

Standards of Conduct for Montana Public Officers and Employees

1972 Constitution

Specifies the intent to prohibit conflict between public duty and private interest.

Montana Code Annotated 1997

2-2-102 Definitions

“Public employee” includes a member of a quasi-judicial board, commission, board or committee with rulemaking authority of the state or any subdivision thereof.

2-2-103 Public Trust

An employee has a duty to perform all official acts in the best interests of the people of the state. Failure to perform this duty can result in judicial action by the county attorney on behalf of the people. A public officer, legislator, or public employee shall carry out the individual’s duties for the benefit of the people of the state.

2-2-104 Rules of Conduct for all Public Officers, Legislators, and Employees.

Confidential information may not be used to further one’s own existing personal economic interests. Any type of gift or economic benefit may not be accepted if it would tend to improperly influence or appear to be a reward for specific official actions. (Campaign contributions reported as required are excepted.) Salaries from two separate public employment positions that overlap for the hours being compensated are prohibited, except a public school teacher supervising a student teacher.

2-2-105 Ethical Principles for Public Officers and Employees

An interest may not be acquired in any business or undertaking directly substantially affected to its economic benefit from official actions taken by the agency. In the 12 months following voluntary termination of office or employment, a public officer or employee may not obtain new employment in which he will take direct advantage, unavailable to others, of matters handled in his official capacity. The public official or employee may not perform an official act negatively affecting an interest in competition with his own private interest.

2-2-121. Rules of Conduct for Local Government Officers and Employees

It is prohibited to engage in substantial business transactions with a person supervised or inspected. It is prohibited to perform an official act directly and substantially affecting to an economic benefit, a business in which a public official or employee either has a substantial interest or is engaged as his/her counsel or representative. Prohibited to use public time, facilities, equipment, supplies, personnel, or funds for the officer’s or employee’s private business purpose or for any campaign activity persuading or affecting a public decision unless

the use is authorized by law or properly incidental to another activity required or authorized by law. May not engage in lobbying on behalf of an organization of which employee is a member while performing his job duties.

2-2-121, 125, 131. Voluntary Disclosure

If a board member has a possible conflict of interest in which his action would directly affect the economic benefit of a business or other undertaking in which the employee either has a substantial financial interest or is engaged as counsel, consultant, representative or agent, he/she should abstain from participation. However, if the composition of the board is such that it cannot act without his/her participation, the member may participate if he discloses in writing to the Secretary of State and discloses for the record at the time of participating, the nature of his private interest.

2-2-201 Public Officers, Employees, and Former Employees Not To Have Interest in Contracts.

Having an interest in any contract made in an official capacity, is prohibited. A former employee for 6 months may not engage in a contract with the state or subdivisions involving matters he/she was directly involved in as an employee.

2-2-301,303 Nepotism

It is illegal for a public official to appoint or to promise to appoint anyone to a public position of trust on the basis of relationship, rather than on the basis of merit. The code specifically refers to family members within the fourth degree. Exception: if all school trustees other than the trustee who is related to the appointee, approve the appointment and notice has been published in a newspaper 15 days prior to the action.

Attorney General's Opinions

Att.Gen. Op. 40-32. Public officers and employees must not have a financial interest in any contract made by them in their official capacity, except a minority interest in a corporation or contracts awarded through the competitive bidding process, merchandise sold to the highest bidder at auction, or investment deposits in financial institutions.

Att. Gen. Op. 40-38. An exception is made if geographic restrictions make the cost of going elsewhere greater than 10 more.

Att. Gen. Op. 38-55. A County Commissioner may be a member of: 1) a board through which the county merely channels money; 2) a board that receives county money as long as there is no personal financial gain, and he discloses to the Sec. of State.

Att. Gen. Op. 41-81. No inherent conflict of interest exists when a city employee is also an elected city councilman.

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