

**MARK-UP**

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# **RULES ON CONFLICTS**

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AUG 17 2023

BUREAU OF  
LEGISLATIVE RESEARCH

**ARKANSAS ETHICS COMMISSION  
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§ 400 Definitions

- (a) **Administrative action** – As used in these rules, the term “administrative action” means any decision on, or proposal, consideration, or making of any rule, ratemaking proceeding, or policy action by a governmental body. It does not include ministerial action.
- (b) **Business** – As used in these rules, the term “business” means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, receivership, trust, or any legal entity through which business is conducted.
- (c) **County government** – As used in these rules, the term “county government” means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a county.
- (d) **Family** – As used in these rules, the term “family” means an individual’s spouse, children of that individual or his or her spouse, or brothers, sisters, or parents of the individual or his or her spouse.
- (e) **Governmental body** – As used in these rules, the term “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 state, municipality, county, school district, improvement district, or any political district or subdivision thereof.
- (f) **Income or compensation** – As used in these rules, the term “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 retainer, fee, salary, expense, allowance, forbearance, forgiveness, interest, dividend, royalty, rent, or any other form of recompense or any combination thereof. It includes a payment made under obligation for services or other value received. The term “compensation” does not include anything of value presented to an employee of a public school district, the Arkansas School for the Blind, the Arkansas School for the Deaf, 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.
- (g) **Legislative action** – As used in these rules, the term “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 committee or house of the General Assembly, a quorum court, or a city council or board of directors of a municipality.

- (h) **Legislator** – As used in these rules, the term “legislator” means any person who is a member of:
1. The General Assembly;
  2. A quorum court of any county;
  3. The city council or board of directors of any municipality; or
  4. A member of a school district board of directors.
- (i) **Lobbying** – As used in these rules, the term “lobbying” means communicating directly or soliciting others to communicate with any public servant with the purpose of influencing legislative action or administrative action.
- (j) **Municipal government** – As used in these rules, the term “municipal government” means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of a municipality.
- (k) **Person** – As used in these rules, the term “person” means a business, individual, corporation, union, association, firm, partnership, committee, club, or other organization or group of persons.
- (l) **Public appointee** – As used in these rules, the term “public appointee” means an individual who is appointed to a governmental body. It does not include an individual appointed to an elective office.
- (m) **Public employee** – As used in these rules, the term “public employee” means an individual who is employed by a governmental body or who is appointed to serve a governmental body. It does not include public officials or public appointees.
- (n) **Public official** – (1) As used in these rules, the term “public official” means a person holding an elective office of any governmental body, whether elected or appointed to the office
- (2) “Public official” includes without limitation:
- (A) 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
- (B) A member of a school district board of directors.
- (o) **Public servant** – As used in these rules, the term “public servant” means all public officials, public employees, and public appointees.

- (p) **Special privileges or exemption** – As used in these rules, the term “special privileges or exemption” means a particular benefit or advantage unfairly extended to a person beyond the common advantages of others or the unjustified release of a person from a duty or obligation required of others.
- (q) **State government** – As used in these rules, the term “state government” means any office, department, commission, council, board, bureau, committee, legislative body, agency, or other establishment of the State of Arkansas.
- (r) **Unwarranted privileges or exemptions** – As used in these rules, the term “unwarranted privileges or exemptions” means a particular benefit or advantage unfairly extended to a person beyond the common advantages of others or the unjustified release of a person from a duty or obligation required of others.

#### § 401 Confidential Information

- (a)(1) No public servant shall 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) No public servant shall 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.
- (b) No public servant shall 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.
- (c) 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.

#### § 402 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.

#### **§ 403 Decision Making**

- (a)(1) No member of a state board or commission or board member of an entity receiving state funds shall 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.
- (2) 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.
- (b) No member of a state board or commission or board member of an entity receiving state funds shall participate in any discussion or vote on a rule or regulation that exclusively benefits the member.

#### **§ 404 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 entity of state government, entity of county government, entity of municipal government, or 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 the agency head or his 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 § 400(f) 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.

## § 405 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 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.

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## § 406 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 of 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 § 6-24-118.

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

(e) (1) The Commission shall supervise compliance with Chapter 24 of the Arkansas Code by school district board members and investigate citizen complaints alleging violations of this chapter by board members.

(2) Upon completion of an investigation of a complaint that a board member has violated this chapter, the Commission may assess a penalty under § 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 Chapter 24.

[Note: This Rule, § 406, is based upon Act 883 of 2023 and shall be effective on and after May 1, 2024.]

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State of Arkansas  
94th General Assembly  
Regular Session, 2023

# A Bill

SENATE BILL 543

By: Senator K. Hammer  
By: Representative Cozart

## For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING SCHOOL  
DISTRICT BOARDS OF DIRECTORS; AMENDING A PORTION OF  
LAW RESULTING FROM INITIATED ACT 1 OF 1990; AND FOR  
OTHER PURPOSES.

## Subtitle

TO AMEND ARKANSAS LAW CONCERNING SCHOOL  
DISTRICT BOARDS OF DIRECTORS AND AMENDING  
A PORTION OF LAW RESULTING FROM INITIATED  
ACT 1 OF 1990.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 6-13-611(a)(5), concerning vacancies on a  
school district board of directors, is amended to read as follows:

(5) Is convicted of a:

(A) felony ~~Felony~~ in accordance with § 6-13-612; or

(B) Violation of the ethical guidelines and prohibitions under §  
6-24-101 et seq.;

SECTION 2. Arkansas Code § 6-13-617 is amended to read as follows:  
6-13-617. Oath.

(a)(1)(A) Each director ~~elected for an initial or nonconsecutive term~~  
~~of office~~ shall, within ten (10) days after receiving notice from the county  
clerk or his or her designee of his or her election or within ten (10) days  
after receiving notice from the county clerk or his or her designee of his or



her appointment, subscribe to the following oath before an individual  
authorized to administer oaths under § 21-2-105:

“I, \_\_\_\_\_, do hereby solemnly swear or  
affirm, that I will support the United States Constitution and the Arkansas  
Constitution, and that I will not be interested, directly or indirectly, in  
any contract made by the district of which I am a director, except as  
permitted by state law, that I shall abide by the ethical guidelines and  
prohibitions under § 6-24-101 et seq., and that I will faithfully discharge  
the duties as school director in \_\_\_\_\_ School District  
upon which I am about to enter.

\_\_\_\_\_  
Director’s Signature

\_\_\_\_\_  
Administrator’s Signature

\_\_\_\_\_  
Date”.

Accepted

Rejected

Reason for rejection

County Clerk’s Signature”.

(B) The notification from the county clerk or his or her  
designee shall indicate the date by which the oath shall be subscribed to.

(2)(A) After the oath is administered, the director shall submit  
a certification of the administration of the oath to the county clerk or his  
or her designee.

(B) The certification of the administration of the oath  
shall contain:

- (i) A copy of the oath;
- (ii) The director’s signature;
- (iii) The administrator’s signature; and
- (iv) The date.

(C) The certification of the administration of the oath  
shall be submitted to the county clerk or his or her designee no later than  
the close of business on the date indicated in the notification from the  
county clerk under subdivision (a)(1) of this section.

(b)(1) The county clerk or his or her designee, upon receipt of the certification of the administration of the oath prescribed for a director, shall immediately: ~~commission such persons, and they shall enter at once upon their duties as directors.~~

(A) Verify that the:

(i) Certification of the administration of the oath was submitted on or before the close of business on the date indicated in the notification from the county clerk or his or her designee under subdivision (a)(1) of this section; and

(ii) Individual before whom the oath was subscribed to is an individual authorized to administer oaths under § 21-2-105; and

(B) Either:

(i) Accept the certification of the administration of the oath if it complies with the requirements of this section; or

(ii) Reject the certification of the administration of the oath if it does not comply with one (1) or more of the requirements of this section.

(2)(A) Immediately following the acceptance of the certification of the administration of the oath, the county clerk or his or her designee shall:

(i) Commission the director;

(ii) Provide the director a copy of § 6-24-101 et seq.; and

(iii) Require the director to sign an acknowledgement that he or she received a copy of § 6-24-101 et seq.

(B) The term of the director shall begin upon the receiving of the commission under subdivision (b)(2)(A)(i) of this section.

~~(2)(3)~~ (3) By the close of business of the day following the receipt of the certification of the administration of the oath, the county clerk or his or her designee shall either:

(A)(i) ~~notify~~ Notify the superintendent of the school district by phone that the individual has subscribed to the director's oath and that the county clerk has accepted the certification of the administration of the oath; and

(ii) ~~shall send~~ Send a copy of the certificate of the administration of the oath to the school district's central office within

1 five (5) days; or

2 (B) If the certification of the administration of the oath  
3 has not been timely received or otherwise rejected by the county clerk or his  
4 or her designee, notify the superintendent of the school district by phone of  
5 the rejection of the certification of the administration of the oath by the  
6 close of business on the day following the date indicated in the notification  
7 from the county clerk or his or her designee under subdivision (a)(1) of this  
8 section.

9 (c) The failure of an elected director to have the oath administered  
10 and submit proof that the oath was administered as required under subsection  
11 (a) of this section will result in:

12 (1) The individual's not being qualified to serve for the  
13 purpose of Arkansas Constitution, Article 19, § 5; and

14 (2) A holdover.

15  
16 SECTION 3. Arkansas Code § 6-13-619 is amended to add an additional  
17 subsection to read as follows:

18 (e)(1) In addition to the circumstances in which an executive session  
19 is permitted under the Freedom of Information Act of 1967, § 25-19-101 et  
20 seq., the board of directors may meet in executive session for the purposes  
21 of:

22 (A) Pre-litigation discussions;

23 (B) Litigation updates;

24 (C) The discussion and consideration of settlement offers;

25 (D) The discussion and consideration of contract disputes  
26 with the superintendent of the school district; and

27 (E) Discussions pertaining to real property.

28 (2) In addition to the persons permitted to be present at an  
29 executive session under the Freedom of Information Act of 1967, § 25-19-101  
30 et seq., the following may be present at an executive session of the board of  
31 directors upon invitation of the board of directors:

32 (A) The superintendent of the school district; and

33 (b) The attorney for the school district.

34  
35 SECTION 4. Arkansas Code § 6-24-104 is amended to read as follows:

36 6-24-104. General prohibition.

(a)(1) No board member, administrator, or employee shall knowingly:

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

~~(b)(B) While serving as a board member, administrator, or employee, an individual shall not accept~~ 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;

~~(c)(C) No board member, administrator, or employee shall knowingly disclose~~ Disclose any confidential information gained by reason of his or her position, ~~nor shall the member knowingly otherwise 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

~~(D) use such~~ Use information acquired by reason or his or her position for his or her personal gain or benefit.

(b) A 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 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 § 6-24-118.

~~(d)(d)~~ Nothing in this chapter prohibits board members, administrators, or employees of public educational entities from donating services or property to a public educational entity.

SECTION 5. Arkansas Code § 6-24-115 is amended to read as follows:  
6-24-115. Criminal penalties.

(a)(1) Any board member, administrator, employee, or nonemployee who

1 shall knowingly violate the provisions of this chapter shall be guilty of a  
2 felony.

3 ~~(b)(1) Upon pleading guilty or nolo contendere to or being found~~  
4 ~~guilty of violating this chapter, the court shall order restitution to the~~  
5 ~~public educational entity.~~

6 (2) In addition, the court may fine the violator in any sum not  
7 to exceed the greater of ten thousand dollars (\$10,000) or double the dollar  
8 amounts involved in the transactions, sentence the violator to prison for not  
9 more than five (5) years, or impose both a fine and imprisonment.

10 (b) Any board member, administrator, employee, or nonemployee who  
11 should have known his or her actions would violate the provisions of this  
12 chapter shall be guilty of a Class A misdemeanor.

13 (c) Upon pleading guilty or nolo contendere or being found guilty of  
14 violating this chapter, the court shall order restitution to the public  
15 educational entity in addition to any other penalty proscribed.

16  
17 SECTION 5. Arkansas Code § 6-24-116 is amended to read as follows:

18 6-24-116. Request for review of transactions.

19 At the request of a board of a public educational entity, the executive  
20 administrator at a public educational entity, the Commissioner of Elementary  
21 and Secondary Education, the Arkansas Ethics Commission, or the Legislative  
22 Joint Auditing Committee, the appropriate prosecuting attorney shall review  
23 contracts or transactions for compliance with the provisions of this chapter.

24  
25 SECTION 7. Arkansas Code § 6-24-117 is amended to read as follows:

26 6-24-117. Board position vacant upon conviction.

27 If a board member is found guilty of violating the provisions of this  
28 chapter and any appeals regarding the finding of guilt have been concluded,  
29 the board member shall immediately cease to be a board member, the position  
30 is declared vacant, and a replacement shall be named as provided ~~by law~~ in §  
31 6-13-611.

32  
33 SECTION 8. Arkansas Code § 6-24-118 is amended to read as follows:

34 6-24-118. Enforcement.

35 (a)(1) It Except as provided in subsection (b) of this section, it  
36 shall be the duty and responsibility of the prosecuting attorneys to

1 supervise compliance with this chapter and prosecute persons who violate this  
2 chapter.

3 ~~(b)(2)~~ If the prosecuting attorney fails or refuses to enforce  
4 this chapter when the facts are known by the prosecuting attorney, or are  
5 called to his or her attention, the Attorney General or any citizen of this  
6 state may bring mandamus proceedings to compel the prosecuting attorney to  
7 perform his or her duties.

8 ~~(e)(3)~~ All criminal actions related to alleged violations of  
9 this chapter shall be filed in circuit court and shall be subject to the  
10 criminal rules and procedures of this state.

11 (b)(1) The Arkansas Ethics Commission shall supervise compliance with  
12 this chapter by board members and investigate citizen complaints alleging  
13 violations of this chapter by board members.

14 (2)A) Upon completion of an investigation of a complaint that a  
15 board member has violated this chapter, the commission may assess a penalty  
16 under § 7-6-218(b)(4).

17 (B) All moneys received by the commission as payment of  
18 finances shall be deposited in the State Treasury as general revenues.

19 (3) The commission may promulgate rules that it deems necessary  
20 to perform its duties under this section.

21  
22 SECTION 9. Arkansas Code § 7-6-217(g), concerning the authority of the  
23 Arkansas Ethics Commission and resulting from Initiated Act 1 of 1990, is  
24 amended to read as follows:

25 (g) The commission shall have the authority to:

26 (1) Under the Arkansas Administrative Procedure Act, § 25-15-201  
27 et seq., promulgate reasonable rules to implement and administer the  
28 requirements of this subchapter, as well as the Disclosure Act for Public  
29 Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; §  
30 19-11-718; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and  
31 Local Officials, § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701 et seq.,  
32 and § 21-8-801 et seq.; § 21-8-901; § 21-8-1001 et seq.; and Arkansas  
33 Constitution, Article 19, §§ 28-30; and to govern procedures before the  
34 commission, matters of commission operations, and all investigative and  
35 disciplinary procedures and proceedings;

36 (2) Issue advisory opinions and guidelines on the requirements



1 of § 6-24-101 et seq.; § 7-1-103(a)(1)-(4), (6), and (7); this subchapter;  
2 the Disclosure Act for Public Initiatives, Referenda, and Measures Referred  
3 to Voters, § 7-9-401 et seq.; § 19-11-718; § 21-8-301 et seq.; the Disclosure  
4 Act for Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-  
5 601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.;  
6 § 21-8-1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30;

7 (3) After a citizen complaint has been submitted to the  
8 commission, investigate alleged violations of § 6-24-101 et seq.; § 7-1-  
9 103(a)(1)-(4), (6), and (7); this subchapter; the Disclosure Act for Public  
10 Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; §  
11 19-11-718; § 21-1-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for  
12 Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-601 et  
13 seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901; § 21-8-1001 et  
14 seq.; and Arkansas Constitution, Article 19, §§ 28-30; and render findings  
15 and disciplinary action thereon;

16 (4) Pursuant to commission investigations, subpoena any person  
17 or the books, records, or other documents being held by any person and take  
18 sworn statements;

19 (5) Administer oaths for the purpose of taking sworn testimony  
20 of witnesses and conduct hearings;

21 (6) Hire a staff and retain legal counsel;

22 (7) Approve forms prepared by the Secretary of State under this  
23 subchapter; the Disclosure Act for Public Initiatives, Referenda, and  
24 Measures Referred to Voters, § 7-9-401 et seq.; § 19-11-718; § 21-8-301 et  
25 seq.; the Disclosure Act for Lobbyists and State and Local Officials, § 21-8-  
26 401 et seq., § 21-8-601 et seq., § 21-8-701 et seq., and § 21-8-801 et seq.;  
27 § 21-8-901 et seq.; and § 21-8-1001 et seq.; and

28 (8)(A) File suit in the Pulaski County Circuit Court or in the  
29 circuit court of the county wherein the respondent resides or, under § 16-17-  
30 706, in the small claims division established in any district court in the  
31 State of Arkansas, to obtain a judgment for the amount of any fine imposed  
32 under § 7-6-218(b)(4)(B)(i)-(iii), or to enforce an order of the commission  
33 requiring the filing or amendment of a disclosure form.

34 (B) Said action by the court shall not involve further  
35 judicial review of the commission's actions.

36 (C) The fee normally charged for the filing of a suit in

1 any of the circuit courts in the State of Arkansas shall be waived on behalf  
2 of the commission.

3  
4 SECTION 10. Arkansas Code § 7-6-218, resulting from Initiated Act 1 of  
5 1990, is amended to read as follows:

6 7-6-218. Citizen complaints – Definition.

7 (a)(1) Any citizen may file a complaint with the Arkansas Ethics  
8 Commission against a person covered by this subchapter, by § 6-24-101 et  
9 seq.; § 7-1-103(a)(1)-(4), (6), or (7); the Disclosure Act for Public  
10 Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et seq.; §  
11 21-1-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and  
12 State and Local Officials, § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701  
13 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; and  
14 Arkansas Constitution, Article 19, §§ 28-30, for an alleged violation of the  
15 subchapters or sections. For purposes of this subdivision (a)(1), the  
16 Arkansas Ethics Commission shall be considered a citizen.

17 (2) A complaint must be filed within four (4) years after the  
18 alleged violation occurred. If the alleged violation is the failure to file a  
19 report or the filing of an incorrect report, the complaint shall be filed  
20 within four (4) years after the date the report was due.

21 (b)(1)(A) Upon a complaint stating facts constituting an alleged  
22 violation signed under penalty of perjury by any person, the Arkansas Ethics  
23 Commission shall investigate the alleged violation of this subchapter or § 6-  
24 24-101 et seq.; § 7-1-103(a)(1)-(4), (6), or (7); the Disclosure Act for  
25 Public Initiatives, Referenda, and Measures Referred to Voters, § 7-9-401 et  
26 seq.; § 21-1-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for  
27 Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-601 et  
28 seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-  
29 1001 et seq.; and Arkansas Constitution, Article 19, §§ 28-30.

30 (B) The Arkansas Ethics Commission shall immediately  
31 notify any person under investigation of the investigation and of the nature  
32 of the alleged violation.

33 (C) The Arkansas Ethics Commission in a document shall  
34 advise the complainant and the respondent of the final action taken, together  
35 with the reasons for the action, and such document shall be a public record.

36 (D) Filing of a frivolous complaint shall be a violation

1 of this subchapter. For purposes of this section, "frivolous" means clearly  
2 lacking any basis in fact or law. In any case in which the Arkansas Ethics  
3 Commission has dismissed a complaint, the respondent may request in writing  
4 that the Arkansas Ethics Commission make a finding as to whether or not the  
5 complaint filed was frivolous. In the event that the Arkansas Ethics  
6 Commission finds that the complaint was frivolous, the respondent may file a  
7 complaint seeking sanctions as provided in subdivision (b)(4) of this  
8 section.

9 (2) If, after the investigation, the Arkansas Ethics Commission  
10 finds that probable cause exists for a finding of a violation, the respondent  
11 may request a hearing. The hearing shall be a public hearing.

12 (3)(A) The Arkansas Ethics Commission shall keep a record of its  
13 investigations, inquiries, and proceedings.

14 (B)(i) Except as provided in subdivision (b)(3)(B)(ii) of  
15 this section, all proceedings, records, and transcripts of any investigations  
16 or inquiries shall be kept confidential by the Arkansas Ethics Commission,  
17 unless the respondent requests disclosure of documents relating to  
18 investigation of the case, in case of a hearing under subdivision (b)(2) of  
19 this section, or in case of judicial review of a decision of the Arkansas  
20 Ethics Commission pursuant to § 25-15-212.

21 (ii)(a) Through its members or staff, the  
22 Arkansas Ethics Commission may disclose confidential information to proper  
23 law enforcement officials, agencies, and bodies, or as may be required to  
24 conduct its investigation.

25 (b) If an investigation or inquiry concerns an  
26 attorney or judge, the Arkansas Ethics Commission may, through its members or  
27 staff, disclose confidential information to the Supreme Court Committee on  
28 Professional Conduct or the Judicial Discipline and Disability Commission.

29 (C) Thirty (30) days after any final adjudication in which  
30 the Arkansas Ethics Commission makes a finding of a violation, all records  
31 relevant to the investigation and upon which the Arkansas Ethics Commission  
32 has based its decision, except working papers of the Arkansas Ethics  
33 Commission and its staff, shall be open to public inspection.

34 (4) If the Arkansas Ethics Commission finds a violation of this  
35 subchapter; § 6-24-101 et seq.; § 7-1-103(a)(1)-(4), (6), or (7); § 21-1-401  
36 et seq.; § 21-8-301 et seq.; the Disclosure Act for Lobbyists and State and

1 Local Officials, § 21-8-401 et seq., § 21-8-601 et seq., § 21-8-701 et seq.,  
2 and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-1001 et seq.; or Arkansas  
3 Constitution, Article 19, §§ 28-30, then the Arkansas Ethics Commission shall  
4 do one (1) or more of the following, unless good cause be shown for the  
5 violation:

6 (A) Issue a public letter of caution or warning or  
7 reprimand;

8 (B)(i) Notwithstanding the provisions of §§ 7-6-202, 7-9-  
9 409, 21-8-403, and 21-8-903, impose a fine of not less than fifty dollars  
10 (\$50.00) nor more than three thousand five hundred dollars (\$3,500) for  
11 negligent or intentional violation of this subchapter; § 6-24-101 et seq.;  
12 the Disclosure Act for Public Initiatives, Referenda, and Measures Referred  
13 to Voters, § 7-9-401 et seq.; § 21-8-301 et seq.; the Disclosure Act for  
14 Lobbyists and State and Local Officials, § 21-8-401 et seq., § 21-8-601 et  
15 seq., § 21-8-701 et seq., and § 21-8-801 et seq.; § 21-8-901 et seq.; § 21-8-  
16 1001 et seq.; or Arkansas Constitution, Article 19, §§ 28-30.

17 (ii) The Arkansas Ethics Commission shall adopt rules  
18 governing the imposition of such fines in accordance with the provisions of  
19 the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

20 (iii) All moneys received by the Arkansas Ethics  
21 Commission in payment of fines shall be deposited into the State Treasury as  
22 general revenues;

23 (C) Order the respondent to file or amend a statutorily  
24 required disclosure form; or

25 (D)(i) Report its finding, along with such information and  
26 documents as it deems appropriate, and make recommendations to the proper law  
27 enforcement authorities.

28 (ii) When exercising the authority provided in this  
29 subdivision (b)(4), the Arkansas Ethics Commission is not required to make a  
30 finding of a violation of the laws under its jurisdiction.

31 (5)(A)(i) Except as provided in subdivision (b)(5)(A)(iii) of  
32 this section, the Arkansas Ethics Commission shall complete its investigation  
33 of a complaint filed pursuant to this section and take final action within  
34 two hundred ten (210) days of the filing of the complaint.

35 (ii) Except as provided in subdivision (b)(5)(A)(iii)  
36 of this section, if a hearing under subdivision (b)(2) of this section or

other hearing of adjudication is conducted, all action on the complaint by the Arkansas Ethics Commission shall be completed within two hundred forty (240) days.

(iii) If the Arkansas Ethics Commission requires additional time to complete its investigation under subdivision (b)(5)(A)(i) of this section or to complete its hearing or action under subdivision (b)(5)(A)(ii) of this section and gives written notice to the person who is under investigation or the subject of the hearing or action, the Arkansas Ethics Commission may extend the time to complete the investigation, hearing, or action by no more than sixty (60) days.

(B) However, such time shall be tolled during the pendency of any civil action, civil appeal, or other judicial proceeding involving those particular Arkansas Ethics Commission proceedings.

(c) Any final action of the Arkansas Ethics Commission under this section shall constitute an adjudication for purposes of judicial review under § 25-15-212.

SECTION 11. EFFECTIVE DATE. This act shall be effective on and after May 1, 2024.

APPROVED: 4/13/23