relations Auth.</i>, 685 F.2d 547 (1982).</p> <p>Ky. Pub. Serv. Comm'n, Investigative Report Regarding Alleged <i>Ex Parte</i> Contacts, Collusive and/or Inappropriate Behavior in Rate Cases 2003-00433 and 2003-00434 (2005).</p>	<ul style="list-style-type: none"> • The seminal case in Kentucky regarding ex parte communications in pending agency proceedings is <i>Louisville Gas & Electric Co. v. Cowan</i>, 862 S.W.2d 897 (1993). <p>In <i>Louisville Gas</i>, the Kentucky Court of Appeals noted "the rule in Kentucky is that such <i>ex parte</i> contacts make administrative agency's decisions voidable, not void <i>per se</i>." <i>Id.</i> at 900 (citing Prof'l Air Traffic Controllers Org. v. Fed. Labor Relations Auth., 685 F.2d 547, 561-562 (1982) (emphasis in original). <i>Prof'l Air Traffic Controllers Org. v. Fed. Labor Relations Auth.</i>, outlined the statutory prohibition on ex parte contacts as indicated in 5 U.S.C.S. § 557(d), the section of the Administrative Procedure Act that governs ex parte communications:</p> <p>Section 557(d) was enacted by Congress as part of the Government in the Sunshine Act, Pub. L. No. 94-409, § 4(a), 90 Stat. 1241, 1246 (1976). The section prohibits ex parte communications "relevant to the merits of the proceeding" between an "interested person" and an agency decisionmaker, 5 U.S.C. § 557(d) (1) (A), (B) (1976), requires the agency decisionmaker to place any prohibited communications on the public record, <i>id.</i> § 557(d) (1) (C), grants the agency the authority to require an infringing party "to show cause why his claim or interest should not be dismissed, denied, disregarded, or otherwise adversely affected on account of [a] violation," <i>id.</i> § 557(d) (1) (D), and defines the time period during which the statutory prohibitions are applicable, <i>id.</i> § 557(d) (1) (E).</p> <p>685 F.2d 547, 561-562 (1982).</p>

EX PARTE STATUTES AND RULES

§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record

(d) (1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law--

(A) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

(i) all such written communications;

(ii) memoranda stating the substance of all such oral communications; and

(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) This subsection does not constitute authority to withhold information from Congress.

The PSC Handbook defines “*ex parte* communication” as the following:

“*Ex parte* communication” means an oral or written communication which relates to the merits of a formal proceeding pending before the Commission, or which the employee reasonably anticipates will be filed with the Commission, and which is not included in the public record, without notice and opportunity for all parties or interested parties to participate. A communication relevant to the merits includes any issue of fact or law relative to the matter pending.

EX PARTE STATUTES AND RULES

		<p>Therefore, <i>ex parte</i> communications are communications:</p> <ol style="list-style-type: none"> 1. Related to the merits of a formal proceeding then pending, or anticipated to be pending, before the Commission; 2. Not on the public record; and 3. To which parties and interested persons have no notice and opportunity to respond. <p>Ky. Pub. Serv. Comm’n, Investigative Report Regarding Alleged <i>Ex Parte</i> Contacts, Collusive and/or Inappropriate Behavior in Rate Cases 2003-00433 and 2003-00434 (2005)</p>
Louisiana	<p>No rule found</p> <p>Alliance for Affordable Energy, <i>Money, Politics, and the Business of Monopolies: An Exclusive Report by the Alliance for Affordable Energy</i>, May 26, 2015, at 6, available at http://all4energy.org/wp-content/uploads/2015/05/Money-Politics-and-the-Business-of-Monopolies_Final_May-26-2015.pdf.</p>	<ul style="list-style-type: none"> • Louisiana does not appear to currently have a rule against <i>ex parte</i> communications. A May 26, 2015 article from Alliance for Affordable Energy, a consumer and environmental advocacy organization in New Orleans, indicated “The Legislature must disallow <i>ex parte</i> meetings between regulated utilities and sitting Commissioners. The secrecy of <i>ex parte</i> meetings is a disservice to the public. Meetings between regulators and the regulated should require the presence of Commission staff and meeting note takers at a minimum. Alliance for Affordable Energy, <i>Money, Politics, and the Business of Monopolies: An Exclusive Report by the Alliance for Affordable Energy</i>, May 26, 2015, at 6, available at http://all4energy.org/wp-content/uploads/2015/05/Money-Politics-and-the-Business-of-Monopolies_Final_May-26-2015.pdf.
Maine	65-407-110 Code Me. R. § 8(G)	<p>65 407 110. RULES OF PRACTICE AND PROCEDURE</p> <p>G. Ex Parte Communications</p> <ol style="list-style-type: none"> 1. Ex Parte Communications Prohibited <ol style="list-style-type: none"> a. Throughout any adjudicatory proceeding: <ol style="list-style-type: none"> i. no commissioner, presiding officer, or other advisory staff member in a proceeding shall communicate, directly or indirectly with any party, including a proposed intervenor, or any other person legally interested in the outcome of the proceeding; and ii. no party, including a proposed intervenor or person legally interested in the outcome of a proceeding shall communicate, directly or indirectly, with any commissioner, presiding officer, or other advisory staff member in connection with any potential decision in the case or any issue of fact, law or procedure, except upon notice and opportunity for all parties to participate as provided in these rules or pursuant to order of the presiding officer. b. Any Commissioner, presiding officer, other advisory staff member, party or representative of a party making or receiving an <i>ex parte</i> communication prohibited by this section shall, within 48 hours after first having reason to believe the communication was prohibited, disclose the substance of such communication to all parties to the proceeding. 2. Prohibited Communications after Issuance of Presiding Officer's Report <ol style="list-style-type: none"> a. In an adjudicatory proceeding, after the issuance of the presiding officer's report or proposed findings, no person shall make any direct or indirect

EX PARTE STATUTES AND RULES

		<p>communication to any commissioner, presiding officer, or other advisory staff member in connection with any potential or proposed decision in the proceeding or any issue of fact, law or procedure, except for the filing by a party of a response or exceptions to the report or proposed findings as permitted by section 752(b), or except as permitted by order or prior approval of the Commission or presiding officer, or except as by motion pursuant to section 1004. In the event any of the above receive such a communication it should be disclosed as required in Section F(A)(2) above.</p> <p>b. In the event that the Commission receives a communication that violates the prohibition contained in subsection (a), the communication shall be disclosed as required in (G)(1)(b) above.</p> <p>c. No party in a proceeding shall request, encourage, suggest, or provide any assistance to any other person to make a communication that would violate subsection (a) of this section.</p> <p>3. Communications Permitted</p> <p>This section shall not prohibit:</p> <p>a. Any commissioner or presiding officer from communicating in any respect with commissioners or presiding officers; or</p> <p>b. Any commissioner or presiding officer from having the aid or advice of those members of the Commission staff, counsel or consultants retained by the Commission who have not participated and will not participate in the Commission proceeding in an advocate capacity; or</p> <p>c. Inquiry by a party, a commissioner, a presiding officer, or other advisory staff member concerning the status of any event contained in the procedural schedule, any filing, or any order.</p> <p>d. Individual communications between any party and members of the Commission's advocacy staff or between any party and any staff members in a non-adjudicatory proceeding.</p> <p>4. Proposed Findings or Decisions</p> <p>No party or representative of any party shall prepare and forward proposed or draft findings or final decisions of any matter pending before the Commission to any Commissioner, presiding officer or advisory staff member unless such party or representative has been requested to do so by the Commissioner or presiding officer. Any party making a procedural motion to the Commission or presiding officer may append a proposed procedural order to the motion.</p>
Maryland	Md. Code Ann., Pub. Util. Cos. § 3-108	<p>§ 3-108. Parties -- Ex parte contact</p> <p>Unless notice is provided to each other party in a case before the Commission, a party or person acting on behalf of a party may not contact ex parte a commissioner or a public utility law judge regarding the merits of the case.</p>
Massachusetts	220 Mass. Code Regs. 1.02(9)	<p>1.02: General Provisions</p> <p>(9) Ex Parte Communications in Adjudicatory Proceedings.</p> <p>(a) From the initial filing in an adjudicatory proceeding until the rendering of a final decision, a</p>

EX PARTE STATUTES AND RULES

		<p>Commissioner, presiding officer, or staff member of the Department may not communicate with a party or interested person about any substantive issue of fact, law, or policy except upon reasonable notice and opportunity for all parties to participate.</p> <p>(b) Communications not prohibited by 220 CMR 1.02(9)(a) include:</p> <ol style="list-style-type: none">1. Communications concerning scheduling, administrative, and other procedural matters; and2. Communications between a party and assigned settlement intervention staff for the purpose of producing a settlement, or communications between a party and staff assigned to conduct alternative dispute resolution or mediation proceedings. <p>(c) If a person makes or attempts to make an <i>ex parte</i> communication prohibited by 220 CMR 1.02(9)(a), the Commissioner, presiding officer, or staff member shall advise the person that the communication is prohibited and shall immediately terminate the prohibited communication.</p> <p>(d) If a Commissioner, presiding officer, or staff member violates the <i>ex parte</i> rule, he or she shall, no later than two business days after determining that the communication was prohibited, serve on each party and place in the docket file the following:</p> <ol style="list-style-type: none">1. A written statement including the substance and circumstances surrounding the communication; the identity of each person who participated in the communication; the time, date, and duration of the communication; and whether, in his or her opinion, the receipt of the <i>ex parte</i> communication disqualifies him or her from further participation in the adjudicatory proceeding; and2. Any written or electronic documentation of the communication. <p>The above documents to be placed in the docket file shall not be made a part of the evidentiary record.</p> <p>(e) The Department may, upon the motion of any party or on its own motion, accept or require the submission of additional evidence of the substance of a communication prohibited by 220 CMR 1.02(9)(a).</p> <p>(f) Upon receipt of a communication made or caused to be made by a party in violation of 220 CMR 1.02(9)(a), the Department may, to the extent consistent with the interests of justice, require the party to show cause why his or her claim or interest in the adjudicatory proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation.</p> <p>(g) Where a party has violated this rule, the Department or presiding officer may take such action as is deemed appropriate within the circumstances.</p>
Michigan	Mich. Admin. Code r. 792.10106(8)-(9)	<p>R 792.10106 Administrative law judge; disqualification and recusal; substitution; communications.</p> <p>(8) Once a case has been referred to the hearing system, no person shall communicate with the assigned administrative law judge relating to the merits of the case without the knowledge and consent of all other parties to the matter, except as follows:</p> <p>(a) The administrative law judge may communicate with another administrative law judge relating to the merits of cases at any time or the hearing system staff as provided by, 1969 PA 306, MCL 24.271 to 24.287.</p> <p>(b) The administrative law judge may, when circumstances require, communicate with parties,</p>

EX PARTE STATUTES AND RULES

		<p>attorneys, or authorized representatives for scheduling, or other administrative purposes that do not deal with substantive matters or issues on the merits, provided that the administrative law judge reasonably believes that no party will gain procedural or tactical advantage as a result of the communication. The administrative law judge shall make provision to promptly notify all other parties of the substance of the communication and allow an opportunity to respond.</p> <p>(9) If an administrative law judge receives a communication prohibited by this rule, the administrative law judge shall promptly notify all parties, attorneys or authorized representatives of the receipt of such communication and its content.</p>
Minnesota	Minn. R. 7845.7000 Minn. R. 7845.7100 Minn. R. 7845.7200 Minn. R. 7845.7300 Minn. R. 7845.7400 Minn. R. 7845.7500 Minn. R. 7845.7600 Minn. R. 7845.7700 Minn. R. 7845.7800 Minn. R. 7845.7900	<p>7845.7000 DEFINITIONS.</p> <p>Subpart 1.SCOPE. The terms used in parts 7845.7000 to 7845.7600 have the meanings given them in this part.</p> <p>Subp.</p> <p>2. DECISION-MAKING PERSONNEL. "Decision-making personnel" means the commission's executive secretary and professional staff, and consultants to the commission.</p> <p>Subp.</p> <p>3. DISPUTED FORMAL PETITION. A "disputed formal petition" refers to a formal petition (1) filed with the commission, (2) for which a hearing is not automatically required, (3) for which the commission has received a written statement disputing the action or relief sought in the petition, and (4) on which the commission has ordered comments, written responses to comments, oral argument, negotiations, settlement conferences, a formal hearing, or other procedures it considers necessary or helpful to enable it to decide the petition. A petition ceases to be a "disputed formal petition" when the notice of dispute is withdrawn in writing or when the commission resolves the dispute by written order.</p> <p>Subp.</p> <p>4. EX PARTE COMMUNICATION. "Ex parte communication" means an oral or written, off-the-record communication made to or by commissioners or commission decision-making personnel, without notice to parties or participants, that is directed to the merits or outcome of an on-the-record proceeding. This term does not include procedural, scheduling, and status inquiries or other inquiries or requests for information that have no bearing on the merits or the outcome of the proceeding.</p> <p>Subp.</p> <p>5. MATERIAL ISSUE. "Material issue" means an issue that may affect the merits or outcome of an on-the-record proceeding.</p> <p>Subp.</p> <p>6. [Renumbered Subp. 8]</p> <p>Subp.</p> <p>7. PARTICIPANT. "Participant" means a person who files comments or appears in a proceeding, other than public hearings held in contested cases and other commission</p>

EX PARTE STATUTES AND RULES

		<p>proceedings conducted to receive general public comments, to present views without becoming a party.</p> <p>Subp.</p> <p>8. PARTY. "Party" means a person by or against whom a proceeding before the commission is commenced or a person permitted to intervene in a proceeding before the commission. A party includes a petitioner, complainant, intervenor, applicant, and respondent, and their attorneys, agents, or representatives.</p> <p>7845.7100 PERMISSIBLE EX PARTE COMMUNICATIONS. An ex parte communication is permissible except as prohibited in part 7845.7200.</p> <p>7845.7200 PROHIBITED EX PARTE COMMUNICATIONS. Subpart 1.COMMUNICATIONS WITH COMMISSIONERS. An ex parte communication, either direct or indirect, must not be made or attempted to be made between a commissioner and a party or a participant concerning:</p> <ul style="list-style-type: none">A. a material issue during a pending contested case proceeding, from the date the matter is referred to the Office of Administrative Hearings until the commission issues its final order and the time to petition for reconsideration expires, or until the commission issues a final order responding to the petition for reconsideration, whichever is later;B. a material issue in a rulemaking proceeding after the beginning of commission deliberations, from the date the commission posts notice of its deliberations for adoption of rules on the open meeting calendar until the order adopting the rules is issued; orC. a material issue in a disputed formal petition. <p>Subp.</p> <p>2. COMMUNICATIONS WITH STAFF. Ex parte communications with decision-making personnel are not prohibited under Minnesota Statutes, section 216A.037.</p> <p>7845.7300 HANDLING PROHIBITED EX PARTE COMMUNICATIONS. Subpart 1.WRITTEN COMMUNICATION. When possible, a commissioner who receives a prohibited written ex parte communication shall forward the communication, without reading it, to the commission's executive secretary. A commissioner who receives and reads a prohibited written ex parte communication shall forward the communication to the commission's executive secretary within 48 hours, along with a signed statement of the source of and circumstances under which the communication was received and read.</p> <p>Subp.</p> <p>2. ORAL COMMUNICATION. If a party or participant makes or attempts to make a prohibited oral ex parte communication to a commissioner, the commissioner shall advise the party or participant who makes or attempts to make the communication that the communication is prohibited and shall immediately terminate the communication. If a prohibited oral ex parte communication takes place, the commissioner who receives the communication shall forward to the commission's executive secretary, within 48 hours, a signed and dated statement that includes the following information:</p> <ul style="list-style-type: none">A. the name and docket number of the proceeding;
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EX PARTE STATUTES AND RULES

		<p>B. to the extent known, the name and address of the person making the communication and the relationship, if any, to the parties to or the participants in the proceeding;</p> <p>C. the date and time of the communication, its duration, and the means by and circumstances under which it was made;</p> <p>D. a summary of the matters discussed; and</p> <p>E. whether the party or participant making the prohibited communication persisted after being advised that the communication was prohibited.</p> <p>Subp.</p> <p>3. NOTICE TO PARTIES AND PARTICIPANTS. The commission's executive secretary shall place the statement in the commission's public file within 48 hours, but shall not make the statement part of the record of the pending proceeding. The executive secretary shall serve a copy of the statement on the parties and participants on the commission's official service list. If the statement is voluminous, the executive secretary may serve notice to the parties and participants on the official service list that the statement is available for public inspection at the commission's offices during regular business hours.</p> <p>7845.7400 HANDLING PERMISSIBLE EX PARTE COMMUNICATIONS.</p> <p>Subpart 1.DOCUMENTATION. Documentation is not needed for permissible ex parte communications with commissioners and decision-making personnel except as provided in subparts 2 to 4.</p> <p>Subp.</p> <p>2. WRITTEN COMMUNICATIONS WITH STAFF. Decision-making personnel who receive or generate a permissible written ex parte communication that is prohibited for commissioners under part 7845.7200 shall file a copy of the communication in the commission's public file with a notation of the sender and recipient within 48 hours after the communication is received or generated.</p> <p>Subp.</p> <p>3. ORAL COMMUNICATIONS WITH STAFF. Decision-making personnel who receive or generate a permissible oral ex parte communication that is prohibited for commissioners under part 7845.7200 shall ensure that the substance of the communication and the name of the maker or recipient of the communication is recorded in a signed memorandum to the commission's public file within 48 hours. If a proceeding has been assigned to an administrative law judge, a copy of the memorandum must be sent to the judge.</p> <p>Subp.</p> <p>4. INTERIM RATE PROCEEDINGS; COMPLIANCE FILINGS. Commissioners and decision-making personnel may receive or generate written or oral ex parte communications with a party or participant in the setting of interim rates or the review of compliance filings following the issuance of a final order or order after reconsideration. Commissioners and decision-making personnel who receive or generate written or oral ex parte communications in these situations shall place a signed note in the</p>
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EX PARTE STATUTES AND RULES

		<p>commission's public file containing the name of the party or participant, date, docket number of proceeding, and topic as soon as practicable, but no later than the issuance of the interim rate order or the compliance filing order.</p> <p>Subp.</p> <p>5. INFORMING THE PUBLIC. The commission shall make information regarding ex parte communications that occur in these situations available to the public upon reasonable request at its office during regular business hours.</p> <p>7845.7500 SANCTIONS. Subject to notice and hearing, a party who makes a prohibited ex parte communication to a commissioner or who encourages or solicits others to make a prohibited ex parte communication to a commissioner is subject to the sanctions listed in part 7845.7800.</p> <p>7845.7600 VIOLATIONS BY COMMISSION AND STAFF. A commissioner who intentionally violates parts 7845.7000 to 7845.7500 shall recuse himself or herself and shall not participate, offer advice, or vote in the commission's decision-making process in the pending on-the-record proceeding. Decision-making personnel who intentionally violate parts 7845.7000 to 7845.7500 must be removed from participating in a staff support capacity or prohibited from offering advice on the affected case if the violation has substantially interfered with due process in the proceeding.</p> <p>7845.7700 EX PARTE COMMUNICATIONS; COMPLAINTS SEEKING SANCTIONS. Subpart 1.COMPLAINT. A person seeking sanctions for alleged ex parte violations may file a complaint with the commission.</p> <p>Subp.</p> <p>2. CONTENTS. The contents of the complaint must include all of the following information:</p> <ul style="list-style-type: none">A. name and address of the complainant;B. name and address of the complainant's counsel, if any;C. name and address of each person alleged to have violated the ex parte prohibition (respondents);D. name and address of each respondent's counsel, if any;E. facts constituting the allegation; andF. sanctions sought. <p>Subp.</p> <p>3. SERVICE. Complaints filed under this part must be filed with the commission and mailed to or served on all of the following:</p> <ul style="list-style-type: none">A. each respondent;B. the department;C. the Residential Utilities Division of the Office of the Attorney General; andD. all persons on the commission's official service list for the proceeding. <p>Subp.</p> <p>4. ANSWER. Within seven days of service of the complaint, each respondent shall file an answer with the commission and serve it on all of the following:</p>
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EX PARTE STATUTES AND RULES

		<ul style="list-style-type: none">A. each complainant;B. the department;C. the Residential Utilities Division of the Office of the Attorney General; andD. all persons on the commission's official service list for the proceeding. <p>7845.7800 COMPLAINT PROCEEDING.</p> <p>Subpart 1. OFFICE OF ADMINISTRATIVE HEARINGS. The commission shall refer the complaint and answer to the Office of Administrative Hearings.</p> <p>Subp.</p> <p>2. INVESTIGATION. The administrative law judge assigned to the ex parte complaint proceeding by the Office of Administrative Hearings shall conduct a hearing investigation and shall issue a report within 30 days after the matter is referred. If the administrative law judge determines that the report cannot be properly completed within that time period, the judge shall report that fact to the commission within the 30-day period and shall file a final report within a reasonable time thereafter, no later than 60 days after the referral to the Office of Administrative Hearings.</p> <p>Subp.</p> <p>3. DECISION. The report of the administrative law judge shall describe the relevant facts of the case and shall set forth the judge's findings as to whether ex parte violations occurred. The findings and decisions of the judge as to whether ex parte violations occurred are binding on the commission.</p> <p>Subp.</p> <p>4. SANCTIONS. In the report, the administrative law judge shall discuss and make recommendations regarding sanctions, including the recusal of any commissioner or the removal of decision-making personnel from an affected case. The administrative law judge may only recommend that the commission impose one of the following sanctions if the judge finds that the condition specified for the sanction is met:</p> <ul style="list-style-type: none">A. dismiss the proceeding if the prohibited ex parte communication has so prejudiced the proceeding that the commission cannot consider it impartially;B. issue an adverse ruling on a pending issue that is the subject of the prohibited ex parte communication, when other parties or participants are prejudiced by the prohibited ex parte communication;C. strike evidence or pleadings when the evidence or pleadings are tainted by the prohibited ex parte communication;D. issue a public statement of censure by the commission, when the prohibited ex parte communication is determined to be part of a continuing pattern of improper ex parte communication;E. issue a public statement of censure by the commission when a single prohibited communication takes place and mitigating circumstances exist that: negate the need for a more severe sanction; do not prejudice the proceeding to the extent that the commission is unable to consider it impartially; do not prejudice other parties to or participants in the proceeding; and do not taint
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EX PARTE STATUTES AND RULES

		<p>the evidence or pleadings; or</p> <p>F. if the administrative law judge finds the complainant's allegation of an ex parte violation was interposed for any improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of the proceeding, the judge may recommend that the commission issue an appropriate sanction against the complainant.</p> <p>7845.7900 COMMENT PERIOD; COMMISSION DECISION.</p> <p>Subpart 1.NOTICE. After receiving the administrative law judge's report, the commission shall provide notice of the report to all persons on the commission's official service list for the affected proceeding.</p> <p>Subp.</p> <p>2. COMMENT PERIOD. Any person wishing to comment on the judge's report regarding the recommendation of sanctions must do so within ten days of the commission's notice of the report. The commission may extend the notice period for reasonable cause.</p> <p>Subp.</p> <p>3. DECISION. Following the comment period, and with notice, the commission shall hold a hearing and render its decision regarding the imposition of sanctions. Notice of the hearing must be sent to those on the commission's official service list for the affected proceeding.</p>
Mississippi	Miss. Code Ann. § 77-2-13	<p>§ 77-2-13. Communications regarding issues in contested proceedings prohibited; exceptions; penalties; contested proceeding defined</p> <p>(1) A public service commissioner, commission or public utilities staff employee, or consultant assisting the commission in investigating, compiling, evaluating and analyzing the record shall not communicate, directly or indirectly, regarding any issue in a contested proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any commission employee or consultant who has participated in the proceeding in a public advocacy or prosecutorial capacity, any party, his agent or other person acting on his behalf who has a direct or indirect pecuniary interest in the outcome of the proceeding, without notice and opportunity for all parties to participate.</p> <p>(2) A commission or public utilities staff employee, or consultant who has participated in investigating, compiling, evaluating and analyzing the record in a public advocacy or prosecutorial capacity; any party, his agent or other person acting on his behalf who has a direct or indirect pecuniary interest shall not communicate, directly or indirectly, regarding any issue in a contested proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any commissioner, employee or consultant assisting the commissioners in investigating, compiling, evaluating and analyzing the record, or any person who is or may reasonably be expected to be involved in the decisional process of the proceeding, without notice and opportunity for all parties to participate.</p> <p>(3) The provisions of this section shall not apply to the following:</p> <p>(a) Commissioners may communicate with one another regarding any proceeding;</p> <p>(b) Commissioners, either individually or as a group, may receive aid in investigating, compiling, evaluating and analyzing the record from legal counsel, other employees or consultants of the commission or public utilities staff who have not participated in the proceeding in a public</p>

EX PARTE STATUTES AND RULES

		<p>advocacy or prosecutorial capacity; and</p> <p>(c) Commissioners may communicate, either individually or as a group, with the general public about matters not regarding a contested proceeding.</p> <p>(4) The commission shall, in the event of a violation of this section, take whatever action is necessary to ensure that such violation does not prejudice any party or adversely affect the fairness of the proceedings to include but is not limited to the following:</p> <p>(a) A public service commissioner, consultant, or employee of the commission or public utilities staff who is or may reasonably be expected to be involved in the investigation, compilation, evaluation, analysis or decisional process of a contested proceeding who receives an ex parte communication in violation of this section shall place on the public record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the ex parte communication was received. The chairman of the commission shall advise all parties that these matters have been placed on the record. Upon request made within ten (10) days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record. Portions of the record pertaining to ex parte communications or rebuttal statements do not constitute evidence of any fact at issue in the matter unless a party moves the admission of that portion of the record for purposes of establishing a fact at issue and that portion of the record is so admitted.</p> <p>(b) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a commissioner who receives the communication may be disqualified, and the portions of the record pertaining to the communication may be sealed by protective order.</p> <p>(c) The commission may, in its discretion, require, to the extent consistent with the interests of justice and the policy of underlying statutes, the communicator to show cause why his claim in the contested case should not be dismissed, denied, disregarded or otherwise adversely affected as a result of such violation.</p> <p>(d) Any person found guilty of violating any provision of this section shall be guilty of a misdemeanor and shall be punished by imprisonment not to exceed six (6) months or a fine not to exceed One Thousand Dollars (\$ 1,000.00), or both.</p> <p>(5) A proceeding shall be considered contested in the following:</p> <p>(a) Upon the initiation of any proceedings requiring a party to show cause why any action by the commission should not be taken;</p> <p>(b) In a rate change proceeding when a rate filing is suspended; and</p> <p>(c) In any adversarial proceeding, when any objection or contest is filed by any party.</p> <p>A contested proceeding remains pending until the commission has issued its final order, and the time to petition for reconsideration has expired or the commission has issued an order finally disposing of an application for reconsideration, whichever is later.</p>
Montana	Mont. Code Ann. § 2-4-613 Mont. Admin. R. 1.3.22 Mont. Admin. R. 38.2.05	<p>2-4-613 Ex parte consultations.</p> <p>Unless required for disposition of ex parte matters authorized by law, the person or persons who are charged with the duty of rendering a decision or to make findings of fact and conclusions of law in a</p>

EX PARTE STATUTES AND RULES

		<p>contested case, after issuance of notice of hearing, may not communicate with any party or a party's representative in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate.</p> <p>1.3.222 CONTESTED CASES, EX PARTE COMMUNICATIONS</p> <p>(1) Pursuant to 2-4-613, MCA, ex parte communications with the presiding officer or any person authorized to participate in the decision of the contested case are prohibited unless otherwise authorized by law.</p> <p>38.2.3905 CONTACT BETWEEN PARTIES AND COMMISSION</p> <p>(1) The Commission declares its policy to be that after the giving of notice on a complaint, petition or application in a contested formal proceeding, or after notice of a tariff filing has been given and prior to the issuance of a final order thereon, no parties to the proceeding, or their counsel, shall discuss the merits of such matter or proceeding with the commissioners, or with the examiner involved, unless reasonable notice is given to all parties who have appeared therein, to enable such parties to be present at the conference.</p> <p>(2) When, after notice and prior to the issuance of a final order, letters from parties are directed to the Commission, or any member of its staff, regarding a formal proceeding, copies of such letters shall be mailed to all parties of record and proof of such service furnished to the Commission.</p>
Nebraska	291 Neb. Admin. Code § 1-001 291 Neb. Admin. Code § 2-001	<ul style="list-style-type: none"> On September 30, 2014, the Nebraska Public Service Commission (Commission), on its own motion, opened a proceeding to amend Title 291, Chapter 1, Rules of Commission Procedure, to rewrite rules to comport with the Nebraska Model Rules of Agency Procedure (Model Rules) issued July 25, 1994 and to incorporate statutory changes. IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that that a certificate of adoption be issued with respect to the amendments to Title 291, Chapter 1 [May 10, 2016]. <p><u>Adopted Revisions</u></p> <p><u>001.11</u> Ex parte Communication shall mean an oral or written communication which is not on the record in a contested case with respect to which reasonable notice to all parties was not given. Ex parte communication shall not include:</p> <p><u>001.11A</u> Communications which do not pertain to the merits of a contested case;</p> <p><u>001.11B</u> Communications required for the disposition of ex parte matters as authorized by law;</p> <p><u>001.11C</u> Communications in a ratemaking or rulemaking proceeding except with respect to any proceedings in which the public advocate is a party as set forth in 002.11B; and</p> <p><u>001.11D</u> Communications to which all parties have given consent.</p> <p><u>002.11 Prohibitions Against Ex Parte Communications:</u></p> <p><u>002.11A</u> The prohibitions found in this section shall apply beginning at the time a petition is filed. If after thirty (30) days from the date notice of an application or petition is published no interventions or protests are filed, the provisions of section 002.11 prohibiting ex parte communications shall no longer apply to</p>

EX PARTE STATUTES AND RULES

		<p>the proceeding.</p> <p><u>002.11B</u> With respect to any matter of fact or law at issue in a proceeding and notwithstanding any other provision of law, a member, staff, or agent of the Commission shall not during the pendency of any proceeding heard before the Commission have any ex parte communication with any party having an interest in the outcome of the proceeding. In any proceeding before the Commission in which the public advocate is a party or is appearing for a party, the public advocate shall be considered a party for purposes of the restrictions on ex parte communications.</p> <p><u>002.11C</u> Any Commissioner, member of Commission staff, or agent of the Commission who is or may reasonably be expected to be involved in the decision-making process of the proceeding who receives or who makes or knowingly causes to be made an ex parte communication shall file in the record of the proceeding all such written communications, memoranda stating the substance of all such oral communications, and all written responses and memoranda stating the substance of all oral responses to all the ex parte communications. The filing shall be made within two working days of the receipt or making of the ex parte communication. Notice of the filing, with an opportunity to respond, shall be given to all parties of record.</p>
Nevada	Nev. Admin. Code § 703.481	<p>703.481 Restrictions on certain communications with Commissioner or hearing officer while contested case is pending. (NRS 703.025, 704.210)</p> <p>1. In any contested case pending before the Commission, a party or commenter or an authorized representative or attorney of a party or commenter shall not communicate, directly or indirectly, with a Commissioner or a hearing officer regarding any substantive issues of fact or law that relate to the contested case, unless the communication:</p> <ul style="list-style-type: none">(a) Is part of a pleading filed and served in accordance with the provisions of this chapter; or(b) Occurs during a formal hearing before the Commissioner or the hearing officer. <p>2. The provisions of this section apply from the date on which the pleading or other document that commences the contested case is filed with the Secretary until 15 calendar days after the date on which the Commission issues a final order in the contested case or, if a petition for reconsideration is filed, until the date on which the Commission issues the order on reconsideration.</p> <p>3. As used in this section, "contested case" means every proceeding pending before the Commission except:</p> <ul style="list-style-type: none">(a) A rule-making proceeding conducted pursuant to NRS 233B.0395 to 233B.115, inclusive, whether the proceeding is commenced pursuant to NAC 703.546 or otherwise;(b) A proceeding involving a petition for a declaratory order or an advisory opinion pursuant to NRS 233B.120 and NAC 703.825; or(c) Any proceeding in which the Commission is not required by law to conduct a hearing before determining any issue of fact or law, or both.
New Hampshire	N.H. Rev. Stat. Ann. § 363:34 N.H. Rev. Stat. Ann. § 541-A:36	<p>363:34. Ex Parte Communications in Adjudicative Proceedings.</p> <p>Unless required for the disposition of ex parte matters authorized by law, in an adjudicative proceeding, decisional employees shall not communicate with any person or party, directly or indirectly, in connection with any issue in that proceeding, except upon notice and opportunity for all parties to</p>

EX PARTE STATUTES AND RULES

		<p>participate. This notice requirement shall not apply to communications between or among commissioners, decisional employees, and personal assistants, including legal counsel, who have not been assigned as staff advocates in the adjudicative proceeding in question.</p> <p>541-A:36. Ex Parte Communications.</p> <p>Unless required for the disposition of ex parte matters authorized by law, officials or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue before the agency, with any person or party, except upon notice and opportunity for all parties to participate. This notice requirement shall not apply to:</p> <ul style="list-style-type: none"> I. Communications between or among agency personnel, or between the agency and legal counsel. II. Communications between or among the presiding officer and one or more personal assistants. <p>New Hampshire Public Utilities website: https://www.puc.nh.gov/Regulatory/practiceguide.htm</p> <p><u>Communicating with Commissioners and Commission Staff</u></p> <p>The three members of the Public Utilities Commission must conduct themselves as a judge would in connection with all open cases. Thus, in connection with any case pending before the Commission, there is only one circumstance in which the individual Commissioners may communicate with a party to that case or any of such party's representatives: when all other parties have been notified in advance and have been given an opportunity to be present. In other words, the Commissioners will only communicate with parties during duly noticed hearings, pre-hearing conferences or other formal proceedings of which all parties have been notified. Any other communication between any Commissioner and a representative of a party is known as ex parte communication and is strictly prohibited. Parties and their representatives should never attempt to contact the Commissioners directly, whether by telephone, electronically or in writing.</p> <p>Unless otherwise ordered by the Commission, these restrictions on ex parte communications do not apply to other Commission employees. Parties or their representatives should feel free to contact Commission Staff members directly, particularly if they have questions related to Commission practice and procedure. Attorneys appearing before the Commission should be aware that the Commission and its Staff are represented by counsel for purposes of Rule 4.2 ("Communications with Person Represented by Counsel") of the New Hampshire Rules of Professional Conduct.</p> <p>In certain cases, the Commission may designate individual members of its staff as "decisional employees" or a "Staff advocates" with respect to that case pursuant to RSA 363:32. The Commission will notify all parties when such a designation has been made. A decisional employee is subject to the same ex parte restrictions on contact with parties as are the Commissioners. Conversely, a staff advocate must not have ex parte contact with the Commissioners as to the case in question. Parties may file a motion requesting such designations in appropriate circumstances and should consult RSA 363:32 for the applicable standards.</p>
New Jersey	N.J. Admin. Code § 1:1-14.5	<p>§ 1:1-14.5 Ex parte communications</p> <p>(a) Except as specifically permitted by law or this chapter, a judge may not initiate or consider ex parte any evidence or communications concerning issues of fact or law in a pending or impending proceeding.</p>

EX PARTE STATUTES AND RULES

		<p>Where ex parte communications are unavoidable, the judge shall advise all parties of the communications as soon as possible thereafter.</p> <p>(b) The ex parte communications preclusion shall not encompass scheduling discussions or other practical administrative matters.</p> <p>(c) Ex parte discussions relating to possible settlement may be conducted in the course of settlement conferences or mediations when all parties agree in advance.</p> <p>(d) Where an agency or agency staff is a party to a contested case, the legal representative appearing and acting for the agency in the case may not engage in ex parte communications concerning that case with the transmitting agency head, except for purposes of conferring settlement authority on the representative or as necessary to keep the agency head as a client informed of the status of the case, provided that no information may be disclosed ex parte if it would compromise the agency head's ability to adjudicate the case impartially. In no event may the legal representative participate in making or preparing the final decision in the case.</p>
New Mexico	N.M. Stat. Ann. § 8-8-17	<p>8-8-17. Ex parte communications.</p> <p>A. A commissioner shall not initiate, permit or consider a communication directly or indirectly with a party or his representative outside the presence of the other parties concerning a pending rulemaking after the record has been closed or a pending adjudication.</p> <p>B. A hearing examiner shall not initiate, permit or consider a communication directly or indirectly with a party or his representative outside the presence of the other parties concerning a pending rulemaking or adjudication.</p> <p>C. Notwithstanding the provisions of Subsections A and B of this section, the following ex parte communications are permitted:</p> <p style="padding-left: 40px;">(1) where circumstances require, ex parte communications for procedural or administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are allowed if the commissioner or hearing examiner reasonably believes that no party will gain an advantage as a result of the ex parte communication and the commissioner or hearing examiner makes provision to promptly notify all other parties of the substance of the ex parte communication;</p> <p style="padding-left: 40px;">(2) a commissioner may consult with another commissioner or with advisory staff whose function is to advise the commission in carrying out the commissioner's rulemaking or adjudicative responsibilities;</p> <p style="padding-left: 40px;">(3) a hearing examiner may consult with the commission's advisory staff;</p> <p style="padding-left: 40px;">(4) a commissioner or hearing examiner may obtain the advice of a nonparty expert on an issue raised in the rulemaking or adjudication if the commissioner or hearing examiner gives notice to the parties of the person consulted and the substance of the advice and affords the parties reasonable opportunity to respond; and</p> <p style="padding-left: 40px;">(5) pursuant to the public regulation commission's rulemaking authority a party to a proceeding may consult with the commission's advisory staff. By July 1, 2004, the commission shall establish such rules.</p> <p>D. A commissioner or hearing examiner who receives or who makes or knowingly causes to be made a</p>

EX PARTE STATUTES AND RULES

		<p>communication prohibited by this section shall disclose it to all parties and give other parties an opportunity to respond.</p> <p>E. Upon receipt of a communication knowingly made or caused to be made by a party to a commissioner or hearing examiner in violation of this section, the commissioner or hearing examiner may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded or otherwise adversely affected on account of the violation of this section.</p>
New York	N.Y. A.P.A. Law § 307(2)	<p>§ 307. Decisions, determinations and orders</p> <p>2. Unless required for the disposition of ex parte matters authorized by law, members or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in an adjudicatory proceeding shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his representative, except upon notice and opportunity for all parties to participate. Any such agency member (a) may communicate with other members of the agency, and (b) may have the aid and advice of agency staff other than staff which has been or is engaged in the investigative or prosecuting functions in connection with the case under consideration or factually related case.</p> <p>This subdivision does not apply (a) in determining applications for initial licenses for public utilities or carriers; or (b) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers.</p>
North Carolina	N.C. Gen. Stat. § 62-70	<p>§ 62-70. Ex parte communications</p> <p>(a) In all matters and proceedings pending on the Commission's formal docket, with adversary parties of record, all communications or contact of any nature whatsoever between any party and the Commission or any of its members, or any hearing examiner assigned to such docket, whether verbal or written, formal or informal, which pertains to the merits of such matter or proceeding, shall be made only with full knowledge of, or notice to, all other parties of record. All parties shall have an opportunity to be informed fully as to the nature of such communication and to be present and heard with respect thereto. In all matters and proceedings which are judicial in nature, it is the specific intent of this section that all members of the Commission shall conduct all trials, hearings and proceedings before them in the manner and in accordance with the judicial standards applicable to judges of the General Court of Justice, as provided in Chapter 7A of the General Statutes, and upon the initiation of any such proceedings, and particularly during the trial or hearing thereof, there shall be no communications or contacts of any nature, including telephone communications, written correspondence, or direct office conferences, between any party or such party's attorney and any member of the Commission or any hearing examiner, without all other parties to such proceeding having full notice and opportunity to be present and heard with respect to any such contact or communication.</p> <p>Any commissioner who knowingly receives any such communication or contact during such proceeding and who fails promptly to report the same to the Attorney General, or who otherwise violates any of the provisions of this subsection shall be liable to impeachment. Any examiner who knowingly receives any such communication or contact during such proceeding and who fails promptly to report the same to the Attorney General or who otherwise violates any of the provisions of this subsection shall be subject to dismissal from employment for cause.</p>

EX PARTE STATUTES AND RULES

		<p>(b) In the event any such communication or contact shall be received by the Commission or any commissioner or any hearing examiner assigned to such docket without such knowledge or notice to all other parties, the Commission shall immediately cause a formal record of such violation to be made in its docket and thereafter no ruling or decision shall be made in favor of such violating party until the aggrieved party shall waive such violation or the Commission shall find as a fact that such party was not prejudiced thereby or that any such prejudice, if present, has been removed.</p> <p>(c) Any contacts or communications made in violation of this section which are not recorded by the Commission may be recorded by notice to the Commission by any aggrieved party and, unless the Commission shall find that such violation did not in fact occur, such recording shall have the same effect as if done by the Commission.</p> <p>(d) In matters not under this section, the Commission may secure information and receive communications ex parte, it being the purpose of this section to protect adversary interests where they exist but not otherwise to restrict unduly the administrative and legislative functions of the Commission.</p> <p>(e) This section shall not modify any notice required in the case of pleadings and proceedings which are subject to other requirements of notice to parties of record, whether by statute or by rule of the Commission, and the Commission may adopt reasonable rules to coordinate this section with such other requirements.</p> <p>(f) In addition to the foregoing provisions regarding contacts with members of the Commission and hearing examiners, if any party of record, including the assistant attorney general when he is a party, confers with or otherwise contacts any staff personnel employed by the Commission regarding the merits of a pending proceeding, the staff employee shall promptly forward by regular mail a memorandum of the date and general subject matter of such contact to all other parties of record to the proceeding.</p> <p>(g) Notwithstanding the foregoing, no communication by a public utility or by the public staff regarding the level of rates specifically proposed to be charged by a public utility shall be made or directed to the Commission, a member of the Commission, or hearing examiner, except in the form of written tariff, petition, application, pleading, written response, written recommendation, recorded conference, intervention, answer, pleading, sworn testimony and related exhibits, oral argument on the record, or brief. Willful violations of the provisions of this section on the part of any public utility shall subject such public utility to the penalties provided in G.S. 62-310(a). Willful violations of the provisions of this section by a member of the public staff shall subject such person to dismissal for cause.</p>
North Dakota	N.D. Cent. Code § 28-32-37	<p>28-32-37. Ex parte communications.</p> <p>1. Except as provided in subsections 2 and 4 or unless required for the disposition of ex parte matters specifically authorized by another statute, an agency head or hearing officer in an adjudicative proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any party, with any person who has a direct or indirect interest in the outcome of the proceeding, with any other person allowed to participate in the proceeding, or with any person who presided at a previous stage of the proceeding, without notice and opportunity for all parties to participate in the communication.</p> <p>2. When more than one person is the hearing officer in an adjudicative proceeding, those persons may communicate with each other regarding a matter pending before the panel. An agency head or hearing officer may communicate with or receive aid from staff assistants if the assistants do not furnish,</p>

EX PARTE STATUTES AND RULES

		<p>augment, diminish, or modify the evidence in the record.</p> <p>3. Except as provided in subsection 4 or unless required for the disposition of ex parte matters specifically authorized by statute, no party to an adjudicative proceeding, no person who has a direct or indirect interest in the outcome of the proceeding, no person allowed to participate in the proceeding, and no person who presided at a previous stage in the proceeding may communicate directly or indirectly in connection with any issue in that proceeding, while the proceeding is pending, with any agency head or hearing officer in the proceeding without notice and opportunity for all parties to participate in the communication.</p> <p>4. In an adjudicative proceeding conducted by a hearing officer other than the agency head, counsel for the administrative agency and the agency head, without notice and opportunity for all parties to participate, may communicate and consult regarding the status of the adjudicative proceeding, discovery, settlement, litigation decisions, and other matters commonly communicated between attorney and client, to permit the agency head to make informed decisions. This subsection does not apply after recommended findings of fact, conclusions of law, and orders have been issued, except counsel for the administrative agency and the agency head may communicate regarding settlement and negotiation after recommended findings of fact, conclusions of law, and orders have been issued.</p> <p>5. If, before being assigned, designated, or appointed to preside in an adjudicative proceeding, a person receives an ex parte communication of a type that could not properly be received while presiding, the person, promptly after being assigned, designated, or appointed, shall disclose the communication in the manner prescribed in subsection 6.</p> <p>6. An agency head or hearing officer in an adjudicative proceeding who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, or a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte oral communication, and shall advise all parties, interested persons, and other persons allowed to participate that these matters have been placed on the record. Any person desiring to rebut the ex parte communication must be allowed to do so, upon requesting the opportunity for rebuttal. A request for rebuttal must be made within ten days after notice of the communication.</p> <p>7. If necessary to eliminate the effect of an ex parte communication received in violation of this section, an agency head or hearing officer in an adjudicative proceeding who receives the communication may be disqualified, upon good cause being shown in writing to the hearing officer or to the agency. The portions of the record pertaining to the communication may be sealed by protective order issued by the agency.</p> <p>8. The agency shall, and any party may, report any willful violation of this section to the appropriate authorities for any disciplinary proceedings provided by law. In addition, an administrative agency may, by rule, provide for appropriate sanctions, including default, for any violations of this section.</p> <p>9. Nothing in this section prohibits a member of the general public, not acting on behalf or at the request of any party, from communicating with an agency in cases of general interest. The agency shall disclose such written communications in adjudicative proceedings.</p>
Ohio	Ohio Rev. Code Ann. § 4903.081	4903.081 Private discussions of merits of case; limitations [Discussions of case after assignment of formal docket number.]

EX PARTE STATUTES AND RULES

		<p>After a case has been assigned a formal docket number neither a member of the public utilities commission nor any examiner associated with the case shall discuss the merits of the case with any party or intervenor to the proceeding, unless all parties and intervenors have been notified and given the opportunity of being present or a full disclosure of the communication insofar as it pertains to the subject matter of the case has been made. Failure of any assigned examiner of the public utilities commission or any commissioner to abide by this section may, at the discretion of the commissioners, lead to that examiner's or commissioner's removal from a particular case or appropriate disciplinary action.</p>
Oklahoma	<p>No rule found Paul Monies, <i>Oklahoma Corporation Commission approves OG&E's \$500M coal scrubber plan</i>, The Oklahoman (April 28, 2016), http://newsok.com/article/5494837.</p>	<p>Oklahoma also appears to lack an official rule regarding ex parte communications. An April 28, 2016 article in <i>The Oklahoman</i> notes "[c]ommissioners and commission staff are free to meet with parties and interested groups in ratemaking cases. In judicial proceedings, ex parte communications are frowned upon." Paul Monies, <i>Oklahoma Corporation Commission approves OG&E's \$500M coal scrubber plan</i>, The Oklahoman (April 28, 2016), http://newsok.com/article/5494837 (emphasis added).</p>
Oregon	<p>Or. Admin. R. 860-001-0340</p>	<p>860-001-0340 Ex Parte Communications</p> <ol style="list-style-type: none"> (1) Ex parte communications are discouraged and, if made, must be disclosed to ensure an open and impartial decision-making process. (2) Except as provided in this rule, an ex parte communication is any oral or written communication that: <ol style="list-style-type: none"> (a) Is made by a person directly to a Commissioner or presiding ALJ outside the presence of any or all parties of record in pending contested case or declaratory ruling proceedings; (b) Is made without notice to or an opportunity for rebuttal by all parties; and (c) Relates to the merits of an issue in the proceedings. (3) For purposes of this rule, a contested case or declaratory ruling proceeding is pending when the Commission or ALJ issues the first scheduling notice. (4) A person who has an ex parte communication must promptly notify the presiding ALJ that the communication occurred. (5) Upon notice of or receipt of an ex parte communication, the presiding ALJ must promptly notify the parties of record of the communication and place the following in the record: <ol style="list-style-type: none"> (a) The name of each person who made the communication and the person's relationship, if any, to a party in the case; (b) The date and time of the communication; (c) The circumstances under which the communication was made; (d) A summary of the matters discussed; (e) A copy of any written communication; and (f) Other relevant information concerning the communication. (6) The presiding ALJ may require the person responsible for the ex parte communication to provide the disclosure and notice of the communication required by this rule. (7) Within 10 days of the filing date of the notice, a party may file a written rebuttal of the facts or contentions contained in the ex parte communication. (8) The provisions of this rule do not apply to communications that: <ol style="list-style-type: none"> (a) Address procedural issues, such as scheduling or status inquiries, or requests for information having no bearing on the merits of the case;

EX PARTE STATUTES AND RULES

		<p>(b) Are made to a Commissioner or presiding ALJ by a member of Staff who is not a witness in the proceedings;</p> <p>(c) Are made to a Commissioner or presiding ALJ by an Assistant Attorney General who is not representing Staff in the proceedings;</p> <p>(d) Are made in rulemaking proceedings conducted under ORS 183.325 through 183.410; or</p> <p>(e) The presiding ALJ determines are not subject to this rule, including communications from members of the public that are made part of the administrative file or communications that are the subject of in camera proceedings.</p> <p>(9) To avoid inadvertent ex parte communications, a person planning to meet individually with a Commissioner or ALJ must indicate whether the discussion will relate to pending proceedings and, if so, which proceedings.</p>
Pennsylvania	66 Pa. Cons. Stat. Ann. § 334	<p>§ 334. Presiding officers.</p> <p>(a) <i>Presiding officers to decide.</i> — The same presiding officer shall to the fullest extent possible preside at all the reception of evidence in a particular case to which he has been assigned. The same presiding officer who presides at the reception of evidence shall make the recommended decision or initial decision except where such presiding officer becomes unavailable to the commission.</p> <p>(b) <i>Outside consultation prohibited.</i> — Save to the extent required for the disposition of ex parte matters not prohibited by this part, no presiding officer shall consult any person or party on any fact in issue unless upon notice and opportunity for all parties to participate; nor shall any presiding officer be responsible to or subject to the supervision or direction of any officer, employee or agent engaged in the performance of investigative or prosecuting functions for the commission. No employee, appointee, commissioner or official engaged in the service of, or in any manner connected with the commission shall engage in ex parte communications save to the extent permitted by this part. No officer, employee or agent engaged in the performance of investigative or prosecuting functions for the commission in any case shall, in that or a factually related case, participate or advise in the decision, recommended decision or commission review, except as witness or counsel in public proceedings.</p> <p>(c) <i>Ex parte communications.</i> — Ex parte communications prohibited in this section shall mean any off-the-record communications to or by any member of the commission, administrative law judge, or employee of the commission, regarding the merits or any fact in issue of any matter pending before the commission in any contested on-the-record proceeding. Contested on-the-record proceeding means a proceeding required by a statute, constitution, published commission rule or regulation or order in a particular case, to be decided on the basis of the record of a commission hearing, and in which a protest or a petition or notice to intervene in opposition to requested commission action has been filed. This subsection does not prohibit off-the-record communications to or by any employee of the commission prior to the actual beginning of hearings in a contested on-the-record proceeding when such communications are solely for the purpose of seeking clarification of or corrections in evidentiary materials intended for use in the subsequent hearings.</p>
Rhode Island	R.I. Admin. Code 53-1-8:1.2(h)	<p>(h) Ex Parte Communications.</p> <p>(1) Except as permitted below, no person who is a party to or a participant in any proceeding pending before the Commission, or the person's counsel, employee, agent, or any other individual acting on the person's behalf, shall communicate <u>ex parte</u> with any Commissioner about or in any way related to the proceeding, and no</p>

EX PARTE STATUTES AND RULES

		<p>Commissioner shall request or entertain any such <u>ex parte</u> communications.</p> <p>(2) The prohibitions contained above do not apply to a communication from a party or participant or counsel, agent or other individual acting on the person's behalf, if the communication relates solely to general matters of procedure or scheduling and is directed to the Clerk or the Commission Counsel.</p>
South Carolina	S.C. Code Ann. § 58-3-260	<p>§ 58-3-260. Communications between commission and parties prohibited; exempt communications; disclosure of improper communications; penalties.</p> <p>(B) Except as otherwise provided herein or unless required for the disposition of ex parte matters specifically authorized by law, a commissioner, hearing officer, or commission employee shall not communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any person without notice and opportunity for all parties to participate in the communication, nor shall any person communicate, directly or indirectly, regarding any issue that is an issue in any proceeding or can reasonably be expected to become an issue in any proceeding with any commissioner, hearing officer, or commission employee without notice and opportunity for all parties to participate in the communication.</p>
South Dakota	S.D. Codified Laws § 1-26-26	<p>1-26-26. Communications with parties — Disqualification to conduct hearing or render decision.</p> <p>Unless required for the disposition of ex parte matters authorized by law, members of the governing board or officers or employees of an agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or the party's representative, except upon notice and opportunity for all parties to participate. If one or more members of a board or commission or a member or employee of an agency, who is assigned to render a decision in a contested case, took part in an investigation upon which the contested case is based, the member or employee may not participate in the conduct of the hearing nor take part in rendering the decision on the contested case. However, the member or employee may appear as a witness and give advice as to procedure. If, because of the disqualification, there is no person assigned to conduct the hearing or render the decision, the agency shall appoint a person to fulfill those duties. A person assigned to render a decision:</p> <p style="padding-left: 40px;">(1) May communicate with other members of the agency; and</p> <p style="padding-left: 40px;">(2) May have the aid and advice of one or more personal assistants.</p>
Tennessee	Tenn. Code Ann. § 4-5-304	<p>4-5-304. Ex parte communications.</p> <p>(a) Unless required for the disposition of ex parte matters specifically authorized by statute, an administrative judge, hearing officer or agency member serving in a contested case proceeding may not communicate, directly or indirectly, regarding any issue in the proceeding, while the proceeding is pending, with any person without notice and opportunity for all parties to participate in the communication.</p> <p>(b) Notwithstanding subsection (a), an administrative judge, hearing officer or agency member may communicate with agency members regarding a matter pending before the agency or may receive aid from staff assistants, members of the staff of the attorney general and reporter, or a licensed attorney, if such persons do not receive ex parte communications of a type that the administrative judge, hearing officer or agency members would be prohibited from receiving, and do not furnish, augment, diminish or</p>

EX PARTE STATUTES AND RULES

		<p>modify the evidence in the record.</p> <p>(c) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to a contested case, and no other person may communicate, directly or indirectly, in connection with any issue in that proceeding, while the proceeding is pending, with any person serving as an administrative judge, hearing officer or agency member without notice and opportunity for all parties to participate in the communication.</p> <p>(d) If, before serving as an administrative judge, hearing officer or agency member in a contested case, a person receives an ex parte communication of a type that may not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (e).</p> <p>(e) An administrative judge, hearing officer or agency member who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the person received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any party desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within ten (10) days after notice of the communication.</p> <p>(f) An administrative judge, hearing officer or agency member who receives an ex parte communication in violation of this section may be disqualified if necessary to eliminate the effect of the communication.</p> <p>(g) The agency shall, and any party may, report any willful violation of this section to appropriate authorities for any disciplinary proceedings provided by law. In addition, each agency by rule may provide for appropriate sanctions, including default, for any violations of this section.</p>
Texas	16 Tex. Admin. Code § 22.3 Tex. Gov't Code § 2001.061	<p>§ 22.3. Standards of Conduct</p> <p>(b) Communications.</p> <p>(1) Personal Communications. Communications in person by public utilities, their affiliates or representatives, or any person with the commission or any employee of the commission shall be governed by the APA, § 2001.061. Records shall be kept of all such communications and shall be available to the public on a monthly basis. The records of communications shall contain the following information:</p> <ul style="list-style-type: none">(A) name and address of the person contacting the commission;(B) name and address of the party or business entity represented;(C) case, proceeding, or application, if available;(D) subject matter of communication;(E) the date of the communication;(F) the action, if any, requested of the commission; and(G) whether the person has received, or expects to receive, a financial benefit in return for making the communication. <p>(2) Ex parte communications. Unless required for the disposition of ex parte matters authorized by law, members of the commission or administrative law judges assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not communicate, directly or indirectly, in connection with any issue of law or fact with any agency, person, party,</p>

EX PARTE STATUTES AND RULES

		<p>or their representatives, except on notice and opportunity for all parties to participate. Members of the commission or administrative law judges assigned to render a decision or to make findings of fact or conclusions of law in a contested case may communicate ex parte with employees of the commission who have not participated in any hearing in the case for the purpose of utilizing the special skills or knowledge of the commission and its staff in evaluating the evidence.</p> <p>(3) Communications with SOAH (State Office of Administrative Hearings) administrative law judges. Communications between SOAH administrative law judges and employees of the commission who have not participated in any hearing in the case shall be in writing or be recorded. Written communication should be the primary and preferred format. All oral communications shall be recorded, and a table of contents maintained for each recording. All such communication submitted to or considered by the administrative law judge shall be made available as public records when the proposal for decision is issued. Number running procedures conducted pursuant to written commission policy by employees of the commission who have participated in any hearing in the case do not constitute impermissible ex parte communications, provided memoranda memorializing such procedures are preserved and made available to all parties of record in the proceeding to which the number running procedures relate.</p> <p>Sec. 2001.061. Ex Parte Consultations.</p> <p>(a) Unless required for the disposition of an ex parte matter authorized by law, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may not directly or indirectly communicate in connection with an issue of fact or law with a state agency, person, party, or a representative of those entities, except on notice and opportunity for each party to participate.</p> <p>(b) A state agency member may communicate ex parte with another member of the agency unless prohibited by other law.</p> <p>(c) Under Section 2001.090, a member or employee of a state agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case may communicate ex parte with an agency employee who has not participated in a hearing in the case for the purpose of using the special skills or knowledge of the agency and its staff in evaluating the evidence.</p>
Utah	Utah Admin. Code § 746-100-13	<p>R746-100-13. Ex Parte Communications.</p> <p>A. Ex Parte Communications Prohibited -- To avoid prejudice, real or perceived, to the public interest and persons involved in proceedings pending before the Commission:</p> <p>B. Persons Affected -- Except as permitted in R746-100-13(C), no person who is a party, or the party's counsel, agent, or other person acting on the party's behalf, shall engage in ex parte communications with a commissioner, administrative law judge, presiding officer, or any other employee of the Commission who is, or may reasonably be expected to be, involved in the decision-making process regarding a matter pending before the Commission. No commissioner, administrative law judge, presiding officer, or other employee of the Commission who is, or may reasonably be expected to be, involved in the decision-making process shall request or entertain ex parte communications.</p> <p>C. Exceptions -- The prohibitions contained in R746-100-13(B) do not apply to a communication:</p>

EX PARTE STATUTES AND RULES

		<ol style="list-style-type: none">1. from an interceder who is a local, state, or federal agency which has no official interest in the outcome and whose official duties are not affected by the outcome of the on-the-record proceedings before the Commission to which the communication relates;2. from a party, or the party's counsel, agent, or other person acting on the party's behalf if the communication relates to matters of procedure only;3. from a person when otherwise authorized by law;4. related to routine safety, construction, and operational inspections of project works by Commission employees undertaken to investigate or study a matter pending before the Commission;5. related to routine field audits of the accounts or the books or records of a company subject to the Commission's accounting requirements not undertaken to investigate or study a matter pending in issue before the Commission in a proceeding;6. related solely to a request for supplemental information or data necessary for an understanding of factual materials contained in documents or other evidence filed with the Commission in a proceeding covered by these rules and which is made in the presence of or after coordination with counsel. <p>D. Records of Ex Parte Communications -- Written communications prohibited by R746-100-13(B), sworn statements reciting the substance of oral communications, and written responses and sworn statements reciting the substance of oral responses to prohibited communications shall be delivered to the secretary of the Commission who shall place the communication in the case file, but separate from the material upon which the Commission can rely in reaching its decision. The secretary shall serve copies of the communications upon parties to the proceeding and serve copies of the sworn statement to the communicator and allow him a reasonable time to file a response.</p> <p>E. Treatment of Ex Parte Communications -- A commissioner, administrative law judge, presiding officer, or an employee of the Commission who receives an oral offer of a communication prohibited by R746-100-13(B) shall decline to hear the communication and explain that the matter is pending for determination. If unsuccessful in preventing the communication, the recipient shall advise the communicator that the communication will not be considered. The recipient shall, within two days, prepare a statement setting forth the substance of the communication and the circumstances of its receipt and deliver it to the secretary of the Commission for filing. The secretary shall forward copies of the statement to the parties.</p> <p>F. Rebuttal -- Requests for an opportunity to rebut on the record matters contained in an ex parte communication which the secretary has associated with the record may be filed in writing with the Commission. The Commission may grant the requests only if it determines that fairness so requires. If the communication contains assertions of fact not a part of the record and of which the Commission cannot take administrative notice, the Commission, in lieu of receiving rebuttal material, normally will direct that the alleged factual assertion on proposed rebuttal be disregarded in arriving at a decision. The Commission will not normally permit a rebuttal of ex parte endorsements or oppositions by civic or other organizations by the submission of counter endorsements or oppositions.</p> <p>G. Sanctions -- Upon receipt of a communication knowingly made in violation of R746-100-13(B), the presiding officer may require the communicator, to the extent consistent with the public interest, to</p>
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EX PARTE STATUTES AND RULES

		<p>show cause why the communicator's interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected because of the violation.</p> <p>H. Time When Prohibitions Apply -- The prohibitions contained in this rule shall apply from the time at which a proceeding is noticed for hearing or the person responsible for the communication has knowledge that it will be noticed for hearing or when a protest or a request to intervene in opposition to requested Commission action has been filed, whichever occurs first.</p>
Vermont	Vt. Stat. Ann. tit. 3, § 813	<p>§ 813. Ex parte consultations</p> <p>Unless required for the disposition of ex parte matters authorized by law, members or employees of any agency assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or his or her representative, except upon notice and opportunity for all parties to participate. An agency member:</p> <p style="padding-left: 40px;">(1) may communicate with other members or employees of the agency; and</p> <p style="padding-left: 40px;">(2) may have the aid and advice of one or more personal assistants.</p>
Virginia	<p>5 Va. Admin. Code § 5-20-50</p> <p>5 Va. Admin. Code § 5-20-60</p>	<p>5 VAC 5-20-50. Consultation by parties with commissioners and hearing examiners</p> <p>No commissioner or hearing examiner shall consult with any party or any person acting on behalf of any party with respect to a pending formal proceeding without giving adequate notice and opportunity for all parties to participate.</p> <p>5 VAC 5-20-60. Commission staff</p> <p>The commissioners and hearing examiners shall be free at all times to confer with any member of the commission staff. However, no facts or legal arguments likely to influence a pending formal proceeding and not of record in that proceeding shall be furnished ex parte to any commissioner or hearing examiner by any member of the commission staff.</p>
Washington	<p>Wash. Rev. Code Ann. § 34.05.455</p> <p>Wash. Admin. Code § 480-07-310</p>	<p>34.05.455. Ex parte communications.</p> <p>(1) A presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding other than communications necessary to procedural aspects of maintaining an orderly process, with any person employed by the agency without notice and opportunity for all parties to participate, except as provided in this subsection:</p> <p style="padding-left: 40px;">(a) Where the ultimate legal authority of an agency is vested in a multimember body, and where that body presides at an adjudication, members of the body may communicate with one another regarding the proceeding;</p> <p style="padding-left: 40px;">(b) Any presiding officer may receive aid from legal counsel, or from staff assistants who are subject to the presiding officer's supervision; and</p> <p style="padding-left: 40px;">(c) Presiding officers may communicate with other employees or consultants of the agency who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.</p> <p style="padding-left: 40px;">(d) This subsection does not apply to communications required for the disposition of ex parte matters specifically authorized by statute.</p> <p>(2) Unless required for the disposition of ex parte matters specifically authorized by statute or unless necessary to procedural aspects of maintaining an orderly process, a presiding officer may not communicate, directly or indirectly, regarding any issue in the proceeding, with any person not employed</p>

EX PARTE STATUTES AND RULES

		<p>by the agency who has a direct or indirect interest in the outcome of the proceeding, without notice and opportunity for all parties to participate.</p> <p>(3) Unless necessary to procedural aspects of maintaining an orderly process, persons to whom a presiding officer may not communicate under subsections (1) and (2) of this section may not communicate with presiding officers without notice and opportunity for all parties to participate.</p> <p>(4) If, before serving as presiding officer in an adjudicative proceeding, a person receives an ex parte communication of a type that could not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (5) of this section.</p> <p>(5) A presiding officer who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the presiding officer received an ex parte communication. The presiding officer shall advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party desiring to rebut the communication shall be allowed to place a written rebuttal statement on the record. Portions of the record pertaining to ex parte communications or rebuttal statements do not constitute evidence of any fact at issue in the matter unless a party moves the admission of any portion of the record for purposes of establishing a fact at issue and that portion is admitted pursuant to RCW 34.05.452.</p> <p>(6) If necessary to eliminate the effect of an ex parte communication received in violation of this section, a presiding officer who receives the communication may be disqualified, and the portions of the record pertaining to the communication may be sealed by protective order.</p> <p>(7) The agency shall, and any party may, report any violation of this section to appropriate authorities for any disciplinary proceedings provided by law. In addition, each agency by rule may provide for appropriate sanctions, including default, for any violations of this section.</p> <p>WAC 480-07-310. Ex parte communication.</p> <p>(1) General. RCW 34.05.455 and this section govern ex parte communications. After an adjudicative proceeding begins and before a final determination, no person who has a direct or indirect interest in the outcome of the proceeding, including the commission's advocacy, investigative, or prosecutorial staff, may directly or indirectly communicate about the merits of the proceeding with the commissioners, the administrative law judge, or the commissioners' staff assistants, legal counsel, or consultants assigned to advise the commissioners in that proceeding, unless reasonable notice is given to all parties to the proceeding, so that they may participate in, or respond to, the communication.</p> <p>(2) Communications not considered ex parte for purposes of this section. The following communications are not considered ex parte:</p> <p>(a) Procedural aspects. Communications necessary to procedural aspects of maintaining an orderly process, such as scheduling, are not ex parte communications prohibited by RCW 34.05.455, or by this section.</p> <p>(b) Commissioners. The commissioners may communicate with one another regarding the merits of any adjudicative proceeding.</p>
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EX PARTE STATUTES AND RULES

		<p>(c) Commission employees and consultants. A presiding officer may receive legal counsel, or consult with staff assistants or consultants who are subject to the presiding officer's supervision or who have not participated in the proceeding in any manner, and who are not engaged in any investigative or prosecutorial functions in the same or a factually related case.</p> <p>(3) Communication prior to service as presiding officer. If, before serving as presiding officer in an adjudicative proceeding, a person receives an ex parte communication of a type that could not properly be received while serving, the presiding officer must disclose the communication as prescribed in subsection (4) of this section promptly after starting to serve.</p> <p>(4) What is required if an ex parte communication occurs. A presiding officer who receives any communication that appears to violate RCW 34.05.455, or this section, will place on the record of the pending matter any such written communication received, any written response to the communication, and a memorandum stating the substance of any such oral communication received, any response made, and the identity of each person from whom the presiding officer received an ex parte communication. The presiding officer will advise all parties that these matters have been placed on the record. Upon request made within ten days after notice of the ex parte communication, any party who wants to respond to the communication may place a written rebuttal statement on the record. Portions of the record pertaining to ex parte communications or rebuttal statements do not constitute evidence of any fact at issue in the proceeding unless a party moves to admit any portion of the record for purposes of establishing a fact at issue and that portion is admitted pursuant to RCW 34.05.452.</p> <p>(5) Sanctions. The commission may prescribe appropriate sanctions, including default, for any violation of RCW 34.05.455 or this section. The commission will, and any party may, report any violation of this section to appropriate authorities for any disciplinary proceedings provided by law.</p>
West Virginia	W. Va. Code Jud. Conduct Canon 2.9	<p>Rule 2.9 Ex Parte Communications</p> <p>A. A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending* or impending matter,* except as follows:</p> <ol style="list-style-type: none"> 1. When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided: <ol style="list-style-type: none"> a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond. 2. A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received. 3. A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter. 4. A judge may, with the consent of the parties, confer separately with the parties and their

EX PARTE STATUTES AND RULES

		<p>lawyers in an effort to settle matters pending before the judge.</p> <p>5. A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law* to do so.</p> <p>B. If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.</p> <p>C. A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.</p> <p>D. A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.</p>
Wisconsin	Wis. Stat. § 227.50	<p>227.50. Ex parte communications in contested cases.</p> <p>(1)</p> <p>(a) Except as provided in par. (am), in a contested case, no ex parte communication relative to the merits or a threat or offer of reward shall be made, before a decision is rendered, to the hearing examiner or any other official or employee of the agency who is involved in the decision-making process, by any of the following:</p> <p style="padding-left: 40px;">1m. An official of the agency or any other public employee or official engaged in prosecution or advocacy in connection with the matter under consideration or a factually related matter. This subdivision does not apply to an advisory staff which does not participate in the proceeding.</p> <p style="padding-left: 40px;">2. A party to the proceeding, or any person who directly or indirectly would have a substantial interest in the proposed agency action or an authorized representative or counsel.</p> <p>(am) Paragraph (a) does not apply to any of the following:</p> <p style="padding-left: 40px;">1. An ex parte communication which is authorized or required by statute.</p> <p style="padding-left: 40px;">2. An ex parte communication by an official or employee of an agency which is conducting a class 1 proceeding.</p> <p style="padding-left: 40px;">3. Any communication made to an agency in response to a request by the agency for information required in the ordinary course of its regulatory functions by rule of the agency.</p> <p style="padding-left: 40px;">4. In a contested case before the public service commission, an ex parte communication by or to any official or employee of the commission other than the hearing examiner, the chairperson, or a commissioner.</p> <p>(2) A hearing examiner or other agency official or employee involved in the decision-making process who receives an ex parte communication in violation of sub. (1) shall place on the record of the pending matter the communication, if written, a memorandum stating the substance of the communication, if oral, all written responses to the communication and a memorandum stating the substance of all oral responses made, and also shall advise all parties that the material has been placed on the record; however, any writing or memorandum which would not be admissible into the record if presented at the hearing shall not be placed in the record, but notice of the substance or nature of the communication shall be given to all parties. Any party desiring to rebut the communication shall be allowed to do so, if the party requests the opportunity for rebuttal within 10 days</p>

EX PARTE STATUTES AND RULES

		after notice of the communication. The hearing examiner or agency official or employee may, if deeming it necessary to eliminate the effect of an ex parte communication received, withdraw from the proceeding, in which case a successor shall be assigned.
Wyoming	023-000-002 Wyo. Code R. § 10 Wyo. Stat. Ann. § 16-3-111	<p>Section 10. Ex Parte Communications.</p> <p>Except as authorized by law, a party or a party's attorney or representative shall not communicate with the hearing officer or hearing panel member in connection with any issue of fact or law concerning any pending contested case, except upon notice and opportunity for all parties to participate. Should ex parte communication occur, the hearing officer or hearing panel member shall advise all parties of the communication as soon as possible thereafter and, if requested, shall allow any party an opportunity to respond prior to ruling on the issue.</p> <p>§ 16-3-111. Contested cases; limitations on consultations and participations.</p> <p>Unless required for the disposition of ex parte matters authorized by law, members of the agency, employees presiding at a hearing in a contested case and employees assisting the foregoing persons in compiling, evaluating and analyzing the record in a contested case or in writing a decision in a contested case shall not directly or indirectly in connection with any issue in the case consult with any person other than an agency member, officer, contract consultant or employee or other state or federal employee, any party other than the agency or with any agency employee, contract consultant or other state or federal employee who was engaged in the investigation, preparation, presentation or prosecution of the case except upon notice and opportunity for all parties to participate. Nothing herein contained precludes any agency member from consulting with other members of the agency. No officer, employee, contract consultant, federal employee or agent who has participated in the investigation, preparation, presentation or prosecution of a contested case shall be in that or a factually related case participate or advise in the decision, recommended decision or agency review of the decision, or be consulted in connection therewith except as witness or counsel in public proceedings. A staff member is not disqualified from participating or advising in the decision, recommended decision or agency review because he has participated in the presentation of the case in the event the staff member does not assert or have an adversary position.</p>