

R477. Human Resource Management, Administration.

R477-9. Employee Conduct.

R477-9-1. Standards of Conduct.

An employee shall comply with the standards of conduct established in these rules and the policies and rules established by agency management.

(1) Employees shall apply themselves to and shall fulfill their assigned duties during the full time for which they are compensated. An employee shall:

- (a) comply with the standards established in the individual performance plans;
- (b) maintain an acceptable level of performance and conduct on any other verbal and written job expectations;
- (c) report conditions and circumstances, including impairment caused by an employee's use of illicit drugs, controlled substances, alcohol, or other intoxicant, that may prevent the employee from performing their job effectively and safely; and
- (d) inform the supervisor of any unclear instructions or procedures.

(2) An employee shall make prudent and frugal use of state funds, equipment, buildings, time, and supplies.

(3) An employee who reports for duty or attempts to perform the duties of the position while under the influence of alcohol or other intoxicant, including use of illicit drugs, non-prescribed controlled substances, and misuse of volatile substances, shall be subject to administrative action in accordance with Section R477-10-2, Rules R477-11, and R477-14.

(4) The agency may decline to defend and indemnify an employee found violating this rule, under Title 63G, Chapter 7, Utah Governmental Immunity Act.

(5) An employee may not drive a state vehicle or any other vehicle, on state time, while under the influence of alcohol or controlled substances.

(a) An employee who violates this rule shall be subject to administrative action under Section R477-10-2, Rules R477-11, and R477-14.

(b) The agency may decline to defend or indemnify an employee who violates this rule, under Subsection 63G-7-202(3)(c)(ii), Utah Governmental Immunity Act.

(6) An employee shall provide the agency with a current personal mailing address.

(a) The employee shall notify the agency in writing of any change in address.

(b) Mail sent to the current address on record shall be deemed to be delivered for purposes of these rules.

R477-9-2. Outside Employment.

(1) An employee shall notify agency management in writing of outside employment. Failure to notify the employer and to gain approval for outside employment is grounds for disciplinary action.

(2) State employment shall be the principal vocation for a full-time employee governed by these rules. An employee may engage in outside employment under the following conditions.

(a) Outside employment may not interfere with an employee's performance.

(b) Outside employment may not conflict with the interests of the agency nor the State of Utah.

(c) Outside employment may not give reason for criticism nor suspicion of conflicting interests or duties.

(3) Agency management may deny an employee permission to engage in outside employment, or to receive payment, if the outside activity is determined to cause a real or potential conflict of interest.

(4) The provisions of this rule do not apply when two or more government positions are held by the same individual, unless the personal interest of the individual is not shared by the general public.

R477-9-3. Conflict of Interest.

(1) An employee may receive honoraria or paid expenses for activities outside of state employment under the following conditions.

(a) Outside activities may not interfere with an employee's performance, the interests of the agency nor the State of Utah.

(b) Outside activities may not give reasons for criticism nor suspicion of conflicting interests or duties.

(2) An employee may not use state time, equipment, property, supplies, or any influence, power, authority, or confidential information received in a state position for private gain.

(3) An employee may not accept economic benefit tantamount to a gift under Section 67-16-5 and the Governor's Executive Order, 1/26/2010, nor accept other compensation that might be intended to influence or reward the employee in the performance of official business.

(4) An employee shall declare a potential conflict of interest when required to do or decide something that could be interpreted as a conflict of interest. Agency management shall then excuse the employee from making decisions or taking actions that may cause a conflict of interest.

R477-9-4. Political Activity.

A state employee may voluntarily participate in political activity, except as restricted by this section or the Hatch Act of 1939, 5 U.S.C. 1501 et seq.

(1) As modified by Section 1502(a)(3), Hatch Modernization Act of 2012, a state employee whose salary is 100% funded by federal loans or grants may be restricted in political activity.

(a) State employees in positions covered by the Hatch Act may run for public office in non-partisan elections, campaign for and hold office in political clubs and organizations, actively campaign for candidates for public office in partisan and non-partisan elections, contribute money to political organizations, and attend political fundraising functions.

(b) State employees in positions covered by the federal Hatch Act may not be candidates for public office in a partisan election, use official authority or influence to interfere with or affect the results of an election or nomination, or directly or indirectly coerce contributions from subordinates in support of a political party or candidate.

(2) Prior to filing for candidacy, a state employee who is considering running for a partisan office shall submit a statement of intent to become a candidate to the agency head.

(a) The agency head shall consult with DHRM.

(b) DHRM shall determine whether the employee's intent to become a candidate is covered under the Hatch Act.

(c) Employees in violation of Subsection R477-9-4(1)(b) may be disciplined up to dismissal.

(3) If a determination is made that the employee's position is covered by the Hatch Act, the employee may not run for a partisan political office.

(4) If it is determined that the employee's position is covered by the Hatch Act, the state shall dismiss the employee if the employee files for candidacy.

(5) Any career service employee elected to any partisan or full-time non-partisan political office shall be granted a leave of absence without pay for times when monetary compensation is received for service in political office.

(6) During work time, no employee may engage in any political activity. No person shall solicit political contributions from employees of the executive branch during hours of employment. However, a state employee may voluntarily contribute to any party or any candidate.

(7) This rule incorporates by reference the Governor's Amended Executive Order of August 4, 2018, regarding communications with legislators by state employees.

(8) Decisions regarding employment, promotion, demotion, dismissal, or any other human resource actions may not be based on partisan political activity.

R477-9-5. Employee Reporting Protections.

Under Section 67-21-3, an agency may not adversely affect the employment conditions of an employee who communicates in good faith, and in accordance with statute:

- (1) the waste or misuse of public property, manpower, or funds;
- (2) gross mismanagement;
- (3) unethical conduct;
- (4) abuse of authority; or
- (5) violation of law, rule, or regulations.

R477-9-6. Employee Indebtedness to the State.

(1) An employee indebted to the state because of an action or performance in official duties may have a portion of salary that exceeds the minimum federal wage withheld. Overtime salary may not be withheld.

(a) The following three conditions shall be met before withholding of salary may occur.

(i) The debt shall be a legitimately owed amount which can be validated through physical documentation or other evidence.

(ii) The employee shall know about and, in most cases, acknowledge the debt. As much as possible, the employee should provide written authorization to withhold the salary.

(iii) An employee shall be notified of this rule which allows the state to withhold salary.

(b) An employee separating from state service will have salary withheld from the last paycheck.

(c) An employee going on leave without pay for more than two pay periods may have salary withheld from their last paycheck.

(d) The state may withhold an employee's salary to satisfy the following specific obligations:

(i) travel advances where travel and reimbursement for the travel has already occurred;

(ii) state credit card obligations where the state's share of the obligation has been reimbursed to the employee but not paid to the credit card company by the employee;

(iii) evidence that the employee negligently caused loss or damage of state property;

(iv) payroll advance obligations that are signed by the employee and that the Division of Finance authorizes;

(v) misappropriation of state assets for unauthorized personal use or for personal financial gain, including reparation for employee theft of state property or use of state property for personal financial gain or benefit;

(vi) overpayment of salary determined by evidence that an employee did not work the hours for which they received salary or was not eligible for the benefits received and paid for by the state;

(vii) excessive reimbursement of funds from flexible reimbursement accounts; and

(viii) other obligations that satisfy the requirements of Subsection R477-9-5(1).

(2) This rule does not apply to state employee obligations to other state agencies where the obligation was not caused by their actions or performance as an employee.

R477-9-7. Acceptable Use of Information Technology Resources.

Information technology resources are provided to a state employee to assist in the performance of assigned tasks and in the efficient day to day operations of state government.

(1) An employee shall use assigned information technology resources in compliance with Rule R895-7, Acceptable Use of Information Technology Resources.

(2) An employee who violates the Acceptable Use of Information Technology Resources policy may be disciplined under Rule R477-11.

R477-9-8. Personal Blogs and Social Media Sites.

(1) An employee who participates in blogs and social networking sites for personal purposes may not:

(a) claim to represent the position of the State of Utah or an agency;

(b) post the seal of the State of Utah, or trademark or logo of an agency;

(c) post protected or confidential information, including copyrighted information, confidential information received from agency customers, or agency issued documents without permission from the agency head; or

(d) unlawfully discriminate against, harass, or otherwise threaten a state employee or a person doing business with the State of Utah.

(2) An agency may establish policy to supplement this section.

(3) An employee may be disciplined according to Rule R477-11 for violations of this section or agency policy.

KEY: conflict of interest, government ethics, Hatch Act, personnel management

Date of Enactment or Last Substantive Amendment: July 1, 2020

Notice of Continuation: April 27, 2017

Authorizing, and Implemented or Interpreted Law: 63G-7-2; 67-19-6; 67-19-19; 5 U.S.C. 1502(a)(3); Utah Exec Order No. 2018-1