
Rules of
Department of Economic
Development
Division 265–Division of Transportation
Chapter 4–Standards of Conduct

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 265—Division of
Transportation**

Chapter 4—Standards of Conduct

**4 CSR 265-4.010 Gratuities and Private
Employment**

PURPOSE: The division is obligated to promote the public interest and maintain public confidence in its integrity and impartiality. This rule prescribes measures to prohibit practices that possess a potential of wrong-doing.

(1) Each member of the division and all of its employees are directed to read and comply with this rule and with Executive Order 81-2 dated February 10, 1981, following, which sets forth a standard of conduct for appointed officials and state employees. The division shall be responsible for the enforcement of applicable statutes, the provisions of the Executive Order and this rule by the suspension or discharge of employees violating the same.

(2) All companies, corporations or individuals and any representatives thereof subject to the jurisdiction of the division shall be prohibited from offering, and all members and employees of the division shall not accept directly or indirectly, any gifts, meals, gratuities, goods, services or travel, regardless of value, except meals to an administrative law judge or an employee of the division when given in connection with a speaking engagement or when the individual is a guest at a conference, convention or association meeting.

(3) All companies, corporations or individuals and any representative thereof subject to the jurisdiction of this division and the members and employees of the division shall immediately file with the director and each administrative law judge, from and after the effective date of this rule, a report of any direct or indirect gratuities, meals, services, gifts or travel given or received and the identity and value of same and the purpose for which given or received, which is not permitted by this rule.

(4) When a division employee makes any application or solicitation to obtain private employment, or is currently engaged in private employment, or acquires any employment, business, family or financial interest, with respect to an entity which is subject to the division's regulatory jurisdiction, or

which otherwise causes or has the appearance of causing a conflict of interest with the employee's employment by the division, the employee shall immediately notify his/her supervisor of all pertinent facts relating to the application or solicitation and the private employment. The employee's supervisor shall discuss the potential for a conflict of interest or an appearance of a conflict of interest with the division director. The division director shall determine whether there exists a conflict of interest or an appearance of conflict of interest. If the director determines that there exists a conflict of interest, or the appearance of conflict of interest, s/he may reassign the division employees duties which are in conflict with the regulated entity, or could have the appearance of conflicting with the regulated entity, to another division employee, or take other reasonable remedial action including termination. The director shall notify the division employee regarding his/her decision on this matter.

(5) All companies, corporations or individuals and any representatives thereof, subject to the jurisdiction of this division shall notify the division immediately of any application, solicitation, or offer of employment received from a division employee, or extended to a division employee.

(6) The division shall thoroughly investigate the employment backgrounds of every applicant seeking employment with the division, to determine if the applicant has recently been employed by a company, corporation or individual and any representative thereof, subject to the jurisdiction of the division, or if any other employment, business, family or financial interests of the applicant cause, or appear to cause, any conflict of interest with employment by the division. If the division director determines that there is an actual or apparent conflict of interest, then the director may deny the application for employment, or may impose appropriate conditions on the employment in order to avoid the conflict.

**EXECUTIVE ORDER
81-2**

WHEREAS, government is based upon the consent of those governed; and

WHEREAS, every citizen of the State of Missouri must have complete confidence in the integrity of his/her government; and

WHEREAS, conduct of state employees and state officials should be in accordance with the highest standards; and

WHEREAS, the Governor is the Chief Executive Officer of the State of Missouri and is therefore responsible for establishing standards of conduct for appointed officials and state employees. NOW THEREFORE, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, I, Christopher S. Bond, Governor of Missouri, do hereby proclaim the following Standards of Conduct for appointed officials and employees of the executive branch of the government of the State of Missouri, and further proclaim that this Order shall supercede and be in lieu of all previous Executive Orders pertaining to the same subject:

(1) All appointed officials and state employees shall be required to perform a full day's work for a day's pay.

(2) Unless expressly provided for by constitutional provisions or statute, membership in a political organization, participation in political campaigns, payment of dues or contributions to a political organization or candidate and attendance at political events shall not be a condition of appointment or employment.

(3) Political affiliation of any individual shall not be a condition for any state department or agency in determining what individual, firm or corporation may do business with the state.

(4) No appointed official or state employee shall engage directly or indirectly in any personal business, transaction, or private arrangement for personal profit which accrues from or is based upon their official position or authority, nor shall any confidential information coming to them in their official capacity be utilized for any personal gain or for the benefit of any private interest. No appointed official shall represent or act as agent for any private interest whether for compensation or not in any transaction in which the state has a direct and substantial interest and which could be reasonably expected to result in a conflict between a private interest of the official and their official state responsibility.

(5) No appointed official or state employee shall directly or indirectly solicit, accept, or agree to accept any gift of money or goods, loans or services, or other profit arrangement for personal benefit under any circumstances which would tend to influence or have the appearance of influencing the manner in which they perform their official duties.

(6) No appointed official or state employee shall engage in or accept private employment or render services for private interest when such employment or service is incompatible or in conflict with the proper discharge of



their official duties or would tend to impair their independence, judgment or action in the performance of their official duties. All merit system employees shall fully comply with the rules and regulations of the Personnel Advisory Board regarding supplementary employment.

(7) State employees shall report any known violations or attempted violations of Section 105.450—105.482, RSMo, 1986, (relating to conflicts of interest) and Chapter 576, RSMo, 1986, (relating to bribery) within 24 hours of when any occurrences are first known: (a) to the prosecuting attorney of the county in which they reside, and (b) to their department or agency head.

(8) The head of each department is responsible for the enforcement by suspension or discharge of each provision in paragraphs one through seven above within that department.

(9) The head of each department is responsible for reporting directly to the Governor, within 24 hours of when the facts are first known to them: (a) any violation of paragraphs one through six above, and (b) any alleged criminal violation (other than traffic) of any employee in their agency or department.

IN WITNESS WHEREOF I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson on the 10th day of February, 1981. (Signature)

*AUTHORITY: section 622.027, RSMo (1994). * Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985. Emergency amendment filed Dec. 1, 1994, effective Dec. 11, 1994, expired Dec. 19, 1994. Emergency amendment filed Dec. 20, 1994, effective Jan. 1, 1995, expired April 30, 1995. Emergency amendment filed April 20, 1995, effective May 1, 1995, expired Aug. 28, 1995. Emergency amendment filed Aug. 18, 1995, effective Aug. 29, 1995, expired Feb. 24, 1996. Amended: Filed Aug. 3, 1995, effective Feb. 25, 1996.*

** Original authority 1985, amended 1993, 1995.*

4 CSR 265-4.020 Conduct During Proceedings

PURPOSE: The division must insure that there is no question as to its impartiality in reaching a decision on the whole record developed during open

hearings. This rule prohibits activities which would tend to exercise influence on the division and which are not part of the record.

(1) Any attorney who participates in any proceeding before the division shall comply with the rules of the division and shall adhere to the standards of ethical conduct required of attorneys before the courts of Missouri by the provisions of Civil Rule 4, Code of Professional Responsibility, particularly in the following respects:

(A) During the pendency of an administrative proceeding before the division an attorney or law firm associated therewith shall not make or participate in making a statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication if it is made outside the official course of the proceeding and relates to any of the following:

- 1. Evidence regarding the occurrence of transaction involved;
- 2. The character, credibility or criminal record of a party, witness or prospective witness;
- 3. Physical evidence or the performance or results of any examinations or tests or the refusal or failure of a party to submit to examinations or tests;
- 4. His/her opinion as to the merits of the claims, defenses or positions of any interested person; or
- 5. Any other matter which is reasonably likely to interfere with a fair hearing;

(B) An attorney shall exercise reasonable care to prevent his/her employees and associates from making such an extra-record statement as s/he is prohibited from making; and

(C) These restrictions do not preclude an attorney from replying to charges of misconduct publicly made against him/her or from participating in the proceedings of legislative, administrative or other investigative bodies.

(2) In all proceedings before the division, no attorney shall communicate, or cause another to communicate, as to the merits of the cause with any administrative law judge before whom the proceeding is pending, except—

(A) In the course of official proceedings in the cause; and

(B) In writing directed to the director of the division with copies served upon all other counsel of record and participants without intervention.

(3) No person who has served as an administrative law judge or as an employee of the division shall appear, after termination of ser-

vice or employment, before the division in relation to any case, proceeding or application with respect to which s/he was directly involved and in which s/he personally participated or had substantial responsibility in during the period of his/her service or employment with the division.

(4) It is improper for any person interested in a case before the division to attempt to sway the judgment of the division by undertaking directly or indirectly outside the hearing process to bring pressure or influence to bear upon the administrative law judge or staff assigned to the proceeding.

(5) Requests for expeditious treatment of matters pending with the division are improper except when filed with the director and copies served upon all other parties.

(6) No employee of the division shall invite or knowingly entertain any prohibited ex parte communication or make any communication to any party or counsel or agent of a party or any other person who s/he has reason to know may transmit such communication to a party or party's agent.

(7) These prohibitions apply from the time an on-the-record proceeding is set for hearing by the division until the proceeding is terminated by final order of the division. An on-the-record proceeding means a proceeding where a hearing is set and to be decided solely upon the record made in a division hearing.

(8) As ex parte communications (either oral or written) may occur inadvertently, any employee of the division who receives such a communication shall immediately prepare a written report concerning the communication and submit it to the director of the division. The report shall identify the employee and the person(s) who participated in the ex parte communication; the circumstances which resulted in the communication; the substance of the communication; and the relationship of the communication to a particular matter at issue before the division.

*AUTHORITY: section 622.027, RSMo (1986). * Emergency rule filed June 14, 1985, effective July 1, 1985, expired Oct. 28, 1985. Original rule filed Aug. 1, 1985, effective Oct. 29, 1985.*

** Original authority 1995, amended 1993, 1995.*