

ADMINISTRATIVE RULES OF MONTANA

Sub-Chapter 6

Code of Ethics and Guidelines

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COMMISSIONER OF POLITICAL PRACTICES

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44.10.601 OVERLAPPING SALARIES FROM MULTIPLE PUBLIC EMPLOYERS

(1) "Public employee" and "public officer" are defined in 2-2-102, MCA. For purposes of this rule, "public employee" does not include an employee in the federal system.

(2) All state public employees, state public officers, and legislators who receive multiple salaries from multiple public employers for overlapping work hours must file a completed multiple public employment disclosure form with the commissioner within 15 business days of the occurrence, contract agreement, or receipt of payment. The multiple public employer disclosure form is available upon request from the commissioner's office.

(3) The multiple public employment disclosure form will contain the following information:

(a) name, address, and telephone number of the state public employee, state public officer, or legislator;

(b) name, address, and telephone number of each public employer;

(c) date(s) of multiple employment;

(d) title(s) or description(s) of each overlapping position;

(e) amount(s) paid by each public employer and method(s) of payment.

(4) If multiple employment is ongoing, a multiple public employment disclosure form must be filed with the commissioner annually, prior to December 15 of the current year. If multiple employment is occasional, a multiple public employment disclosure form must be filed on each occasion.

(5) The commissioner will monitor statutory disclosure requirements and notify any state public employee, state public officer, or legislator who is not in compliance with 2-2-104, MCA, within a reasonable period of time. Noncompliant individuals must correct the infraction and submit supporting documentation to the commissioner within 15 days after their receipt of notification. Saturdays, Sunday, and holidays shall be excluded in the calculation of the 15-day period. (History: Sec. 13-37-114 MCA; IMP, Sec. 2-2-104 MCA; NEW, 1996 MAR p. 789, Eff. 3/22/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 02 reserved

44.10.603 DEFINITIONS The following definitions shall apply throughout this chapter:

(1) "Commissioner" means the commissioner of political practices created under 2-15-411 and 13-37-102, MCA.

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(2) "Complainant" means any person who files a complaint with the commissioner under Title 2, chapter 2, MCA.

(3) "Ethics code" means the code of ethics, Title 2, chapter 2, part 1, MCA.

(4) "Hearing examiner" means a hearing examiner appointed by the commissioner.

(5) "Respondent" means any person against whom a complaint is filed with the commissioner. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.604 COMPLAINT, WHO MAY FILE (1) A complaint may be filed with the commissioner by any person alleging a violation of the ethics code by a state officer, state employee, or a legislator, so long as the alleged violation against a legislator does not pertain to a legislative act. The complaint must:

(a) be filed with the commissioner either by certified mail or delivered in person;

(b) be filed within two years of the date of the alleged violation of the code. A complaint is considered filed on the date it is received by the commissioner. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96.)

44.10.605 FILING, AMENDING COMPLAINTS (1) Complaints shall be in writing and shall be sworn to before a notary public or other person authorized by law to administer oaths.

(2) A complaint may be amended to cure defects or omissions, verify the original claim, swear or affirm that the charge is true, clarify allegations, or allege new, but related matters.

(3) The commissioner shall promptly notify all parties in writing of any amendments. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 06 reserved

44.10.607 COMPLAINT CONTENTS (1) A complaint shall contain the following:

(a) the full name, address, and telephone number, if any, of the person making the complaint (complainant);

(b) the full name, address, and telephone number, if any, of the person against whom the complaint is made (respondent);

(c) a clear and concise statement of the facts(s), including pertinent dates(s) constituting the alleged violation(s) of the ethics code;

(d) the specific provision of the ethics code which is alleged to have been violated;

(e) the verified signature of the complainant swearing or affirming that the charge is true.

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(2) A complaint may be filed on a form available on request from the commissioner's office. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.608 WITHDRAWAL OF A COMPLAINT (1) Any person who has filed a complaint with the commissioner may request in writing that the complaint be withdrawn. Upon receipt of a written request for withdrawal of the complaint, the commissioner shall dismiss the complaint. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rule 09 reserved

44.10.610 NOTICE OF FILING A COMPLAINT (1) After a complaint is filed, the commissioner shall promptly furnish the respondent with written notice of the complaint. The notice shall include identification of the person filing the complaint and a copy of the complaint. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96.)

Rule 11 reserved

44.10.612 CONFIDENTIALITY (1) The commissioner shall maintain the confidentiality of privacy interests entitled to protection by law. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

44.10.613 INFORMAL CONTESTED CASE HEARING (1) After the commissioner has asserted jurisdiction over a complaint, a hearing date will be set by the hearing examiner.

(2) The matter shall proceed in accordance with the Administrative Procedure Act, Title 2, chapter 4, part 6, MCA.

(3) For purposes of these ethics complaint procedures, the commissioner incorporates by reference the attorney general's model rules for contested case hearings, ARM 1.3.212, 1.3.214 (effective 6/12/92), and 1.3.217 (effective 10/12/79). Copies of these model rules are available from the Commissioner of Political Practices, 1205 Eighth Avenue, PO Box 202401, Helena, Montana 59620-2401. (History: Sec. 2-2-136 MCA; IMP, Sec. 2-2-136 MCA; NEW, 1996 MAR p. 922, Eff. 4/5/96; AMD, 2001 MAR p. 2049, Eff. 10/12/01.)

Rules 14 through 20 reserved

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44.10.621 BUSINESS DISCLOSURE (1) For purposes of this rule, "individual" means elected officials, candidates for statewide or state district offices (excluding judiciary); department directors, or anyone appointed to fill any of these offices.

(2) For purposes of 2-2-106, MCA, the term "business interest" means any interest in any business, firm, corporation, partnership, or other business or professional entity or trust owned by an individual, the current fair market value of which is \$1000 or more. Ownership of any security, equity, or evidence of indebtedness in any business corporation or other entity is a "business interest."

(3) Not included within the meaning of "business interest" and therefore not reportable under 2-2-106, MCA, are interests of the following nature:

(a) ownership of any personal property held in an individual's name and not held for use or sale in a trade or business or for investment purposes, such as personal vehicles or household furnishings;

(b) cash surrender value of any insurance policy or annuity;

(c) bank deposits, including checking or savings accounts or certificates of deposit, if they are not held for use in a trade or business;

(d) securities issued by any government or political sub-division.

(4) An ownership interest in real property includes a fee, life estate, joint or common tenancy, leasehold, beneficial interest (through a trust), option to purchase, or mineral or royalty interest, if the current fair market value of the interest is \$1000 or more.

(a) It is not necessary to disclose ownership of a personal residence, but each individual is entitled to exclude only one residence.

(b) While valuation of property is not required (it need only be disclosed if its current fair market value exceeds \$1000), a description of both the property and the nature of the interest must be included. This may be a general description sufficient to identify the property without recourse to oral testimony. A street address is sufficient unless it is a rural route. The nature of the property must be described; for example, farm, ranch, vacation home, commercial or residential property, raw land held for investment, etc.

(5) Any individual described in (1) of this rule, is required to file a business disclosure form according to the filing schedules prescribed in 2-2-106, MCA. Business disclosure forms are provided by the Commissioner of Political Practices, PO Box 202401, Helena, MT 59620-2401. (History: Sec. 5-7-111, MCA; IMP, Sec. 5-7-102(12), MCA; NEW, 1982 MAR p. 1208, Eff. 6/18/82; AMD, 1986 MAR p. 128, Eff. 1/31/86; TRANS & AMD, 1996 MAR p. 2195, Eff. 8/9/96.)