



Rules of
Department of Economic
Development
Division 240—Public Service Commission
Chapter 4—Standards of Conduct

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**Title 4—DEPARTMENT OF
ECONOMIC DEVELOPMENT
Division 240—Public Service
Commission
Chapter 4—Standards of Conduct**

4 CSR 240-4.010 Gratuities

PURPOSE: The commission 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 wrongdoing.

(1) Each member of the commission and all of its employees are directed to read and comply with this rule and with Executive Order 92-04 dated January 31, 1992 following, which sets forth a standard of conduct for appointed officials and state employees. The commission 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 representative subject to the jurisdiction of the commission shall be prohibited from offering and all members and employees of the commission shall not accept, directly or indirectly, any gifts, meals, gratuities, goods, services or travel, regardless of value, except meals to a commissioner or an employee of the commission 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 subject to the jurisdiction of this commission, and the members and employees of the commission shall immediately file with the chairman and each member of the commission, from and after March 18, 1976, 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.

AUTHORITY: section 386.040, RSMo 1986. Original rule filed May 2, 1973, effective June 1, 1973. Amended: Filed Nov. 7, 1984, effective Feb. 11, 1985.*

**Original authority: 386.040, RSMo 1939.*

**EXECUTIVE ORDER
92-04**

WHEREAS, public confidence in the integrity of the government of the State of Missouri is of utmost importance; and

WHEREAS, the executive branch of state government must discharge its duties in an independent and impartial manner; and

WHEREAS, executive branch employees must treat the public and fellow employees with respect, courtesy, and dignity, and provide equal access to services for all members of the public; and

WHEREAS, executive branch employees' conduct not only must be within the letter of the law but must seek to fulfill the spirit and intent of the law; and

WHEREAS, executive branch employees must provide a full day's work for a full day's pay, giving to the performance of their duties their earnest effort and best thought; and

WHEREAS, executive branch employees must demonstrate the highest standards of personal integrity and honesty and must not realize undue personal gain from the performance of any official duties; and

WHEREAS, executive branch employees are responsible for enhancing the mission of their agencies; and

WHEREAS, a clear statement of the code of conduct which guides the executive branch is both an assurance to the citizens of Missouri and an aid to our steadfast efforts;

NOW, THEREFORE, I, JOHN ASHCROFT, GOVERNOR OF THE STATE OF MISSOURI, UNDER THE AUTHORITY VESTED IN ME UNDER THE CONSTITUTION AND THE LAWS OF THIS STATE, INCLUDING THE PROVISIONS OF SECTION 105.969 RSMO CUM. SUPP. 1992, DO HEREBY SET FORTH A CODE OF CONDUCT FOR EXECUTIVE BRANCH EMPLOYEES OF MISSOURI STATE GOVERNMENT (EXCEPTING THE EMPLOYEES OF THOSE ELECTED OFFICIALS WHO ARE TO ESTABLISH AN INTERNAL CODE OF CONDUCT FOR THEIR OFFICES):

CODE OF CONDUCT

1. Executive branch employees shall conduct the business of state government in a manner which inspires public confidence and trust.

A. Employees shall avoid any interest or activity which improperly influences, or gives the appearance of improperly influencing, the conduct of their official duties.

B. Employees shall act impartially and neither dispense nor accept special favors or privileges which might be construed to

improperly influence the performance of their official duties.

C. Employees shall not allow political participation or affiliation to improperly influence the performance of their duties to the public.

D. Employees shall not engage in business with state government, hold financial interests, or engage in outside employment when such actions are inconsistent with the conscientious performance of their official duties.

E. Employees shall not use or improperly possess an illegal controlled substance or alcohol in the workplace or during working hours.

F. Employees of the State are expected to comply with the statutes of Missouri at all times.

2. Executive branch employees shall conduct themselves in scrupulous compliance with applicable federal, state and local law.

A. Employees shall observe all conflict of interest provisions in law applicable to their agencies and positions of employment.

B. Employees shall adhere to all laws providing equal opportunity to all citizens.

C. Employees shall perform their responsibilities as they are specified in law or other authority establishing those responsibilities.

3. Financial compensation of state employment consists of only authorized salaries and fringe benefits.

A. Employees shall not use their public positions in a manner designed to create personal gain.

B. Employees shall not disclose confidential information gained by reason of their public positions, nor shall employees use such information for personal gain or benefit.

C. Employees shall not directly or indirectly attempt to influence agency decisions in matters relating to prospective employers with whom employment has been accepted or is being negotiated.

4. Executive branch employees owe the public the diligent application of their knowledge, skills and abilities for which they are compensated.

A. Employees shall not perform outside employment or other activities not appropriate during hours compensated for state employment and will use leave and other benefits provided by the State only for the purposes intended.

B. Employees shall carry out all lawful instructions of designated supervisors, and will report instructions not consistent with law to the proper authorities.



5. Equipment, material and supplies purchased with public funds are intended for the performance of public purposes only.

A. Employees shall use and maintain state equipment, materials and supplies in an efficient manner which will conserve future usefulness.

B. Employees shall use state equipment, materials and supplies solely for purposes related to the performance of state business.

6. The work of state government will be conducted with respect, concern and courtesy toward clients, co-workers and the general public.

A. Employees shall approach their duties with a positive attitude and constructively support open communication, dedication and compassion.

B. Employees shall conduct their duties with courtesy toward clients, co-workers, patients, inmates and the general public, recognizing the diverse background, characteristics and beliefs of all those with whom they conduct state business.

C. Employees shall not engage in any form of illegal harassment or discrimination in the workplace, including on the basis of race, color, religion, national origin, ancestry, sex, age or disability.

D. Employees, in connection with the performance of their duties, shall not seek sexual favors from a client, co-worker, patient, inmate or member of the public.

7. This code shall provide guidance to the officials and employees of the executive branch of Missouri state government in matters of employment related conduct.

A. When questions arise in the application of this code, the public interest will receive primary consideration in any resolution.

B. This code is not intended to fully prescribe the proper conduct of employees and the failure to prohibit an employee action in this code does not constitute approval of the action.

C. This code is intended as a supplement to the provisions in law which govern employee conduct, and in no instance does it decrease the requirements in law.

D. Agency heads are responsible for promoting and enforcing this code of conduct among the employees of their agencies in accordance with their respective agency procedures, and shall supplement it with additional provisions to meet the needs of their agencies.

E. This code is intended to provide guidance for employment related conduct and is not intended to create any right or benefit enforceable by law.

F. No state agency or appointing authority shall discharge, threaten or otherwise retaliate against an employee for reporting in good faith any violation of this code.

G. In applying this code to specific situations, the standard to be used is that of a reasonable person having knowledge of the pertinent circumstances.

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, this 31st day of January, 1992.

(Signature) _____
GOVERNOR

ATTEST

(Signature) _____
SECRETARY OF STATE

4 CSR 240-4.015 General Definitions

PURPOSE: This rule sets forth the definitions of certain terms used in rules 4 CSR 240-4.017 through 4 CSR 240-4.050.

(1) Case—Any matter filed before the commission for its determination except working dockets, rulemaking dockets, and investigatory dockets.

(2) Commission—Means the Missouri Public Service Commission as created by Chapter 386, RSMo.

(3) Commissioner—Means one (1) of the members of the Missouri Public Service Commission.

(4) Commission staff—Commission employees who report to the Staff Director.

(5) Discussed case—A case or noticed case that includes, or will likely include, substantive issues that are the subject of an *ex parte* or extra-record communication regulated under this rule.

(6) *Ex parte* communication—Any communication outside of the case process between a member of the office of the commission and any party, or the agent or representative of a party, regarding any substantive issue in, or likely to be in, a case or noticed case. *Ex parte* communications shall not include a communication regarding general regulatory policy allowed under section 386.210.4, RSMo, communications listed in 4 CSR 240-

4.040, communications made thirty (30) days or more after the commission issues a final determination in a case, or communications that are *de minimis* or immaterial.

(7) Extra-record communication—Any communication outside of the case process between a member of the office of the commission and any person not a party to a case or noticed case regarding any substantive issue in, or likely to be in, that case or noticed case. Extra-record communications shall not include communications regarding general regulatory policy allowed under section 386.210.4, RSMo, communications with members of the general assembly or other government official allowed under section 386.210.5, RSMo, communications listed in 4 CSR 240-4.040, communications made thirty (30) days or more after the commission issues a final determination in a case, communications between the office of the commission and commission employees who are not commission staff, or communications that are *de minimis* or immaterial.

(8) Final determination—A decision of the commission that resolves a case, including all applications for rehearing and reconsideration.

(9) Noticed case—Any case for which a notice of a case has been filed in compliance with 4 CSR 240-4.017.

(10) Office of the commission—Commissioners, a commissioner, a member of the commission’s advisory staff, or the commission’s regulatory law judges.

(11) Party—Any applicant, complainant, petitioner, respondent, intervenor, or person with an application to intervene pending in a case or noticed case before the commission. Commission staff and the public counsel are also parties unless they file a notice of their intention not to participate in the relevant proceeding within the period of time established for interventions by commission rule or order.

(12) Person—Any individual, partnership, company, corporation, cooperative, association, political subdivision, or any other entity or body.

(13) Public counsel—Shall have the same meaning as in section 386.700, RSMo.

(14) Substantive issue—Merits of specific facts, evidence, claims, or positions specific to a case or noticed case that have been or are



likely to be presented or taken in that case. The term substantive issue does not include procedural issues, unless those procedural issues are contested or likely to materially impact the outcome of a case.

AUTHORITY: section 386.410, RSMo 2016. Original rule filed Nov. 28, 2016, effective July 30, 2017.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-4.017 General Provisions

PURPOSE: This rule sets forth provisions that are applicable to both ex parte and extra-record communications.

(1) Any person that intends to file a case shall file a notice with the secretary of the commission a minimum of sixty (60) days prior to filing such case. Such notice shall detail the type of case and issues likely to be before the commission and shall include a summary of all communication regarding substantive issues likely to be in the case between the filing party and the office of the commission that occurred in the ninety (90) days prior to filing the notice. The filing of such notice shall initiate a new noticed case and be assigned an appropriate case designation and number. If the expected case filing is subsequently made, it shall be filed in the noticed case. If the expected case filing is not made within one hundred eighty (180) days, the noticed case shall close.

(A) The commission may reject any filing not in compliance with this section.

(B) This section shall not apply to small formal complaints under commission rule 4 CSR 240-2.070 or small utility rate cases under commission rule 4 CSR 240-3.050.

(C) This section shall not apply to formal complaints under section 386.390, RSMo, or commission rule 4 CSR 240-2.070. However, formal complaints shall include, contemporaneous with the filing initiating the complaint, a summary of any communication regarding substantive issues likely to be in the case between the filing party and the office of the commission that occurred in the sixty (60) days prior to filing the complaint.

(D) A party may request a waiver of this section for good cause. Good cause for waiver may include, among other things, a verified declaration from the filing party that it has had no communication with the office of the commission within the prior one hundred fifty (150) days regarding any substantive issue likely to be in the case or that circumstances prevented filing the required notice

and delaying the filing for sixty (60) days would cause harm.

(2) Unless properly admitted into evidence in subsequent proceedings, no *ex parte* or extra-record communication shall be considered as part of the record on which the commission reaches a decision in a contested case.

(3) A utility regulated by the commission that offers a tour of its facilities to the office of the commission shall also offer the Office of the Public Counsel an opportunity to participate in that tour. If a commissioner chooses to participate in a tour, the tour shall be posted to that commissioner's calendar at least forty-eight (48) hours in advance.

(4) Each commissioner shall maintain a public calendar on the commission's website to which the commissioners' regulatory activities may be posted.

(5) It is improper for any person interested in a case or noticed case to—

(A) Attempt to influence the judgment of the commission by bringing pressure to bear upon the office of the commission outside of the case process, or

(B) Seek to elicit representations from the office of the commission before a case or noticed case is filed regarding the commission's future rulings or any commissioner's positions in future deliberations.

(6) Pursuant to section 386.210.4, RSMo, nothing in this rule shall be construed as imposing any limitation on the free exchange of ideas, views, and information between any person and the commission or any commissioner, provided that such communications relate to matters of general regulatory policy and do not address substantive issues in or likely to be in a case or noticed case

AUTHORITY: section 386.410, RSMo 2016. Original rule filed Nov. 28, 2016, effective July 30, 2017.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-4.020 Ex Parte Communications

PURPOSE: To set forth the standards to promote the public trust in the commission with regard to pending filings and cases. This rule regulates communication between members of the office of the commission and parties regarding substantive issues.

(1) Neither any party nor any member of the

office of the commission shall initiate, participate in, or undertake, directly or indirectly, an *ex parte* communication.

(A) If such a communication occurs, the party and the member of the office of the commission involved in the communication should immediately terminate the communication.

(2) A party or member of the office of the commission who initiates an *ex parte* communication shall, within one (1) business day, following such communication give notice of that communication as follows:

(A) If the communication is written, the initiating party shall file a copy of the written communication in the official case file for the discussed case; or

(B) If the communication is not written, the initiating party shall file a memorandum disclosing the communication in the official case file for each discussed case. The memorandum must contain a list of all participants in the communication; the date, time, location, and approximate duration of the communication; the means by which the communication took place; and a summary of the substance of the communication and not merely a listing of the subjects covered. Alternatively, a recording or transcription of the communication may be filed, as long as that recording or transcription indicates all participants and the date, time, location, approximate duration, and means of communication.

(3) If an *ex parte* communication occurs and the initiating party fails to file a notice in the manner set forth in section (2), any other party or member of the office of the commission involved in the communication, upon learning of the person's failure to file such notice, shall give notice of the *ex parte* communication in the manner set forth in section (2) as soon as practicable but no later than three (3) days later.

(4) The commission may issue an order to show cause why sanctions should not be ordered against any party engaging in an *ex parte* communication.

AUTHORITY: section 386.410, RSMo 2016. Original rule filed Dec. 19, 1975, effective Dec. 29, 1975. Amended: Filed April 26, 1976, effective Sept. 11, 1976. Rescinded and readopted: Filed Nov. 4, 2009, effective July 30, 2010. Rescinded and readopted: Filed Nov. 28, 2016, effective July 30, 2017.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*



4 CSR 240-4.030 Extra-Record Communications

PURPOSE: To set forth the standards to promote the public trust in the commission with regard to pending filings and cases. This rule regulates communication between members of the office of the commission and persons who are not parties to a case regarding substantive issues.

(1) If any person initiates an extra-record communication, that person shall, within one (1) business day following such communication, give notice of that communication as follows:

(A) If the communication is written, file a copy of the written communication in the official case file for the discussed case; or

(B) If the communication is not written, file a memorandum summarizing the communication in the official case file for each discussed case. Alternatively, a recording or transcription of the communication may be filed, as long as that recording or transcription indicates the date, time, location, approximate duration, and means of communication.

(2) If an extra-record communication occurs and the initiating party fails to file a notice in the manner set forth in section (1), any other party or member of the office of the commission involved in the communication, upon learning of the person’s failure to file such notice, shall give notice of the extra-record communication in the manner set forth in section (1) as soon as practicable but no later than three (3) days later.

AUTHORITY: section 386.410, RSMo 2016. Original rule filed Nov. 28, 2016, effective July 30, 2017.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-4.040 Communications that are not Ex Parte or Extra-Record Communications

PURPOSE: To identify examples of communications that are not ex parte or extra-record communications.

(1) In accordance with section 386.210.3, RSMo, no communication shall be prohibited by, or subject to, the disclosure and notice requirements of rule 4 CSR 240-4.020 or 4 CSR 240-4.030, if those communications are made before an evidentiary hearing has been scheduled in the case and are—

(A) Made at a public agenda meeting of the commission where such matter has been posted in advance as an item for discussion or decision; or

(B) Made at a forum where representatives of the public utility affected thereby, the Office of the Public Counsel, and any other party to the case are present.

AUTHORITY: section 386.410, RSMo 2016. Original rule filed Nov. 28, 2016, effective July 30, 2017.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*

4 CSR 240-4.050 Limitation on Appearance before Commission

PURPOSE: To set forth the standards of conduct to promote the public trust and maintain public confidence in the commission’s integrity and impartiality with regard to pending filings and cases.

No person who has served as a member of the office of the commission shall, after termination of service with the office of the commission, appear before the commission in relation to any contested case that existed while that person served with the office of the commission.

AUTHORITY: section 386.410, RSMo 2016. Original rule filed Nov. 28, 2016, effective July 30, 2017.*

**Original authority: 386.410, RSMo 1939, amended 1947, 1977, 1996.*