

60L-36.001 Scope and Purpose.

This chapter sets forth the rules governing the conduct of employees in the State Personnel System.

Specific Authority 110.1055, 110.1221, 110.201(1), 110.227(2), 110.233, 110.403(1), 110.403(5), 110.605(1), 110.605(4) FS. Law Implemented 110.1221, 110.201, 110.227, 110.403, 110.605 FS. History—New 1-1-02.

60L-36.002 Political Activities.

(1) Section 110.233(4)(a), F.S., prohibits a career service employee from holding, or being a candidate for, public office while in the employment of the state or taking any active part in a political campaign while on duty or within the period of time during which the employee is expected to perform services for which he or she receives compensation from the state. However, a career service employee may be a candidate for or hold local public office when authorized by the agency head and approved by the Department as involving no interest which conflicts or activity which interferes with his or her state employment. The following procedures shall apply to requests for that authorization and approval.

(a) An employee seeking authorization shall submit to the employing agency head a written request before engaging in any campaign related activity, including fundraising, and at least forty-five days before the deadline for qualifying for the office. The request shall identify the public office sought and summarize the duties, the hours of work involved in holding the office, what effects, if any, office or campaign duties will have on the employee's regular duties with the State, and the amount of remuneration, if any, which the employee would receive if elected.

(b) Within ten days after receiving the request, the agency head shall decide in writing whether the request is authorized. The decision shall specify reasons and shall include a determination whether the candidacy or duties of the local public office involve an interest that conflicts or an activity that interferes with the employee's state employment. If the agency head approves the request, the agency shall forward copies of the request and the decision to the Department.

(c) Within ten days after receiving the request and agency decision, the Department shall decide in writing whether the request is approved, and so advise the agency and the employee.

(d) Copies of the employee's request, the agency head's decision, and the Department's decision shall be retained in the employee's personnel file.

(2) Candidacy for or holding a local public office shall be presumed to involve an interest that conflicts with an employee's state employment when the campaign or the office, if elected, is likely to give rise to a situation in which regard for a private or local interest tends to lead to a disregard of the employee's duty as a state employee.

(3) Candidacy for or holding local public office shall be presumed to involve activities that interfere with an employee's state employment in the following instances:

(a) Campaign or, if elected, office activities are performed during the employee's assigned working hours with the state.

(b) Campaign or, if elected, office activities will involve the use of state space, personnel, time, equipment, or supplies.

(c) The employee solicits or accepts campaign contributions from persons or entities that are regulated by, or otherwise do business with, the employee's department or agency.

(4) Employees whose positions are subject to the Federal Hatch Act may not become candidates in any partisan election. Each agency head shall determine which of that agency's employees are subject to the Hatch Act.

(5) An employee who has been granted approval to become a candidate for local public office pursuant to this Rule 60L-36.002, F.A.C., may, at the discretion of the employee's agency head in accordance with Chapter 60L-34, F.A.C., Attendance and Leave, be granted a leave of absence without pay to campaign for the office, or may be allowed to use accrued annual or compensatory leave credits.

(6) This Rule 60L-36.002, F.A.C., shall apply when an employee already holds a local public office at the time of employment in the career service, or when the employee seeks re-election to the same office while an employee in the career service. This Rule 60L-36.002, F.A.C., applies to appointments as well as elections.

Rulemaking Authority 110.1055, 110.201(1), 110.233(4)(a) FS. Law Implemented 110.233(4)(a) FS. History—New 1-22-02, Amended 5-16-04, 4-17-12.

60L-36.003 Relationships with Regulated Entities.

(1) Relationships between employees and regulated entities give rise to the potential for conflicts of interest. To ensure that agencies can monitor such relationships and avoid such conflicts, all employees exercising regulatory responsibility shall comply with this Rule 60L-36.003, F.A.C. An employee exercises regulatory responsibility if the employee has direct responsibility for any of the following:

(a) Determining an entity's compliance with federal, state, or local statutes or regulations.

(b) Determining or recommending whether the agency should issue, revoke, cancel or suspend an entity's license or other certificate of authority.

(c) Approving transactions between the agency and an entity.

(d) Custody, supervision, care, or treatment of prisoners, inmates, patients, clients, or other persons committed to a state institution.

(2) If an employee holds himself or herself out, verbally or in writing, as available for employment by, or for a contractual relationship with, a regulated entity, or if the employee receives, verbally or in writing, an offer from a regulated entity for employment or for a contractual relationship, the employee shall notify the agency in writing within five days.

(3) If an employee receives from a regulated entity, on his or her own behalf or on behalf of another, a gift the value of which is \$25 or more, the employee shall notify the agency in writing within five days. No employee shall accept any gift based upon an understanding that the official acts or judgment of the employee will be influenced thereby.

(4) If an employee obtains a financial interest in a regulated entity, the employee shall notify the agency in writing within five days.

Specific Authority 110.1055, 110.201(1), 110.233(6), 110.403(5), 110.605(4) FS. Law Implemented 110.233(6), 110.403(5), 110.605(4) FS. History—New 1-1-02.

60L-36.004 Sexual Harassment.

(1) Agencies shall not tolerate sexual harassment within the work force. Sexual harassment means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature from any person directed towards or in the presence of an employee or applicant when:

(a) Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment;

(b) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

(2) Agencies shall make known to their employees that sexual harassment will not be tolerated. Each agency shall make available to employees a copy of this Rule 60L-36.004, F.A.C., and a copy of the agency's procedures for investigating and resolving complaints of sexual harassment. Each employee shall acknowledge understanding and acceptance of this rule and the agency procedure, and documented evidence of the acknowledgement shall be retained in the employee's personnel file.

(3) Agencies shall develop and implement procedures to investigate and resolve complaints of sexual harassment. Agencies shall designate a person or persons to receive complaints of sexual harassment. Complaints shall be reduced to writing, signed by the complainant, and contain at least the following information:

(a) The name, business address, and telephone number of the person filing the complaint;

(b) The name of the person who allegedly committed the act of sexual harassment and the alleged victim; and

(c) A clear and concise statement of the facts, including pertinent dates, locations, witnesses and other evidence in support of the complaint.

If the complaint does not contain all of this information, the agency shall, in writing, request the complainant to furnish it.

(4) Agencies shall initiate prompt review of all complaints. Agencies shall take steps to protect the privacy of those involved during the review and any related investigation.

(5) During an investigation of sexual harassment, agencies shall fully comply with investigatory procedures and rights contained in collective bargaining agreements between the State and the certified bargaining representatives for State employees. If the standard agency procedure conflicts with the collective bargaining agreement, the latter shall prevail.

(6) The filing of a complaint pursuant to agency procedure, regardless of disposition, shall not preclude the complainant from also filing a complaint with the Florida Commission on Human Relations (FCHR) or the Federal Equal Employment Opportunity Commission (EEOC). If the complainant files a complaint with either the FCHR or the EEOC, and the agency undertakes an investigation to provide information to those entities, the agency need not also conduct the investigation otherwise required by its own procedures; however, an employee who has committed sexual harassment shall be disciplined regardless of the type of investigation.

(7) Agencies shall discipline any employee who engages in sexual harassment, according to the agency's policy.

(8) Any supervisory or managerial employee who has knowledge of sexual harassment shall immediately report the matter directly to the person the agency has designated to receive complaints of sexual harassment. Failure to do so shall subject the employee to disciplinary action.

(9) Any employee who knowingly files a false complaint of sexual harassment against another employee shall be subject to disciplinary action.

(10) Agencies shall not tolerate retaliation against any person who has in good faith filed a complaint, opposed a complaint, or participated in any manner in an investigation or proceeding, involving allegations of sexual harassment.

Specific Authority 110.1055, 110.1221, 110.201(1) FS. Law Implemented 110.1221 FS. History--New 1-22-02.

60L-36.005 Disciplinary Standards.

(1) This rule sets forth the minimal standards of conduct that apply to all employees in the State Personnel System, violation of which may result in dismissal.

(2) Agencies within the State Personnel System perform a vast array of functions and deliver a wide variety of services. Some employees perform routine tasks in a safe office environment, while others engage in unpredictable life-threatening situations under the most demanding circumstances. Breach of a particular standard in one context might be less serious, while in another it might result in the loss of life or property. Accordingly, each agency shall have primary authority and responsibility for managing the conduct of its employees. If an agency deems it necessary to discipline an employee for violation of this rule, the agency may impose any discipline up to and including dismissal, taking into account the agency's unique mission and the individual facts and circumstances.

(3) Employees outside the permanent career service may be dismissed at will. Permanent career service employees may be suspended or dismissed only for cause, which shall include, but not be limited to, the following. Examples under the categories listed below are not exhaustive.

(a) Poor performance. Employees shall strive to perform at the highest level of efficiency and effectiveness; they shall do more than "just get by."

1. Employees are expected to be reliable and dependable, for example: to show up for work, ready to work, on a reliable basis; to observe established work hours and scheduled appointments; to complete work on time; and to obtain permission before being off work and to schedule leave in a manner that minimizes work disruption.

2. Employees are expected to be effective, for example: to organize their work; to stay focused on job related activities during work hours; to provide the level of effort necessary to get the job done; to demonstrate willingness and ability to make decisions and exercise sound judgment; to produce work that consistently meets or exceeds expectations; to accept responsibility for their actions and decisions; to adapt to changes in work assignments, procedures, and technology; and to be committed to improving individual performance.

(b) Negligence. Employees shall exercise due care and reasonable diligence in the performance of job duties.

(c) Inefficiency or inability to perform assigned duties. Employees shall, at a minimum, be able to perform duties in a competent and adequate manner.

(d) Insubordination. Employees shall follow lawful orders and carry out the directives of persons with duly delegated authority. Employees shall resolve any differences with management in a constructive manner.

(e) Violation of law or agency rules. Employees shall abide by the law and applicable rules and policies and procedures, including those of the employing agency and the rules of the State Personnel System. All employees are subject to Part III of Chapter 112, Florida Statutes, governing standards of conduct, which agencies shall make available to employees. An agency may determine that an employee has violated the law even if the violation has not resulted in arrest or conviction. Employees shall abide by both the criminal law, for example, drug laws, and the civil law, for example, laws prohibiting sexual harassment and employment discrimination.

(f) Conduct unbecoming a public employee. Employees shall conduct themselves, on and off the job, in a manner that will not bring discredit or embarrassment to the state.

1. Employees shall be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers.

2. Employees shall maintain high standards of honesty, integrity, and impartiality. Employees shall place the interests of the public ahead of personal interests. Employees shall not use, or attempt to use, their official position for personal gain or confidential information for personal advantage.

3. Employees shall protect state property from loss or abuse, and they shall use state property, equipment and personnel only in a manner beneficial to the agency.

(g) Misconduct. Employees shall refrain from conduct which, though not illegal or inappropriate for a state employee generally, is inappropriate for a person in the employee's particular position. For example, cowardice may be dishonorable in people generally, but it may be entirely unacceptable in law enforcement officers. By way of further example, people are generally free to relate with others, but it may be entirely unacceptable for certain employees to enter into certain relations with others, such as correctional officers with inmates.

(h) Habitual drug use. Agencies shall not tolerate violations of Florida's Drug Free Workplace Act, Section 112.0455, F.S., or other misuse of mood- or mind-altering substances, including alcohol and prescription medications.

(i) Conviction of any crime, including a plea of nolo contendere and a plea of guilty with adjudication withheld.

(4) Agencies are responsible for identifying instances of unacceptable behavior and for taking appropriate action. Before taking corrective action, an agency shall have evidence that the employee failed to comply with a standard or expectation.

(5) Agencies shall make known to permanent career service employees the procedures specified in Section 110.227, F.S. Section 110.227(5)(a), F.S., establishes procedures for suspension, reduction in pay, demotion, involuntary transfer of more than 50 miles by highway, or dismissal of permanent career service employees. An agency taking such action shall, in addition to furnishing notice of intent to take such action, furnish the employee with written notice of final action. The written notice of final action shall advise the employee of appeal rights under Section 110.227(5)(a), F.S., under any applicable collective bargaining agreements, and under any other applicable statutory provisions, such as Parts VI or VIII of Chapter 112, F.S. The deadline for appeal established in Section 110.227(5)(a), F.S., shall be measured from the date the employee receives the written notice of final action.

Rulemaking Authority 110.1055, 110.1221, 110.201(1), 110.227(2), 110.233, 110.403(1), 110.403(5), 110.605(1), 110.605(4) FS. Law Implemented 110.1221, 110.201, 110.227, 110.403, 110.605 FS. History—New 1-22-02, Amended 4-17-12.