

ARTICLE 5. INDIANA STATE FAIR COMMISSION CODE OF ETHICS

Rule 1. Name

80 IAC 5-1-1 Name

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. The name of this article shall be the Indiana State Fair Commission Code of Ethics for the Conduct of Commission Business. (*State Fair Commission; 80 IAC 5-1-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 457; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 2. Purpose

80 IAC 5-2-1 Purpose

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. The purpose of this article is to set ethical standards for the official conduct of the officers and employees of the state fair commission, so that the general public and the governor will have confidence that their performance in office is always conducive to the public good. This article should promote the principle that commission office is a public trust. The business of the commission should be conducted in such a manner as to reassure the citizens and governor of Indiana that the character and conduct of its officials and employees are above reproach. (*State Fair Commission; 80 IAC 5-2-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 457; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 3. Definitions

80 IAC 5-3-1 Applicability

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. (a) The definitions in this rule apply throughout this article.

(b) The masculine gender includes the masculine and feminine. The singular form of any noun includes the plural wherever appropriate. (*State Fair Commission; 80 IAC 5-3-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 457; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-2 "Breach of privilege" defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 2. "Breach of privilege" means the private use or dissemination by a commission officer or employee of the commission of information of a confidential nature which results in an economic benefit for such commission officer or employee or for another person or entity to whom the information is revealed. (*State Fair Commission; 80 IAC 5-3-2; filed Nov 27, 1991, 2:00 p.m.: 15 IR 457; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-3 "Commission" defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 3. "Commission" means the state fair commission. (*State Fair Commission; 80 IAC 5-3-3; filed Nov 27, 1991, 2:00 p.m.: 15 IR 457; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-4 “Commission employee” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 4. “Commission employee” means any person, other than a commission officer, who receives compensation from the state fair commission and who is a member of or employed in any department, division, office, executive or administrative branch of the commission (including all those persons who contract for their personal or professional services). (*State Fair Commission; 80 IAC 5-3-4; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-5 “Commission officer” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 5. “Commission officer” means the appointed members of the commission and its executive director. (*State Fair Commission; 80 IAC 5-3-5; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-6 “Compensation” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 6. “Compensation” means any money, thing of value, economic benefit, or fee conferred on, or received by, any person in return for services rendered, or for services to be rendered, whether by that person or another. (*State Fair Commission; 80 IAC 5-3-6; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-7 “Conflict of interest” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 7. “Conflict of interest” means a situation in which a commission officer's or employee's private interest, usually of a financial or economic nature, may influence his judgment in the performance of his public duty. (*State Fair Commission; 80 IAC 5-3-7; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-8 “Doing business” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 8. “Doing business” means engaging in an activity:

- (1) for profit;
- (2) for gain; or
- (3) that requires a license or permit by the commission.

(*State Fair Commission; 80 IAC 5-3-8; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-9 “Economic interest” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 9. “Economic interest” means a person's substantial financial interest in investments, employment, awarding of contracts, grants, loans, purchases, leases, sales, or similar matters under consideration or consummated between the commission over which the person has jurisdiction or in which the person is employed. (*State Fair Commission; 80 IAC 5-3-9; filed Nov 27, 1991, 2:00*

p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)

80 IAC 5-3-10 “Employer” defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 10. “Employer” means the *[sic.]* any person from whom the commission officer or the officer's spouse received more than thirty-three percent (33%) of the officer's noncommission income. *(State Fair Commission; 80 IAC 5-3-10; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

80 IAC 5-3-11 “Ethics” defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 11. “Ethics” means the principles of conduct governing an individual or group. *(State Fair Commission; 80 IAC 5-3-11; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

80 IAC 5-3-12 “Honorarium” defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 12. “Honorarium” means a fee received for speeches, written articles, and participation in discussion groups and similar activities, but does not include reimbursement for expenses. *(State Fair Commission; 80 IAC 5-3-12; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

80 IAC 5-3-13 “Information of a confidential nature” defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 13. “Information of a confidential nature” means information obtained by reason of the position or office held and which information has not been, or will not be, communicated to the general public. *(State Fair Commission; 80 IAC 5-3-13; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

80 IAC 5-3-14 “Misconduct in office” defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 14. “Misconduct in office” means a breach of a commission officer's or employee's public duties or responsibilities. *(State Fair Commission; 80 IAC 5-3-14; filed Nov 27, 1991, 2:00 p.m.: 15 IR 458; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

80 IAC 5-3-15 “Official duty” or “public duty” defined

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 15. “Official duty” or “public duty” means those duties that are attached to a commission office or employment by the Constitution, statutes, executive order, promulgated rules and regulations, commission policies or procedures, published job description, or commission directive. *(State Fair Commission; 80 IAC 5-3-15; filed Nov 27, 1991, 2:00 p.m.: 15 IR 459; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

80 IAC 5-3-16 “Person” or “entity” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 16. “Person” or “entity” means any individual proprietorship, partnership, unincorporated associations, trust, business trust, group or corporation, whether or not operated for profit, or a governmental agency or political subdivision. (*State Fair Commission; 80 IAC 5-3-16; filed Nov 27, 1991, 2:00 p.m.: 15 IR 459; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

80 IAC 5-3-17 “Privileged information” defined

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 17. “Privileged information” means information obtained by reason of the position or office held that should not be communicated to the general public. (*State Fair Commission; 80 IAC 5-3-17; filed Nov 27, 1991, 2:00 p.m.: 15 IR 459; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 4. Policy Statement

80 IAC 5-4-1 Scope

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 1. (a) In determining standards for the official conduct of the officers and employees of the commission, the following statements formed its foundation:

- (1) Commission officers and employees must be impartial in the discharge of their duties.
- (2) Decisions and policy must not be made outside of the proper of the commission.
- (3) The commission office must not be used for private gains.
- (4) Public confidence in the integrity of the commission is essential to the exercise of good government.

In addressing any ethical question, the commission will consider this article, the law creating the state fair commission and the Indiana state fair committee, and other relevant laws and regulations [*sic., rules*] such as the nepotism law, the criminal conflict of interest law, etc.

(b) This article is not meant to unduly restrict or limit the behavior of the officers and employees of the commission during the time when they are not on duty. Each commission officer and employee retains his lawful rights and privileges as a private citizen to interests of a personal or private economic nature. These rights and privileges will be honored by the commission to the extent that they are compatible with an individual's office or employment; provided, however, that no actions, transactions, or involvements shall be performed or engaged in by an officer or employee which might serve to raise the questions of possible “conflict of interest” in the minds of the general public.

(c) Violations of this article may result in penalties ranging from censure to recommendations of dismissal dependent upon the offense. (*State Fair Commission; 80 IAC 5-4-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 459; errata, 15 IR 1024; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 5. Acceptable Gifts, Favors, Services, Entertainment, Food, Drink, and Honoraria

80 IAC 5-5-1 Acceptance of gifts, favors, services, entertainment, food, drink, and honoraria

Authority: IC 15-1.5-2-8
Affected: IC 15-1.5-2

Sec. 1. (a) No commission employee, or the spouse or unemancipated child of a commission employee, may solicit, accept, or receive, directly or indirectly, any gift, favor, service, entertainment, food, or drink under circumstances in which it can reasonably be inferred that the gift would influence the employee to give special consideration to an action by such employee in his official

capacity.

(b) This section shall not prohibit political contributions which are reported in accordance with applicable law. In addition, this section shall not prohibit contributions which are accepted by the commission in accordance with applicable law.

(c) Gifts, favors, services, entertainment, food, or drink that exceed an aggregate value in excess of one hundred dollars (\$100) received by an employee or officer in a calendar year from a person desiring to do business or who is doing business with the commission shall be disclosed to the state fair commission on February 1 of the following year.

(d) No commission officer or employee shall accept gifts, favors, services, entertainment, food, or drink that exceed [*sic.*, *exceeds*] an aggregate value of two hundred fifty dollars (\$250) in any calendar year from a person desiring to do business or is doing business with the commission in which the officer or employee holds an office or position. This limit can be waived by the commission for a legitimate public purpose. The following shall not be considered a gift, favor, service, entertainment, food, or drink:

(1) Food or drink consumed by an officer or employee during the conduct of official public business or while attending public ceremonies.

(2) Mementos or souvenirs of nominal value received at public ceremonies or commemorating official business.

(3) Invitations or tickets to political fundraising events or public charitable benefits when used by an employee, officer, or member of his immediate family.

(4) Food or drink consumed by an officer or employee in connection with his official duties if consumed at a reception or gathering for public officials.

(5) Food or drink consumed by an officer or employee or other reasonable courtesies extended to an officer or employee during negotiations or other activities related to an economic development project.

(6) Invitations or tickets to events that are acquired as complimentary or as a result of contractual agreements for the rental, leasing, or facilitating of events that are held or conducted in or on property of the commission. Extreme care shall be taken to ensure that such acquisition of invitations or tickets to such events does not constitute required elements, terms, or conditions of any contractual agreements and solely represents gestures of "good will". Invitations or tickets acquired by this method:

(A) shall be presented to the executive director or commission officer as a block;

(B) shall not be individually designated as to recipient;

(C) shall be disbursed by the executive director or commission officer as they deem appropriate.

(e) If an honorarium is offered to a commission officer or employee as payment for a speech or article, whose content is derived from that officer's or employee's commission position, the honorarium is considered as payment for the performance of commission duties and is not to be accepted. If an honorarium is offered to the commission officer or employee as payment for a speech or article, whose content is based solely upon the employee's personal knowledge or expertise, the commission officer or employee may accept it.

(f) An intentional violation of subsections (a), (b), or (c) will result in a recommended sanction by the commission of dismissal or suspension of the commission officer or employee unless there are mitigating or extenuating circumstances. (*State Fair Commission; 80 IAC 5-5-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 459; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 6. Appearances, Activities, Expenses

80 IAC 5-6-1 Guidelines for activities and expenses

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. (a) There are many coincidental activities which a commission officer or employee may or may not perform or participate in which frequently are invitational in nature. Such activities include, but are not limited to, personal appearances [*sic.*], speeches, publications, and participation in conferences, conventions, seminars, and public meetings. Such activities enhance the accessibility by the public to commission officers and employees and are therefore to be encouraged if compatible with the performance of one's official duties.

(b) However, commission officers and employees should exercise due care that such occasions or events are of a nature and in a setting that may not be reasonably construed by the public as improper.

(c) Commission employees should first utilize the normal commission policy and procedures concerning travel expense and allowance provisions when attending events concerning commission business. However, there may be instances where commission employees may be considered in compliance with the letter and spirit of this article even if expenses are directly assumed by a sponsor. The commission may review such event for any improprieties. Each case shall be evaluated on its individual merits.

(d) Amounts assumed by a sponsor for a commission officer or employee for reasonable expenses in attendance at a sponsored activity shall not be deemed as compensation, a gift, or a gratuity.

(e) If a sponsor is desirous of reimbursing the commission for any part or all of the expenses incurred by the commission on behalf of the commission's officer, employee, or their official representatives, such sponsor should remit to the controller of the state fair commission any such amounts. The controller of the state fair commission shall quietus such funds into the general operating fund of the commission. Reports of such quietus shall be brought to the attention of the commission and its executive director as a matter of public record. (*State Fair Commission; 80 IAC 5-6-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 460; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 7. Moonlighting

80 IAC 5-7-1 Moonlighting

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. A commission employee must not engage in outside employment or other outside activity not compatible with the full and proper discharge of his commission duties and responsibilities. This outside employment or other outside activity must not impair his independence [*sic.*] of judgment as to his official responsibilities, pose a likelihood of conflict of interest, pose a threat of unsafe activities or conditions due to inordinate or excessive fatigue, or require him or persuade him to disclose confidential information acquired by him as a result of his official duties. (*State Fair Commission; 80 IAC 5-7-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 461; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 8. Conflicts of Interest; Prohibitions

80 IAC 5-8-1 Conflicts of interest

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. (a) If, in the course of the discharge of his official duties as a commission officer or employee, he shall find himself in a position where his, or his spouse's, or his unemancipated children's economic interest shall be substantial and material and in conflict with the interest of the people of this state, then such commission officer or employee shall be expected to resolve such conflicts as provided under 80 IAC 5-9.

(b) No commission officer or employee shall solicit or accept compensation other than that provided for by law for such office or employment for the performance of his official duties.

(c) No commission officer or employee, other than in performing his duties in making payments to other state officers or employees as provided by law, shall pay or offer to pay any commission officer or employee any compensation for the performance of his official duties.

(d) No commission officer or employee shall benefit from, or permit any other person to benefit from, information of a confidential nature.

(e) No commission officer or employee, in his personal dealings, shall receive compensation or economic benefit from the sale or lease of any property or service which exceeds that which the commission officer or employee would charge or receive in the ordinary course of business.

(f) No commission officer or employee shall participate in any decision or vote of any kind in which he, his spouse, or his unemancipated children have an economic interest.

(g) No commission officer or employee shall engage in work other than the performance of official duties during working hours, except as permitted by other commission policies or procedures.

(h) No commission officer or employee shall divulge privileged information, or information of a confidential nature, except as permitted by law. (*State Fair Commission; 80 IAC 5-8-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 461; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 9. Report of Possible Conflicts; Advice

80 IAC 5-9-1 Action to avoid possible conflicts

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. (a) If any commission officer, department head, or employee who, in the discharge of his official duties, may be required, or is required, to take action which may be prohibited by this article, or which action may result in a conflict of interest, such commission officer or employee:

(1) shall not take such action; and

(2) shall prepare a written statement describing the matter requiring action or decision and the nature of the possible conflict of interest with respect to such action or decision and forward it in the following manner:

(A) A commission officer shall file such statement directly with the chairman of the state fair commission with an informational copy to be filed with the Indiana state ethics commission.

(B) A department head shall file one (1) copy of such statement directly to the executive director and an informational copy to be filed with the chairman of the state fair commission.

(C) A commission employee, other than a department head, shall file such statement with his department head and one (1) informational copy will be filed with the executive director. The department head will, where possible, immediately take appropriate action to resolve the possible conflict of interest and report such action in writing to the employee and the executive director within thirty (30) days. In the event that the department head is unable to resolve such conflict, the department head shall request advice from the executive director. In the event that the executive director and the department head are unable to resolve the conflict, all pertinent documents shall be referred to the chairman of the state fair commission.

(b) The executive director, on behalf of the chairman of the state fair commission, may seek advice and counsel regarding an unresolved conflict of interest from the Indiana state ethics commission.

(c) Any commission officer or employee on his own motion or at the request of an employee may request an advisory opinion from the executive director on the application of this article to a given set of circumstances, real or probable. The executive director may seek advice and counsel from the chairman of the commission or from the Indiana state ethics commission, as appropriate.

(d) It shall be prima facie evidence of the intent to comply with this article when a commission officer, department head, or employee refers a matter as provided herein, and such commission officer, department head, or employee thereafter abides by the decision or written advice thereby obtained unless material facts were omitted or misstated in the written statement. (*State Fair Commission; 80 IAC 5-9-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 461; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528*)

Rule 10. Violations, Complaints, and Investigations

80 IAC 5-10-1 Violations, complaints, and investigations

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. The commission may, upon a majority vote of the members serving upon the commission, or upon the written request of the executive director, do the following:

(1) Initiate and conduct an investigation.

(2) Receive and hear any complaint which alleges a breach of any privilege, misconduct of any commission officer or employee, or any violations of the code of ethics and to take action as appropriate to the findings of the investigation.

(3) Instruct the executive director to take the necessary action deemed appropriate by the commission.

(*State Fair Commission; 80 IAC 5-10-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 462; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR*)

528)

Rule 11. Compliance of Executive Director

80 IAC 5-11-1 Reporting

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. Whenever the executive director receives a report from the commission in accordance with 80 IAC 5-10, he shall report to the commission the action taken in response to the report. The commission may require in the report that the executive director submit the response required by this section in a reasonable, specified amount of time. *(State Fair Commission; 80 IAC 5-11-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 462; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

Rule 12. Statements of Economic Interest

80 IAC 5-12-1 Filing of statements

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. Before February 1 of each year, the members of the commission and the executive director must file a statement of economic interest made under affirmation with the chairman of the commission with an information copy submitted to the Indiana state ethics commission. A person who knowingly or intentionally fails to file a statement required by rule or this section or files a false statement may be subject to appropriate actions of the state fair commission. *(State Fair Commission; 80 IAC 5-12-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 462; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

Rule 13. Severability

80 IAC 5-13-1 Severability

Authority: IC 15-1.5-2-8

Affected: IC 15-1.5-2

Sec. 1. If any provisions of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable. *(State Fair Commission; 80 IAC 5-13-1; filed Nov 27, 1991, 2:00 p.m.: 15 IR 462; readopted filed Sep 11, 2001, 2:45 p.m.: 25 IR 528)*

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