
Emergency Rules

**Title 1—OFFICE OF ADMINISTRATION
Division 20—Personnel Advisory Board and
Division of Personnel
Chapter 3—Personnel Selection, Appointment,
Evaluation and Separation**

EMERGENCY AMENDMENT

1 CSR 20-3.080 General Provisions and Prohibitions. The board is deleting sections (1)–(3) and amending existing section (4).

PURPOSE: This amendment revises this rule pursuant to changes to Chapter 36, RSMo made by Senate Bill 1007 (2018).

EMERGENCY STATEMENT: This emergency amendment incorporates and implements changes to the law effected by Senate Bill 1007 (2018), effective August 28, 2018. Emergency amendment of this rule is necessary to preserve the compelling governmental interest of successfully implementing the changes to Chapter 36, RSMo made by Senate Bill 1007 (2018) across the departments and agencies of the executive branch of Missouri state government. Provisions of the existing rule are inconsistent with the provisions of Chapter 36, RSMo, effective August 28, 2018, and must be amended to avoid confusion or improper application, avoid potential liabilities, and to ensure consistent implementation of Senate Bill 1007 (2018). A proposed amendment which covers the same material will be filed at a later date to be published in the *Missouri Register*. The scope of this emergency amendment is limited to the circumstances creating the emergency and complies with the protections extended in the *Missouri and United States Constitutions*. The Personnel Advisory Board believes this emergency amendment is fair to all interested persons and parties under the circumstances. This emergency amendment was filed August 17, 2018, becomes effective August 28, 2018, and expires February 28, 2019.

[(1) Influences other than merit are prohibited in examinations and employment. Every appointment or promotion to a position covered by the merit system law shall be made on the basis of merit determined by that person's eligibility ratings established by competitive examinations. Demotions in and dismissals from employment shall be made for cause under rules uniformly applicable to all positions of employment. No appointment, promotion, demotion, or dismissal shall be made because of favoritism, prejudice, or discrimination. Political endorsement shall not be considered in connection with any such appointment. No person shall use or promise to use, directly or indirectly, for any consideration whatsoever any official authority or influence to secure or attempt to secure for any person an appointment or advantage in appointment to any position, or an increase in pay, promotion, or other advantage in employment (see section 36.150, RSMo).

(2) Political Activity. Employees covered by merit system provisions of the law may take part in the activities of political parties and political campaigns under the following conditions:

(A) No employee shall be a candidate for nomination or election to any partisan public office or to any nonpartisan office in conflict with the employee's duties unless such person resigns, or obtains a regularly granted leave of absence from such person's position. No person elected to partisan public office, while holding office, shall be appointed to any position covered by this law;

(B) Employees may not use their official authority or influence for the purpose of interfering with the results of an

election;

(C) An employee may not knowingly solicit, accept or receive a political contribution, on or off the job, from any person who is a subordinate employee of the employee;

(D) An employee may not knowingly solicit or discourage the participation in any political activity of any person who has an application for any compensation, grant, contract, ruling, license, permit, or certificate pending before the employing department of such employee or is the subject of, or a participant in, an ongoing audit, investigation, or enforcement action being carried out by the employing department of such employee;

(E) An employee may not engage in political activity—

- 1. While on duty;*
- 2. In any room or building occupied in the discharge of official duties;*
- 3. By utilizing any state resources or facilities;*
- 4. While wearing a uniform or official insignia identifying the office or position of the employee; or*
- 5. When using any vehicle owned or leased by the state or any agency or instrumentality of the state;*

(F) No person, in any manner, shall levy or solicit any financial assistance or subscription for any political party, candidate, political fund or publication, or for any other political purpose from any employee in a position subject to the merit system portions of the state personnel law; and no employee shall act as agent in receiving or accepting any such financial contribution, subscription, or assignment of pay; and

(G) It is unlawful for any person to intimidate, threaten, command, or coerce any employee of the state to engage in, or not to engage in, any political activity, including, but not limited to, voting, or refusing to vote, for any candidate or measure in any election, making, or refusing to make, any political contribution or working, or refusing to work, on behalf of any candidate. No employee of this state shall discriminate against, discipline, or otherwise create a preference for or against any employee subject to such person's authority as a consequence of such employee's political belief or expression of such belief. Any person who violates the provisions of this section is guilty of a class three election offense, punishable by a term of imprisonment for not more than one (1) year and a fine of not more than two thousand five hundred dollars (\$2,500), or both such fine and imprisonment. Any person convicted of a violation of this section shall lose such person's position in the agency.

(3) Fraud or Obstruction. No person shall make any false statement, certificate, mark, rating, or report with regard to any test, certification, or appointment or in any matter commit or attempt to commit any fraud preventing the impartial execution of the merit system law or these rules. No person, directly or indirectly, shall give, render, pay, offer, solicit or accept any money, service or other valuable consideration for or on account of any appointment, proposed appointment, promotion, or proposed promotion to, or any advantage in, a position subject to the law or these rules. No employee of the Personnel Division, examiner, or other person shall defeat, deceive, or obstruct any person in the right to examination, eligibility certification, or appointment under the law, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in a division of service subject to the law. Any person who violates any provision of this section shall be guilty of a misdemeanor (see section 36.160, RSMo).]

Emergency Rules

[(4)](1) Prohibition of Discrimination.

(A) **Unlawful** */D/*discrimination **proscribed under Missouri law or any applicable federal law** against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration, because of political or religious opinions or affiliations or because of race, creed, color, national origin, ancestry, or any other non-merit factors is prohibited. Discrimination on the basis of age or sex or physical disability is prohibited except where specific age, sex, or physical requirements constitute a *bona fide* occupational qualification necessary to proper and efficient administration.

[(B) In any case of alleged discrimination for which a review is not provided by the Missouri Commission on Human Rights and Chapter 213, RSMo, or by other provisions of these rules, an applicant or employee who feels adversely affected in an opportunity for employment, in his/her status as an employee, or in his/her condition of employment because of this discrimination, under this rule, may appeal to the Administrative Hearing Commission for a review of the alleged discriminatory action or practice. The request for this review shall be filed by the applicant or employee in writing with the Administrative Hearing Commission within thirty (30) calendar days after the date on which the action or practice is alleged to have occurred and shall set forth in substantial detail the particulars and other information as may be required by the Administrative Hearing Commission.]

AUTHORITY: sections 36.060 and 36.070, RSMo Supp. [2010 and section 36.070, RSMo 2000] 2018. Original rule filed July 9, 1947, effective July 19, 1947. For intervening history, please consult the Code of State Regulations. Emergency amendment filed Aug. 17, 2018, effective Aug. 28, 2018, expires Feb. 28, 2019. An emergency amendment covering this same material will be published in the October 1, 2018, issue of the Missouri Register. A proposed amendment covering this same material will be filed at a later date to be published in the Missouri Register.