

CHAPTER 25
Commission for the Blind

SECTION 43-25-10. Commission for the Blind created; membership; qualifications and terms of members; meetings; officers; compensation.

There is created the South Carolina Commission for the Blind. The commission shall consist of seven members, one from each of the seven Congressional Districts, of whom three shall **have a visual acuity not to exceed 20/200** **meet the legal definition of blindness as defined in Section 43-25-20**. The Governor shall, with the advice and consent of the Senate, appoint the members of the commission for terms of four years and until their successors are appointed and qualify. All vacancies must be filled in the manner of the original appointment for the unexpired portion of the term only. The members of the commission shall elect one of its members as chairman for a term of two years or until his successor has been elected. The chairman shall preside at the regular meetings of the commission to be held at least once each month. The chairman may call a meeting when he considers it necessary to be held at a time to be determined by the commission. The commission shall appoint a commissioner and other officers as the commission considers necessary, none of whom may be a member of the commission, and shall fix the compensation and prescribe the duties of these appointees. The members of the commission shall receive no salary but must be allowed the usual mileage, subsistence, and per diem as authorized by law for commissions, committees, and boards.

HISTORY: 1962 Code Section 71-291; 1966 (54) 2325; 1975 (59) 150; 2012 Act No. 279, Section 15, eff June 26, 2012.

Editor's Note

2012 Act No. 279, Section 33, provides as follows:

“Due to the congressional redistricting, any person elected or appointed to serve, or serving, as a member of any board, commission, or committee to represent a congressional district, whose residency is transferred to another district by a change in the composition of the district, may serve, or continue to serve, the term of office for which he was elected or appointed; however, the appointing or electing authority shall appoint or elect an additional member on that board, commission, or committee from the district which loses a resident member as a result of the transfer to serve until the term of the transferred member expires. When a vacancy occurs in the district to which a member has been transferred, the vacancy must not be filled until the full term of the transferred member expires. Further, the inability to hold an election or to make an appointment due to judicial review of the congressional districts does not constitute a vacancy.”

CROSS REFERENCES

Commission for Blind's responsibilities with respect to Preschool Programs for Children with Disabilities, see Section 59-36-20.

Commissioner of S.C. Commission for the Blind, or designee, an ex officio member of Advisory Council to S.C. Head and Spinal Cord Service Delivery System, see Section 44-38-380.

Operation of vending facilities by blind persons, see Section 43-26-10 et seq.

Library References

Public Assistance 175.

States 45 to 47, 51, 62, 73.

Westlaw Topic Nos. 316E, 360.

C.J.S. Social Security and Public Welfare Sections 12 to 19.

C.J.S. States Sections 88 to 89, 101 to 102, 145 to 147, 151, 153, 157 to 161, 163 to 165, 169 to 170, 195 to 198, 202 to 204, 229, 240 to 249, 253.

Attorney General's Opinions

If a private campaign to raise money to operate a radio program benefitting the blind using State-owned property located in a State-owned facility in advance for a year or longer was initiated and designated contributions fell short of the amount needed to operate the program, all received designated donations to the South Carolina Commission for the Blind would need to be returned to the contributor. S.C. Op.Atty.Gen. (Nov. 1, 2010) 2010 WL 4982612.

The South Carolina Commission for the Blind may through some formal arrangement or agreement work with a not-for-profit 501(c)(3), 26 U.S.C.A. Section 501, organization to operate a radio program benefitting the blind using State-owned property located in a State-owned facility inasmuch as such a program would benefit the blind. S.C. Op.Atty.Gen. (Nov. 1, 2010) 2010 WL 4982612.

Discussion of the removal of the chairman of the Commission for the Blind. S.C. Op.Atty.Gen. (Feb. 16, 2007) 2007 WL 655619; S.C. Op.Atty.Gen. (Feb. 2, 2007) 2007 WL 655614.

The General Assembly intended for the Commission for the Blind to meet not less than once a month. S.C. Op.Atty.Gen. (Dec. 15, 2004) 2004 WL 3058226.

A blind vendor who has a license from the Commission for the Blind to operate a vending concession stand would be prohibited from serving on the governing board of the Commission for the Blind. 1994 Op.Atty.Gen., No. 94-7, p. 24, 1994 WL 50425.

The four members of the Commission for the Blind, whose terms have otherwise expired, would be required by S.C. Code Ann. Section 43-25-10 to continue to serve in their offices until their successors have been appointed and have qualified. The Governor does not have the authority to make "interim" appointments since the vacancies occurred while the legislature was in session. 1994 Op.Atty.Gen., No. 94-39, p. 90, 1994 WL 377992.

Three members of the South Carolina Commission for the Blind must meet the legal definition of blindness, rather than simply have a visual acuity not exceeding 20/200. 1975-76 Op.Atty.Gen., No. 4329, p 152, 1976 WL 22948.

An individual serving on the S.C. Commission for the Blind does not have a disqualifying conflict of interest by virtue of having a blind child receiving the service of Commission. 1974-75 Op.Atty.Gen., No. 4018, p 89, 1975 WL 22315.

Where the Commission for the Blind is unable immediately to undertake its duties, it may delegate functions to Department of Public Welfare, to prevent the irreparable injury which might result from an interruption of services to the blind. 1965-66 Op.Atty.Gen., No. 2091, p 191, 1966 WL 8554.

SECTION 43-25-20. "Blindness" and "severe visual disability" as criteria for acceptance for services for persons who qualify.

For purposes of this chapter, "blindness" and "severe visual disability" are the criteria for acceptance for services for persons who qualify.

(1) "Blindness" is defined as that level of central visual acuity, 20/200 or less in the better eye with correcting glasses, or a disqualifying field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than twenty degrees and which is sufficient to incapacitate him for self-support, or an eighty per cent loss of visual efficiency resulting from visual impairment in more than one function of the eye, including visual acuity for distance and near, visual fields, ocular, mobility, and other ocular functions and disturbances.

(2) "Severe visual disability" is defined as any progressive pathological condition of the eye or eyes supported by acceptable eye examination, which in the opinion of the examiner may or will result in legal blindness within twenty-four months.

HISTORY: 1962 Code Section 71-292; 1966 (54) 2325; 1974 (58) 2090.

CROSS REFERENCES

Education of physically and mentally handicapped children, see Section 59-21-510 et seq.

Transportation of persons meeting definition of blindness in this section on boats operated by State Department of Education, see Section 59-67-535.

SECTION 43-25-30. Powers and duties of commission.

The commission shall:

(1) Promulgate rules and regulations as may be necessary to carry out the provisions of this chapter.

(2) Apply for, receive and expend monies from all governmental agencies, both State and Federal; and accept gifts, grants, donations, devises and bequests made for providing aid to the visually handicapped, including expenses of administration. All such funds shall be paid into the State Treasury.

(3) Submit to the Governor and publish an annual report showing the total amount of money disbursed, the total number of blind and visually handicapped persons who received services, and such other information as may be deemed advisable.

(4) Maintain a complete register of persons whose vision, with correcting lenses, does not exceed 20/200 which shall also include the conditions, cause of loss of sight, capacity for educational and industrial training of each, and other pertinent facts.

(5) Maintain bureaus of information and industrial aid to assist the visually handicapped in finding employment and to teach them industries which may be followed in their homes, and to assist them in whatever manner may seem advisable to the commission in disposing of the products of their home industry.

(6) Make inquiries concerning the cause of loss of sight, learn what proportion of these cases are preventable and inaugurate and cooperate with the State in any measure as may seem wise.

(7) Cooperate with the State Department of Health and Environmental Control in the adoption and enforcement of proper preventive measures.

(8) Establish, equip and maintain a center for vocational, industrial and other training and employ qualified instructors. The center shall provide for orientation and adjustment for the visually handicapped. Training in such centers shall be limited to persons deemed eligible by the commission.

(9) Supervise and control all concession stands established and operated formerly by the State Department of Social Services and all concession stands established by the commission.

(10) Have the authority to enter into contracts with owners of private property for the purpose of installing concession stands which shall be under the control of the commission.

(11) Establish, supervise and render totally operative and effective prevention of loss of sight programs using such facilities in the State as the commission may deem necessary including a mobile ophthalmological laboratory and office.

(12) Assist in the furtherance of the purposes of Sections ~~44-43-110 to 44-43-160~~ and 44-7-10.

HISTORY: 1962 Code Section 71-293; 1966 (54) 2325; 1972 (57) 2382.

Library References

Public Assistance 175.

States 67, 73.

Westlaw Topic Nos. 316E, 360.

C.J.S. Social Security and Public Welfare Sections 12 to 19.

C.J.S. States Sections 224 to 227, 229, 240 to 251, 253.

Attorney General's Opinions

A blind vendor who has a license from the Commission for the Blind to operate a vending concession stand would be prohibited from serving on the governing board of the Commission for the Blind. 1994 Op.Atty.Gen., No. 94-7, p. 24, 1994 WL 50425.

The Freedom of Information Act compels the Commission of the Blind to allow the inspection of its records used in mailing publications. 1974-75 Op.Atty.Gen., No. 3985, p 56, 1975 WL 22283.

In general 1

1. In general

The South Carolina Commission For the Blind had no duty pursuant to Section 43-25-30 or Section 43-33-10 to protect a resident of a center operated by the commission, from sexual assault by a fellow resident. Burns v. South Carolina Com'n for Blind (S.C.App. 1994) 323 S.C. 77, 448 S.E.2d 589.

SECTION 43-25-40. Commission shall establish application procedure; register of ophthalmologists; commission shall pay examination costs.

The commission shall designate the procedure to be followed and shall establish a register of ophthalmologists from which the applicant may select one to conduct a competent medical examination for determining the extent of his visual handicap. The commission shall pay for such examination.

HISTORY: 1962 Code Section 71-294; 1966 (54) 2325.

Library References

Public Assistance 185(2).

States 73.

Westlaw Topic Nos. 316E, 360.

C.J.S. States Sections 229, 240 to 249, 253.

SECTION 43-25-50. Eye examinations and medical and surgical treatment for visually handicapped persons; reports of results.

The commission may arrange for the examination of the eyes of visually handicapped persons and may secure and pay for medical and surgical treatment for such persons whenever in the judgment of an ophthalmologist the eyes of such person may be benefited thereby. Whenever, upon examination by an ophthalmologist any person is found to have no vision or vision with glasses which is so defective as to prevent the performance of ordinary activities for which eyesight is essential, such examining ophthalmologist shall, within thirty days, report the results of the examination to the commission.

HISTORY: 1962 Code Section 71-295; 1966 (54) 2325.

Library References

Public Assistance 181(1).

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Sections 193 to 195.

SECTION 43-25-60. Itinerant ~~teachers~~ counselors shall assist in schools; visually handicapped pupils shall be reported to commission.

The commission may employ qualified itinerant ~~teachers~~ counselors to assist teachers in public or private schools who are responsible for the teaching of visually handicapped students. The itinerant ~~teacher~~ counselor shall assist the public or private school teacher by providing methods and materials for teaching such student. The State Department of Education shall report to the commission the schools having visually handicapped students. All principals or heads of private schools shall report to the commission the names of visually handicapped students in attendance.

HISTORY: 1962 Code Section 71-296; 1966 (54) 2325.

Library References

Public Assistance 178.

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Sections 193 to 195.

Attorney General's Opinions

The Education for the Handicapped Act (30 USC Section 1401, et seq.) does not require the Commission for the Blind to provide mobility instructors and itinerant teachers for children in the public schools. 1981 Op.Atty.Gen., No. 81-26, p 42, 1981 WL 96552.

SECTION 43-25-70. Concession stands.

The commission is empowered to operate concession stands in any State, county or municipal building and in any State park and shall negotiate with the proper agency or governing body regarding the establishment of a concession on such property. In buildings where a stand existed on May 25, 1940, the person who was then operating such a stand shall not be removed, but when such operator ceases to operate such stand the concession for further operation shall be granted to the commission. No rental or other charge

shall be required by the commission for the granting of an operation permit. Any rental payment or commission charged by the owner of private property for the location of such a stand shall be collected from the operator of the stand by the commission. No charge shall be made for the installation or operation of a concession stand or for the maintenance of equipment of a concession stand regardless of location.

HISTORY: 1962 Code Section 71-297; 1966 (54) 2325.

CROSS REFERENCES

Operation of vending facilities by blind persons, see Section 43-26-10 et seq.

Library References

Public Assistance 178.

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Sections 193 to 195.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Estoppel and Waiver Section 14.1, Promissory Estoppel.

Attorney General's Opinions

A blind vendor who has a license from the Commission for the Blind to operate a vending concession stand would be prohibited from serving on the governing board of the Commission for the Blind. 1994 Op.Atty.Gen., No. 94-7, p. 24, 1994 WL 50425.

In general 1

1. In general

Commission for the Blind could have expected and foreseen that blind licensed vendor would relinquish vending job at one location in reliance on Commission's promise of employment at another vending site in correctional facility, so as to support vendor's claim for promissory estoppel against Commission, where Commission promulgated rules preventing vendor from holding more than one vending position at a time. Craft v. South Carolina Com'n for Blind (S.C.App. 2009) 385 S.C. 560, 685 S.E.2d 625. Estoppel 62.2(2) Blind licensed vendor who relinquished vending job at one location after accepting Commission for the Blind's offer to operate proposed vending site in correctional facility reasonably relied on the Commission's promise of employment, so as to support vendor's claim for promissory estoppel against Commission; vendor was prohibited from operating more than one vending location at a time, and the promise of employment was not conditioned upon vendor entering into a formal contract with the Commission. Craft v. South Carolina Com'n for Blind (S.C.App. 2009) 385 S.C. 560, 685 S.E.2d 625. Estoppel 62.2(2)

SECTION 43-25-80. Fund for treatment and training of visually handicapped.

Any sums appropriated by the General Assembly for treatment and training of the visually handicapped shall be kept by the State Treasurer in a fund for the treatment and training of the visually handicapped and shall be used to carry out the particular purpose assigned to it.

HISTORY: 1962 Code Section 71-298; 1966 (54) 2325.

Library References

States 114, 127.

Westlaw Topic No. 360.

C.J.S. States Sections 322 to 323, 328 to 331, 386 to 387.

SECTION 43-25-90. Right to and procedures at hearings and appeals; effect of appeal.

A person aggrieved by an action of the commission must be granted, upon request, a hearing before a hearing officer assigned by the commission. The hearing officer may not be a member of the commission. The hearing officer has the authority to conduct hearings, to issue subpoenas requiring the attendance of witnesses and the production of records and other documents, to administer oaths and to take testimony. An appeal may be taken from the decision of the hearing officer to the Commission for the Blind. The commission shall hold a hearing on the matter which must be attended by at least three members. An appeal

may be taken from the decision of the commission to the Administrative Law Court as provided in Sections 1-23-380(B) and 1-23-600(D). The appellant, within thirty days after notice of the decision of the commission, shall serve notice of appeal upon the chairman of the commission, stating grounds upon which the appeal is founded and file the notice with the Administrative Law Court in accordance with its rules of procedure. The appeal acts as a supersedeas until it is finally determined.

HISTORY: 1962 Code Section 71-299; 1966 (54) 2325; 1975 (59) 150; 2006 Act No. 387, Section 21, eff July 1, 2006.

Editor's Note

2006 Act No. 387, Section 53, provides as follows:

“This act is intended to provide a uniform procedure for contested cases and appeals from administrative agencies and to the extent that a provision of this act conflicts with an existing statute or regulation, the provisions of this act are controlling.”

2006 Act No. 387, Section 57, provides as follows:

“This act takes effect on July 1, 2006, and applies to any actions pending on or after the effective date of the act. No pending or vested right, civil action, special proceeding, or appeal of a final administrative decision exists under the former law as of the effective date of this act, except for appeals of Department of Health and Environmental Control Ocean and Coastal Resource Management and Environmental Quality Control permits that are before the Administrative Law Court on the effective date of this act and petitions for judicial review that are pending before the circuit court. For those actions only, the department shall hear appeals from the administrative law judges and the circuit court shall hear pending petitions for judicial review in accordance with the former law. Thereafter, any appeal of those actions shall proceed as provided in this act for review. For all other actions pending on the effective date of this act, the action proceeds as provided in this act for review.”

Library References

Public Assistance 185(11).

Westlaw Topic No. 316E.

SECTION 43-25-100. Transfer of certain powers and duties of Division for the Blind to Commission.

The powers and duties of the Division for the Blind of the State Department of Social Services including, but not limited to, the distribution of talking book machines, vocational rehabilitation and other special services for the visually handicapped except those duties and responsibilities surrounding the administration of the State Federal Program of Aid to the Needy Blind shall be devolved upon the South Carolina Commission for the Blind.

HISTORY: 1962 Code Section 71-300; 1966 (54) 2325; 1972 (57) 2382.

Library References

Public Assistance 175.

Westlaw Topic No. 316E.

C.J.S. Social Security and Public Welfare Sections 12 to 19.