

Policy on CCRPC Activities Relating to Legislative Education & Legislative Positions

Approved October 27, 2003

Scope of this Policy

There are three sets of activities that CCRPC may undertake relating to the proposed actions of the Vermont Legislature and of State administrative agencies:

1. Awareness – Activities that seek to inform the Commission and member municipalities about proposed legislative and regulatory actions. The Commission routinely undertakes Awareness activities (both on its own and in concert with other RPCs and with Regional Partners). Consequently, this policy does not address Legislative Awareness activities.
2. Education – Activities that seek to inform the Legislature and State administrative agencies about the possible or likely effects of proposed legislative and regulatory actions.* This Policy seeks to provide a structure to guide the Commission when it undertakes Legislative Education.
3. Positions – Activities that seek to persuade the Legislature and State administrative agencies about the desirability or undesirability of proposed legislative and regulatory actions.* This Policy seeks to provide a structure to guide the Commission when it develops and communicates Legislative Positions.

Legal Authority

In a June 19, 2003 memorandum, CCRPC's attorney provided guidance on the legal issues of Commission activities relating to proposed actions of the Legislature and State agencies. His general counsel is that the statutory duties and powers of regional planning commissions necessarily involve activities of presenting information and making recommendations to guide the development of the region and state. Consequently, he advises that

...almost any communication with state officials, including legislators, so long as it is in connection with Commission business and intended or serves to promote some aspect of the regional plan or the regional planning process, will not violate Vermont law and is legally appropriate and supportable.

His memo suggests that the presentation of facts ("Legislative Education") is less problematic than the presentation of recommendations ("Legislative Positions"):

The communication of factual data, reports, studies, etc. gathered in the course of Commission business fits into this category with no special attention. Any communication containing a recommendation or statement of the position of the Commission should be made only upon approval of the members of the Commission and the Commission should articulate the specific connection between the regional plan and the substance of the communication being made.

He also advises that the forum for and the method of presentation of any communication are subject to public scrutiny. Consequently, the activities of the Commission and of individual Commissioners and Staff should avoid both actual impropriety and the appearance of impropriety (an attempt to unduly or improperly influence the legislative/regulatory process).

* CCRPC's attorney has counseled the Commission that CCRPC is exempt from the State's lobbyist registration and reporting requirements. In order to avoid any confusion on this point, this Policy does not use the term "lobbying" to describe activities that attempt to inform the Legislature or administrative agencies of the possible or likely effects of proposed actions or to persuade them of the desirability or undesirability of proposed actions.

Purposes and General Guidelines

CCRPC undertakes Legislative Education and Legislative Position activities in order to fulfill its mission of serving Chittenden County and its communities through an effective regional planning process characterized by communication, facilitation, education, collaboration, and technical assistance.

To accomplish this central purpose,

1. CCRPC will undertake Legislative Education and Legislative Position activities in order to
 - a. Influence proposed policies and actions affecting the well-being of Chittenden County and its municipalities,
 - b. Build partnerships with municipalities, Regional Partners, other RPCs, State agencies and others, and
 - c. Enhance both CCRPC's stature as a forum for addressing and building regional consensus on important issues and its image as an effective organization.
2. CCRPC will undertake Legislative Education and Legislative Position activities in a manner that avoids or minimizes the likelihood of
 - a. Jeopardizing the success of other Commission activities and the solidarity of the Commission,
 - b. Diminishing partnerships with municipalities, Regional Partners, other RPCs, State agencies and others, and
 - c. Diminishing CCRPC's stature and image.
3. CCRPC will tailor its Legislative Education and Legislative Position activities in order to be effective within the resources dedicated to these activities by each year's Work Program. CCRPC's activities will be tailored in terms of
 - a. Scope – The Commission's activities typically will address general issues or subjects, less so specific bills or actions (with the exception of Act 250 or Section 248 applications);
 - b. Subjects – The Commission's activities will involve subjects that are an express part of a statutory power or duty of Regional Planning Commissions; and
 - c. Partnerships – The Commission will endeavor to partner with municipalities, Regional Partners, other RPCs, State agencies and others in undertaking its activities in order to provide for broader based support and to use resources efficiently.

Protocols and Procedures

When undertaking Legislative Education and Legislative Position activities, CCRPC will adhere to the following protocols and procedures, whenever feasible.

1. Appearances and Communications
 - a. Designation – CCRPC's Chair and Executive Director (and their designees) may represent the Commission before the Legislature and before State agencies.
 - b. Other Appearances and Communications – When other Commissioners, Alternate Commissioners, and Staff who are not designated by the Chair or by the Executive Director to represent the Commission appear before or communicate with the Legislature or a State agency, they will expressly state that any facts or opinions that they provide do not represent those of CCRPC.
 - c. Prior Notification – Whenever feasible, a person designated to represent the Commission before the Legislature or a State agency will notify the Chair or Executive Director prior to each such appearance or communication.
 - d. Reporting – Following any appearance before or communication with the Legislature or a State agency, a person designated to represent the Commission will provide the Executive Director with the information the Executive Director requires to complete the monthly report (see #6, below).

2. Legislative Education
 - a. Information – A person authorized by this Policy to represent the Commission before the Legislature or a State agency may present any fact that is part of or may be derived from
 - i. Any publication that has been approved or endorsed by the Commission,
 - ii. Any project or program that is part of the CCRPC Work Program, provided that the person expressly discloses that the fact is preliminary and has not been officially endorsed by the Commission, and
 - iii. Any other publication, project, or program, provided the person expressly discloses that the Commission has not officially endorsed the fact.
 - b. Legislative Education Versus Legislative Positions – A person authorized by this Policy to represent the Commission before the Legislature or a State agency will maintain in their representations the distinction between Legislative Education and Legislative Positions and may not present a Legislative Position has not been approved according to the processes described in this Policy (see #3, #4, and #5, below).
3. Legislative Positions – A person authorized by this Policy to represent the Commission before the Legislature or a State agency may present a position as being that of the Commission provided
 - a. Act 250 & Section 248 Applications – The position has been developed according to the process described in the Commission’s Policy on these matters.
 - b. All Other Positions – The position has been approved by the Commission according to a process described in this Policy (see #4 & #5, below).
4. Regular Process to Develop Commission Positions – Typically, the Commission will use the following process to develop a Position not relating to an Act 250 or Section 248 application.
 - a. A Commissioner, Alternate Commissioner, or Staff member may initiate the process by providing the Legislative Committee with a written description of the need for the Position.
 - b. When so requested, the Legislative Committee will decide whether the Commission should attempt to develop a Draft Position and will report its decision in its next monthly report to the Commission.
 - c. Unless the Legislative Committee’s decision is rejected by a majority of the Commissioners present at the meeting when the Committee’s report is made, the Legislative Committee may
 - i. Prepare a Draft Position,
 - ii. Request that one or more of CCRPC’s Standing Committees prepare or review a Draft Position, or
 - iii. Request the CCRPC Chair to establish an ad hoc Committee to prepare or review a Draft Position.
 - d. When the Legislative Committee has determined that the Commission should adopt a Draft Position, it will recommend such adoption as a separate action item in the Commission agenda and include a copy of the Recommended Draft Position in the materials distributed to the Commission prior to the Commission meeting.
 - e. If a majority of Commission members present at the meeting when the action item is considered approve the Recommended Draft Position (as it may be revised by the Commission), the Recommended Draft Position will be an Adopted Position of the Commission.
5. Expedited Process to Develop Commission Positions – When time constraints prevent the use of the Regular Process (see #4, above) to develop a Position not relating to an Act 250 or Section 248 application, the Commission will use the following process.
 - a. A Commissioner, Alternate Commissioner, or Staff member may initiate the Expedited Process by providing the Legislative Committee with a written description of the need for the Position that includes a Draft Position.

- b. When so requested, the Legislative Committee will decide whether the Commission should adopt the Draft Position proposed in the description (as it may be revised by the Legislative Committee) and will report its decision in its next monthly report to the Commission.
- c. When the Legislative Committee has determined that the Commission should adopt a Draft Position, it will recommend such adoption as a separate action item in the Commission agenda and include a copy of the Recommended Draft Position in the materials distributed to the Commission prior to the Commission meeting.
- d. If a majority of Commission members present at the meeting when the action item is considered approve the Recommended Draft Position (as it may be revised by the Commission), the Recommended Draft Position will be an Adopted Position of the Commission.

6. Monthly Reports

- a. The Executive Director will prepare a written monthly report to the Legislative Committee of the Commission's Legislative Education and Legislative Position activities known to the Executive Director (except for those relating to Act 250 and Section 248 applications).
- b. The report may be in table form, will group reported activities by subject, and identify each activity known to the Executive Director that has occurred between CCRPC and a State office or official (including the date of each communication, the parties involved in the communication, the medium of communication, and summarize the major items of discussion and/or attach a copy of any written communication).