# Arkansas Ethics Commission
# Rules on Conflicts

**Promulgated by:**
**Arkansas Ethics Commission**

**Title 21. Public Officers and Employees**

**Chapter I. Arkansas Ethics Commission**

**Subchapter A. Generally**

**Part 2. Rules on Conflicts**

**Subpart 1. Generally**

**21 CAR § 2-101. Definitions.**

As used in this part:

(1)(A) "Administrative action" means any decision on, or proposal, consideration, or making of any rule, ratemaking proceeding, or policy action by a governmental body.

(B) It does not include ministerial action;

(2) "Business" means any:

(A) Corporation;

(B) Partnership;

(C) Sole proprietorship;

(D) Firm;

(E) Enterprise;

(F) Franchise;

(G) Association;

(H) Organization;

(I) Self-employed individual;

(J) Receivership;

(K) Trust; or

(L) Legal entity through which business is conducted;

(3) "County government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county;

(4) "Family" means an individual's:

(A) Spouse;

(B) Children of that individual or his or her spouse; or

(C) Brothers, sisters, or parents of the individual or his or her spouse;

(5) "Governmental body" means any office, department, commission, council, board, committee, legislative body, agency, or other establishment of the executive, judicial, or legislative branch of the:

(A) State;

(B) Municipality;

(C) County;

(D) School district;

(E) Improvement district; or

(F) Any political district or subdivision thereof;

(6)(A) "Income or compensation" means any money or anything of value received or to be received as a claim for future services, whether in the form of a:

(i) Retainer;

(ii) Fee;

(iii) Salary;

(iv) Expense;

(v) Allowance;

(vi) Forbearance;

(vii) Forgiveness;

(viii) Interest;

(ix) Dividend;

(x) Royalty;

(xi) Rent; or

(xii) Any other form of recompense or any combination thereof.

(B) It includes a payment made under obligation for services or other value received.

(C) The term "compensation" does not include anything of value presented to an employee of a public school district, the Arkansas School for the Deaf and Blind, the Arkansas School for Mathematics, Sciences, and the Arts, a university, a college, a technical college, a technical institute, a comprehensive life-long learning center, or a community college in recognition of the employee's contribution to education;

(7) "Legislative action" means introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, or any other official action or nonaction on any bill, ordinance, law, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before a:

(A) Committee or house of the General Assembly;

(B) Quorum court; or

(C) City council or board of directors of a municipality;

(8) "Legislator" means any person who is a member of:

(A) The General Assembly;

(B) A quorum court of any county;

(C) The city council or board of directors of any municipality; or

(D) A member of a school district board of directors;

(9) "Lobbying" means communicating directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action;

(10) "Municipal government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality;

(11) "Person" means a:

(A) Business;

(B) Individual;

(C) Corporation;

(D) Union;

(E) Association;

(F) Firm;

(G) Partnership;

(H) Committee;

(I) Club; or

(J) Other organization or group of persons;

(12)(A) "Public appointee" means an individual who is appointed to a governmental body.

(B) It does not include an individual appointed to an elective office;

(13)(A) "Public employee" means an individual who is:

(i) Employed by a governmental body; or

(ii) Appointed to serve a governmental body.

(B) It does not include public officials or public appointees;

(14)(A) "Public official" means a person holding an elective office of any governmental body, whether elected or appointed to the office.

(B) "Public official" includes without limitation:

(i) A person holding an elective office of any governmental body, whether elected or appointed to the office, during the time period between the date he or she is elected or appointed and the date he or she takes office; and

(ii) A member of a school district board of directors;

(15) "Public servant" means all:

(A) Public officials;

(B) Public employees; and

(C) Public appointees;

(16) "Special privileges or exemption" means:

(A) A particular benefit or advantage unfairly extended to a person beyond the common advantages of others; or

(B) The unjustified release of a person from a duty or obligation required of others;

(17) "State government" means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas; and

(18) "Unwarranted privileges or exemptions" means:

(A) A particular benefit or advantage unfairly extended to a person beyond the common advantages of others; or

(B) The unjustified release of a person from a duty or obligation required of others.

**21 CAR § 2-102. Confidential information.**

(a) No public servant shall:

(1) Accept employment or engage in any public or professional activity while serving as a public official which he or she might reasonably expect would require or induce him or her to disclose any information acquired by him or her by reason of his or her official position which is declared by law or rule to be confidential;

(2) Disclose any such information gained by reason of his or her position, nor shall he or she otherwise use such information for his or her personal gain or benefit; or

(3) Purposely use or disclose to any other person or entity confidential government information acquired by him or her in the course of and by reason of the public servant's official duties, to secure anything of material value or benefit for himself or herself or his or her family.

(b) No member of a state board or commission or board member of an entity receiving state funds shall disclose confidential information acquired by him or her in the course of the member's official duties or use such information to further his or her personal interests.

**21 CAR § 2-103. Fair treatment.**

(a) No public servant shall use or attempt to use his or her official position to secure special privileges or exemption for himself or herself or his or her spouse, child, parents, or other persons standing in the first degree of relationship, or for those with whom he or she has a substantial financial relationship that is not available to others except as may be otherwise provided by law.

(b) No member of a state board or commission or board member of an entity receiving state funds shall use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others.

**21 CAR § 2-104. Decision making.**

No member of a state board or commission or board member of an entity receiving state funds shall:

(1)(A) Participate in, vote on, influence, or attempt to influence an official decision if the member has a pecuniary interest in the matter under consideration by the board, commission, or entity.

(B) A member of a state board or commission or board member of an entity receiving state funds may participate in, vote on, influence, or attempt to influence an official decision if the only pecuniary interest that may accrue to the member is incidental to his or her position or accrues to him or her as a member of a profession, occupation, or large class to no greater extent than the pecuniary interest could reasonably be foreseen to accrue to all other members of the profession, occupation, or large class; or

(2) Participate in any discussion or vote on a rule or regulation that exclusively benefits the member.

**21 CAR § 2-105. Appearances.**

(a) No legislator shall appear for compensation on behalf of another person, firm, corporation, or entity before any entity of:

(1) State government, if the legislator is a member of the General Assembly;

(2) The legislator's county government, if the legislator is a member of a quorum court;

(3) The legislator's municipal government, if the legislator is a member of a city council or board of directors of a municipality; or

(4) The legislator's school district board of directors, if the legislator is a member of a school district board of directors.

(b) This section shall not:

(1) Apply to any judicial proceeding or to any hearing or proceeding which is adversarial in nature or character;

(2) Apply to any hearing or proceeding on which a record is made by the:

(A) Entity of state government;

(B) Entity of county government;

(C) Entity of municipal government; or

(D) School district board of directors;

(3) Apply to an appearance which is a matter of public record;

(4) Apply to ministerial actions; or

(5) Preclude a legislator from acting on behalf of a constituent to determine the status of a matter without accepting compensation.

(c) An appearance which is a matter of public record as provided in subdivision (b)(3) of this section may be made by:

(1)(A) Filing a written statement within twenty-four (24) hours with the agency head of the entity of state government, entity of county government, entity of municipal government, or school district before which an appearance is sought.

(B) In the event that a written statement cannot be provided to the agency head prior to the meeting, telephonic notice must be given to the agency head or his or her office; or

(2) Filing a quarterly statement with the agency head of the entity of state government before which an appearance is sought.

(d)(1) A statement filed under subsection (c) of this section shall identify the client on behalf of whom the appearance is made and contain a general statement of the action sought from the governmental body.

(2)(A) The statements shall be retained by the agency head and shall be a matter of public record.

(B) If the agency head determines that the release of the client's name would be an unwarranted invasion of individual privacy or would give advantage to competitors for bidding, the agency head may withhold the name until appropriate.

(e) No member of the General Assembly shall receive any income or compensation as defined in 21 CAR § 2-101(6), other than income and benefits from the governmental body to which he or she is duly entitled, for lobbying other members of the General Assembly by communicating directly or soliciting others to communicate

with any other member with the purpose of influencing legislative action by the General Assembly.

**21 CAR § 2-106. Reporting.**

(a) A legislator who is required to take an action in the discharge of his or her official duties that may affect his or her financial interest or cause financial benefit or detriment to him or her, or a business in which he or she is an officer, director, stockholder owning more than ten percent (10%) of the stock of the company, owner, trustee, partner, or employee, which is distinguishable from the effects of the action on the public generally or a broad segment of the public, shall:

(1) Prepare a written statement describing the matter requiring action and stating the potential conflict; and

(2)(A) Deliver a copy of the statement to the appropriate official to be filed with the statement of financial interest.

(B) The copy of the statement may be delivered in person by the public official, by mail, or by a person authorized by the public official to deliver the copy.

(b) The obligation to report a potential conflict of interest under this section arises as soon as the legislator is aware of the conflict.

(c) If the statement of financial interest filed by the legislator makes the conflict readily apparent, then no report need be filed.

**21 CAR § 2-107. School district board members, administrators, and employees.**

(a) No school district board member, administrator, or employee shall:

(1) Use or attempt to use his or her official position to secure unwarranted privileges or exemptions for himself or herself or others;

(2) Accept employment, contract, or engage in any public or professional activity that a reasonable person would expect might require or induce him or her to disclose any information acquired by the member by reason of his or her official position that is declared by law or rule to be confidential;

(3) Disclose any confidential information gained by reason of his or her position, including without limitation disclosing information acquired by attending an executive session of the board of directors unless the disclosure of that information is otherwise authorized or required by law; or

(4) Use information acquired by reason or his or her position for his or her personal gain or benefit.

(b) A school district board member shall not act in a manner on school grounds or at a school-sponsored event that:

(1) Results or otherwise would have resulted in the removal of the board member from campus or the event if the board member's actions resulted in removal or otherwise would have resulted in removal if the actions were conducted by a member of the public; or

(2) Results in a violation of the criminal laws of this state or the federal government.

(c) Any school district board member, administrator, or employee who knew or should have known his or her actions were prohibited under subsections (a) or (b) of this section may be subject to Arkansas Code § 6-24-118.

(d) Nothing in this part prohibits school district board members, administrators, or employees from donating services or property to a public educational entity.

(e)(1) The Arkansas Ethics Commission shall supervise compliance with Arkansas Code § 6-24-101 et seq., by school district board members and investigate citizen complaints alleging violations of this part by board members.

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(2) Upon completion of an investigation of a complaint that a board member has violated this part, the commission may assess a penalty under Arkansas Code § 7-6-218(b)(4).

(3) All moneys received by the commission as payment of fines shall be deposited in the State Treasury as general revenues.

(f) At the request of the commission, the appropriate prosecuting attorney shall review contracts or transactions for compliance with the provisions of Arkansas Code § 6-24-101 et seq.

**21 CAR § 2-108. Advance notice.**

(a) No public employee shall provide advance notice of an inspection to be conducted by a governmental body to any person, business, or entity subject to an inspection when the purpose of the disclosure is to improperly influence the outcome of the inspection.

(b) A public employee violates subdivision (a) of this section when he or she knowingly communicates information, directly or indirectly, regarding the timing, scope, or details of an upcoming inspection with the intent to:

(1) Alter or manipulate conditions to evade detection of noncompliance or violations;

(2) Provide an unfair advantage to the inspected party; or

(3) Otherwise interfere with the integrity or impartiality of the inspection process.

(3) A public employee found in violation of subsection (a) of this section shall be subject to disciplinary action, including without limitation suspension, termination, and any penalties provided by law.

(4) Subsection (a) of this section does not prohibit:

(A) Routine scheduling disclosures required by law;

(B) Public safety notifications; or

(C) Official communications necessary for the proper administration of inspections.