

Title 19. Public Finance

Chapter IV. Arkansas Ethics Commission

Subchapter A. Generally

Part 25. Special State Employees — Conflicts of Interest

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided: "Arkansas Ethics Commission Rules on Special State Employees—Conflicts of Interest".

Subpart 1. Generally

19 CAR § 25-101. Definitions.

As used in this part:

(1)(A) "Conflict of interest" means a special state employee's direct or indirect pecuniary or other interest in a matter before a covered board.

(B) "Conflict of interest" includes without limitation the following:

(i) An offer of employment from an entity that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board;

(ii) Being an officer or employee of a business, association, or nonprofit organization that is involved in a procurement matter with the covered board or is involved in a discussion of a procurement matter with the covered board; and

(iii) Receiving compensation from an entity that is involved in a procurement matter or is involved in a discussion of a procurement matter with the covered board;

(2)(A) "Covered board" means:

(i) A commission, board, bureau, office, or other state instrumentality created within the executive branch; and

(ii) An entity that is created by regulation, statute, legislative direction, executive order, or other informal means if the entity has decision-making authority over:

(a) Procurement criteria;

(b) Contracts;

(c) Appointment of individuals to negotiate procurement directly

or indirectly; or

(d) The approval of procurements.

(B) "Covered board" does not include the following:

(i) The constitutional departments of the State of Arkansas;

(ii) The elected constitutional offices of the State of Arkansas;

(iii) The General Assembly, including:

(a) The Legislative Council;

(b) The Legislative Joint Auditing Committee; and

(c) Supporting agencies and bureaus of the General Assembly;

(iv) The Supreme Court;

(v) The Court of Appeals;

(vi) The circuit courts;

(vii) Prosecuting attorneys;

(viii) The Administrative Office of the Courts;

(ix) An institution of higher education;

(x) A municipal government;

(xi) A county government;

(xii) An interstate agency; or

(xiii) A legislative task force or committee if the legislative task force

or committee only advises the General Assembly; and

(3)(A) "Special state employee" means a person appointed to a covered board, regardless of whether the person:

(i) Receives compensation for his or her services;

(ii) Receives reimbursement for travel expenses;

- (iii) Receives per diem; or
- (iv) Was appointed formally or informally.

(B) "Special state employee" does not include a constitutional officeholder or an ex officio or nonvoting member of a covered board.

Authority. Arkansas Code § 19-11-718.

19 CAR § 25-102. Required disclosure.

A special state employee shall disclose a conflict of interest in a procurement matter before the covered board:

(1) Either:

(A) In writing to the head of the covered board; or

(B) Orally or in writing at a public meeting of the covered board if the disclosure is included in the minutes of the public meeting; and

(2) By filing a conflict of interest disclosure report with the Secretary of State within five (5) business days of the date the special state employee becomes aware of the conflict of interest.

Authority. Arkansas Code § 19-11-718.

19 CAR § 25-103. Decision making.

(a) A special state employee shall not vote on, receive, or read confidential materials related to, participate in the discussion of, or attempt to influence the covered board's decision on a procurement matter if the special state employee has a conflict of interest in the procurement matter.

(b) A special state employee who is a lobbyist registered under Arkansas Code § 21-8-601 shall recuse himself or herself from a procurement matter before the covered board if the:

(1) Special state employee receives compensation as a lobbyist from an entity involved in the procurement matter; or

(2) Procurement matter involves a person or entity that is a competitor of a lobbying client of the special state employee.

(c) A special state employee or former special state employee shall not:

(1) Represent an entity other than the State of Arkansas in a matter in which he or she participated in:

(A) Making a decision;

(B) Rendering approval or disapproval;

(C) Making a recommendation; or

(D) Rendering advice on behalf of the covered board; or

(2) Assist or represent a party for contingent compensation in a matter involving a covered board other than in a judicial, administrative, or quasi-judicial proceeding.

(d) A former special state employee shall not lobby the members or staff of a covered board of which he or she is a former member for one (1) year after the cessation of the special state employee's membership on the covered board.

(e) A contract entered into by a covered board, including a renewal, extension, or amendment of a contract entered into by a covered board, shall include a statement that no special state employee has been influenced by the vendor in the course of the procurement.

Authority. Arkansas Code § 19-11-718.

19 CAR § 25-104. Complaints.

(a) In accordance with Arkansas Code § 7-6-218, a complaint alleging a violation of Arkansas Code § 19-11-718 may be filed with the Arkansas Ethics Commission.

(b) The complaint process is the subject of 7 CAR §§ 1-501 et seq. – 1-1001 et seq.

Authority. Arkansas Code § 19-11-718.

19 CAR § 25-105. Penalties and removal.

(a) If the Arkansas Ethics Commission finds that a special state employee has committed a violation of Arkansas Code § 19-11-718, then it may:

(1) Impose a fine of not less than fifty dollars (\$50.00) and not more than two thousand dollars (\$2,000);

(2) Issue a public letter of caution, warning, or reprimand;

(3) Order the special state employee to file or amend a statutorily-required disclosure form;

(4) Remove the special state employee from the covered board which he or she serves; and/or

(5) Report its findings, along with such information and documents as it deems appropriate, and make recommendations to the proper law enforcement authorities.

(b)(1) When exercising the authority set forth in subdivision (a)(4) of this section, the commission shall specifically state in its final order that the special state employee has been removed and that a vacancy exists.

(2) Notice of the removal shall be sent to the covered board.

(c) When exercising the authority set forth in subdivision (a)(5) of this section, the commission is not required to make a finding of a violation of Arkansas Code § 19-11-718.

Authority. Arkansas Code § 19-11-718.