



ATTORNEY GENERAL
LESLIE RUTLEDGE

ARKANSASAG.GOV

BOARD MEMBER HANDBOOK

Revised January 2020

PREFACE

By law, the Attorney General of Arkansas is required to provide legal counsel to state agencies. The State Agencies Department in the Attorney General's Office is staffed by attorneys who devote their time to representing various boards, agencies, and commissions. The goal of the State Agencies Department is to provide consistent, top-quality legal counsel and representation to the agencies, boards, and commissions of the State.

We have compiled this handbook for state agencies so that our clients have easy access to current information and better representation. Our purpose is to keep you better informed about the general operations of state agencies, the duties of your board and commission members, the obligations you have under the Freedom of Information Act and the Administrative Procedure Act, and your relationship with the Assistant Attorney General assigned to represent your agency. This handbook is not intended as a substitute for legal advice, but it will explain the fundamental principles of laws affecting state agencies.

Another goal of this handbook is to help make the operations of the various boards, agencies, and commissions more uniform. Of course, each of our clients is different and has its own unique needs and functions. However, adopting similar general policies and procedures gives both state employees and the general public a better grasp of how state government works. A common objective of all state entities is to make government more accessible to our constituents. I hope that this handbook furthers that aim.

I trust that you will find this handbook informative and useful. My staff and I look forward to a continued mutually satisfying attorney-client relationship as we try to assist you with any legal matters that arise.

Leslie Rutledge

Attorney General

TABLE OF CONTENTS

PREFACE..... i

TABLE OF CONTENTS..... ii

I. THE ROLE OF THE ATTORNEY GENERAL IN ADVISING AGENCIES, BOARDS, AND COMMISSIONS1

II. THE ROLE OF ADMINISTRATIVE AGENCIES IN GOVERNMENT3

III. GENERAL ROLES AND RESPONSIBILITIES OF LICENSING BOARDS4

IV. ARKANSAS FREEDOM OF INFORMATION ACT.....5

 A. Introduction.....5

 B. Open Meetings5

 a. Notice.....7

 b. Executive Session8

 C. Public Records9

 D. Penalties and Enforcement.....16

 E. Retention of Public Records17

V. COMPOSITION OF BOARDS AND CONDUCTING MEETINGS.....18

 A. Enabling Statutes and Appointment of Members18

 B. Officers18

 C. Rules of Procedure18

 D. Quorum and Voting19

VI. CONDUCT AND COMPENSATION OF BOARD MEMBERS19

 A. Attendance, Per Diem, and Reimbursement19

 B. Ethics and Gifts.....20

C. Criminal Offenses	21
D. Conflicts of Interest.....	22
E. Confidentiality	24
F. Nepotism.....	24
G. Computing Degree of Relationship	24
H. Financial Disclosure Forms	26
I. Penalty.....	27
VII. LIABILITY/IMMUNITY OF BOARDS AND MEMBERS.....	27
A. General Principles.....	27
B. Tort Claims	28
C. § 1983 Actions	28
D. Defamation.....	29
VIII. DUE PROCESS REQUIREMENTS—GENERALLY	30
IX. LICENSURE PROCEEDINGS.....	31
X. DISCIPLINARY INVESTIGATIONS	33
A. Complaints	33
B. Procedure after Complaint Receipt.....	33
C. Complaint Committee.....	34
D. Investigation of a Complaint.....	35
E. Disposition of a Complaint	35
F. Form Letters.....	36
XI. HEARINGS	36
A. Definitions and Applicability of Administrative Procedure Act	36

B. General Procedure.....	37
XII. JUDICIAL REVIEW	43
A. Generally.....	43
B. Stay of Enforcement of Agency Decision	43
C. The Record on Judicial Review	43
D. Presentation of Additional Evidence on Judicial Review.....	44
E. Reversal or Modification of Agency Decision	44
XIII. ADOPTING RULES.....	45
A. Purpose of Rules	45
B. General Process.....	45
C. Drafting and Adopting the Rule.....	46
D. Filing Final Rule	50
XIV. EMPLOYMENT ISSUES	51
A. Employees.....	51
B. State Employees Grievance Appeals Panel	52
C. Background Checks	52
D. Drug Testing	52
E. Whistle Blowers.....	52
F. Legal Counsel	53

I. THE ROLE OF THE ATTORNEY GENERAL IN ADVISING AGENCIES, BOARDS, AND COMMISSIONS

The Office of the Attorney General has designated attorneys (“Agency Attorneys”) in the State Agencies Department who provide direct legal counsel to many of Arkansas’s state agencies, boards, commissions, and institutions (collectively, “state entities”) on a regular basis. Agency Attorneys attend regular and special meetings of the various state entities, and they respond to numerous calls and correspondence each day. State entities request formal and informal advice on a wide range of legal issues, including the legal issues involved in their particular area of state government, as well as on employment matters and employee rights. The Agencies Attorneys also advise on compliance with applicable laws, such as the Freedom of Information Act (“FOIA”) and the Administrative Procedure Act (“APA”). Accordingly, each Agency Attorney must be very familiar with the laws governing a particular state entity and the issues frequently encountered in the normal course of its business.

Agency Attorneys also serve in a prosecutorial role by presenting complaints against licensed and regulated professionals in disciplinary hearings conducted pursuant to the APA before the various regulatory boards and commissions. Agency Attorneys handle the appeals of board and commission decisions to circuit courts throughout the state. As needed, Agency Attorneys also provide legal guidance on matters pending before the State Employee Grievance Appeal Panel (“SEGAP”), Claims Commission, and the Equal Employment Opportunity Commission.

Agencies Attorneys represented clients in 159 administrative hearings in 2018. During that same year, Agency Attorneys were involved in 75 APA appeals of board or

commission decisions to various circuit courts throughout the state and 5 appeals that advanced to the Arkansas Court of Appeals.

During legislative sessions, Agency Attorneys work with Attorney General Rutledge's legislative team to analyze proposed legislation regarding agencies and administrative law. After new legislation is passed, Agency Attorneys help their assigned state entities understand and implement the new laws. Finally, Agency Attorneys assist agencies, boards, and commissions in navigating the rule-promulgation process set forth in the APA. Each Agency Attorney is assigned to represent approximately 20 state entities.

Some of the most important functions of an Agency Attorney are helping state agencies prevent legal mishaps *before* final decisions are made and facilitating resolution of agency disputes with citizens and governmental entities without having to resort to avoidable litigation. Agency Attorneys respond to thousands of agency inquiries each year.

In addition to providing direct legal counsel to state entities, the Attorney General has authority pursuant to Ark. Code Ann. § 25-16-706 to issue official Attorney General Opinions when a state entity submits a formal written request. The official Opinions are issued by the Attorney General's Opinions Division under the Attorney General's direct supervision. An official Attorney General's Opinion is binding upon a state agency in the sense that, if the agency does not follow the advice in the official Opinion, the agency and its members may have some additional legal exposure if the agency is then sued over the action taken. An agency is strongly advised to consult with its assigned Agency Attorney before requesting an official Attorney General's Opinion.

II. THE ROLE OF ADMINISTRATIVE AGENCIES IN GOVERNMENT

A fundamental principle of United States government and Arkansas state government requires that the executive, legislative, and judicial powers of government be exercised by separate branches of government, each of which has checks on the others. Administrative agencies occupy a unique place in government because they may exercise all three powers. An administrative agency is an entity within the executive branch. It also acts as a regulatory agent of the Legislature. Finally, it may exercise power similar to courts, including quasi-judicial powers over individuals.

In the case of licensing boards, the Legislature has placed the power to regulate the specialized professions and vocations for which licenses are required in agencies, which are made up primarily of persons who hold such licenses and, thus, are best prepared to regulate the profession. These specialists are complemented by public members—citizens who bring other backgrounds, knowledge, and experience to the activities of the boards.

Because administrative agencies combine the powers of all three branches of government, the very existence of early administrative agencies at first troubled the courts. Courts finally resolved this issue by recognizing that the danger to citizens' liberty is not in blended power itself, but in unchecked power. Two checks have been established for administrative agencies. First, only the Legislature may create agencies. The Legislature must declare a legislative policy and establish primary standards for agency actions. Thereafter, agencies are permitted only the authority to fill in details, through rules or adjudication, consistent with legislatively-determined policy. Second, the judiciary operates as a check by retaining authority to prevent and rectify abuses through appeals conducted under the APA.

For purposes of the APA, which governs rule-making and adjudications, an “agency” is defined as each board, commission, department, officer, or other authority of the state, whether or not within, or subject to review by, another agency. Entities that are not “agencies” for purposes of the APA adjudication section but are included for rule making include: the Public Service Commission, the Commission on Pollution Control and Ecology, the Workers’ Compensation Commission, and the Department of Workforce Services, as well as the Arkansas Parole Board. The definition includes certain other entities for purposes of administrative appeal. *See* Ark. Code Ann. § 25-15-202(1)(A) and (C).

III. GENERAL ROLES AND RESPONSIBILITIES OF LICENSING BOARDS

As administrative agencies, licensing boards have only those powers expressly granted to them by the Legislature, as set forth in the statutes. Boards and commissions have implied powers only to the degree necessary to carry out the purpose of their legislation. *Smith v. Refunding Board of Arkansas*, 192 Ark. 145, 90 S.W.2d 494 (1936). The Freedom of Information Act, the Administrative Procedure Act, and the boards’ practice acts are the principal statutes that define and limit the boards’ responsibilities.

Licensing board duties fall into three major categories: licensure; complaint resolution, including discipline; and rulemaking, which assists the boards in carrying out the other two principal duties. A discussion of licensure duties is found at page 31 of this handbook. Discussions of disciplinary investigations and hearings are found at pages 33 and 36 of this handbook. Finally, a discussion of rulemaking is found at page 45 of this handbook.

IV. ARKANSAS FREEDOM OF INFORMATION ACT

A. Introduction

The Arkansas Freedom of Information Act (“FOIA”) was passed in 1967 and significantly amended in 2001. The Act addresses the public’s access to both records and meetings, and the legislative intent expressed in the FOIA clearly reflects a policy of openness. Arkansas Code Annotated § 25-19-102 states that “[i]t is vital in a democratic society that public business be performed in an open and public manner” The Arkansas Supreme Court has ruled that the Act was passed “wholly in the public interest and is to be liberally interpreted to the end that its praiseworthy purposes may be achieved.” *Laman v. McCord*, 245 Ark. 401, 432 S.W.2d 753 (1968).

The Arkansas Freedom of Information Handbook (19th Edition) provides a quick reference to the Act. For a more in-depth comprehensive treatment of the Act, see J. Watkins, Richard J. Peltz and Robert Steinbuch, *The Arkansas Freedom of Information Act* (6th ed., 2017). In addition, the Attorney General issues Opinions to state officials on any question pertaining to administration of the laws. Opinions are available at www.ArkansasAG.gov/opinions.

B. Open Meetings

The Open Public Meeting provision of the FOIA provides that:

Except as otherwise specifically provided by law, all meetings, formal or informal, special or regular, of the governing bodies of all municipalities, counties, townships, and school districts and all boards, bureaus, commissions, or organizations of the State of Arkansas except grand juries, supported wholly or in part by public funds or expending public funds, shall be public meetings. (Ark. Code Ann. § 25-19-106(a).)

This means that meetings of governing bodies must be open to the public, except for expressly authorized executive sessions or closed sessions. The definitions of

“governing body” and “meeting” work together to establish which public bodies are subject to the Open Public Meeting provision, and when gatherings of the members of that body must comply with its requirements. Thus, determining whether an open public meeting is required involves three questions:

1. Is the entity covered by the Act?
2. Is the meeting covered by the Act?
3. Is there an exemption that would allow the meeting to be closed?

Nearly all state agencies are subject to the Act, including groups created by or from such government organizations. The “governing bodies” language applies to all entities set out in § 25-19-106(a). “Governing bodies” are those with final decision-making or policy-making authority. An analysis of the entity’s powers might be necessary. A committee or subcommittee may not be subject to the Open Public Meeting provision if it only makes recommendations, collects information, or gives advice, and is, therefore, an advisory body. Op. Att’y Gen. 2014-124.

“Public Meetings” as defined by Ark. Code Ann. § 25-19-103(5) are:

the meetings of any bureau, commission, or agency of the State, or any political subdivision of the state, including municipalities and counties, boards of education, and all other boards, bureaus, commissions, or organizations in the State of Arkansas, except grand juries, supported wholly or in part by public funds or expending public funds.

The Act covers “all meetings, formal or informal, special or regular.” This includes unofficial meetings for information gathering. An unofficial group meeting of less than a quorum of the governing body is subject to the FOIA if the meeting is called for the purpose of discussing any matter on which foreseeable action might be taken by the governing body. *Mayor of El Dorado v. El Dorado Broadcasting Co.*, 260 Ark. 821, 544 S.W.2d 206 (1976). There does not need to be any official action for a “meeting” to occur. Telephone

conferences are permissible, if conducted in accordance with the Act; however, it is impermissible for a board to vote via telephone polls. Social gatherings before or after regular meetings may raise questions; but there will be no “meeting” under the FOIA as long as any discussion of public business is intermittent and incidental to the social function. Op. Att’y Gen. 2001-065.

a. NOTICE

The Act also addresses notice of public meetings. Ark. Code Ann. § 25-19-106(b). The time and place of each regular meeting must be furnished to anyone who requests it. Ark. Code Ann. § 25-19-106(b)(1). However, it is important to note that the APA at Ark. Code Ann. § 25-15-219 also imposes notice requirements for public meetings dates of agencies:

- (a)(1) Each agency shall publish on the Internet the date, time, and location of all of the agency’s meetings and hearings that are open to the public.
- (2) The publication shall be made at www.arkansas.gov.
- (b) The agency shall publish the notice not less than three (3) days before the meeting or hearing is scheduled.
- (c) This section does not apply to emergency or special meetings that meet the requirements of § 25-19-106(b)(2).

In the case of emergency or special meetings, at least two hours’ notice must be provided to county news media that have requested it and to non-county news media that cover regular meetings and that have requested it. Ark. Code Ann. § 25-19-106(b)(2). There is no requirement that the general public be notified of emergency or special meetings. Failing to give notice, or otherwise holding a meeting in violation of the Act, may result in the invalidation of any decision reached at the meeting.

b. EXECUTIVE SESSION

The exceptions to the Open Public Meeting provision are executive sessions. Executive sessions are only permitted for the three specified purposes provided in Ark. Code Ann. § 25-19-106(c), [numbers added for emphasis]:

1. Considering employment, appointment, promotion, demotion, disciplining, or resignation of any public officer or employee.
2. Preparing examination materials and answers to examination materials which are administered to applicants for licensure from state agencies.
3. Considering, evaluating, or discussing matters pertaining to public water system security or municipally owned utility system security as described in §25-19-105(b)(18).
4. An executive session held by the Child Maltreatment Investigations Oversight Committee under § 10-3-3201 et seq.

The notice of the meeting need not specify that there will be an executive session. It just requires that the specific purpose of the executive session be announced in public before going into executive session. Ark. Code Ann. § 25-19-106(c)(1).

Executive sessions may be held only to consider personnel matters concerning individual officers or employees. *See* Ops. Att’y Gen. 87-080 and 91-070; *Commercial Printing Company v. Rush*, 261 Ark. 468, 549 S.W.2d 790 (1977).

An executive session may deal with a specific salary issue involving a specific individual, but not broad salary issues or blanket hiring of personnel. An executive session may be held to review applications and develop a list of applicants to interview, assuming that the meeting is held to consider individual applicants. The same notice requirements

apply as in the case of open meetings. *See* Op. Att’y Gen. 99-157. The public body must convene in public to announce the specific purpose of the executive session prior to retiring. Ark. Code Ann. § 25-19-106(c)(1). There is no requirement that the name or position of the individual be identified. *See* Op. Att’y Gen. 91-070. But when the body reconvenes for a vote, the name of the person and/or position discussed in the executive session must be disclosed. *Id.* Under § 25-19-106(c)(2)(A), only the person holding “the top administrative position, . . .the immediate supervisor of the employee involved, and the employee” may be present “when so requested by the governing body” And, under § 25-19-106(c)(2)(B), “[a]ny person being interviewed for the top administrative position” may be present “when so requested by the governing board” [Emphasis added.] Under § 25-19-106(c)(4), “[n]o resolution, ordinance, rule, contract, regulation, or motion considered or arrived at in executive session will be legal” unless the public body reconvenes in public session and presents and votes on the resolution, ordinance, rule, contract, regulation, or motion. Executive sessions must never be called to defeat the reason or spirit of the FOIA. Ark. Code Ann. § 25-19-106(c)(3).

Under Ark. Code Ann. 25-19-106(d), all public meetings must be recorded for sound. The Board or Commission must maintain the recoding for at least one year from the date of the public meeting recorded. Executive sessions and volunteer fire departments are exempt from this recoding requirement.

C. Public Records

Arkansas Code Annotated § 25-19-103(6)(A) provides the following:

“Public records” means writings, recorded sounds, films, tapes, electronic or computer-based information, or data compilations in any medium, required by law to be kept or otherwise kept, and which constitute a record of the performance or lack of performance

of official functions that are or should be carried out by a public official or employee, a governmental agency, or any other agency or improvement district that is wholly or partially supported by public funds or expending public funds. All records maintained in public offices or by public employees within the scope of their employment shall be presumed to be public records.

The “Arkansas Freedom of Information Act,” contrary to its name, provides access not to “information,” but to “public records.” An entity to which the Act applies is not required to create a new record or compile information in response to an FOIA request. Ark. Code Ann. § 25-19-105(d)(2)(C). It must merely provide *access* to “public records” unless they are exempt from the Act. Various materials made available by a state agency, board, or commission and created after July 1, 2003, must be made publicly accessible, without charge, in an electronic form via the Internet. Ark. Code Ann. § 25-19-108(b)(1).

The definition of “public records” is extremely broad and applies to electronic or computer-based information. Public records, however, does not mean software acquired by purchase, lease, or license. The definition of public records can also apply to a tape recording of a public meeting, but not to a tape recording of an executive session. The definition applies to any record “required by law to be kept or otherwise kept, and which constitutes a record of the performance or lack of performance of official functions” If the record is not required by law to be kept, it must be both “otherwise kept” and constitute a record of the performance or lack of performance of official functions. The definition includes all records in the possession of public agencies, including records generated by third parties.

The definition of “public records” can also apply to records held by private entities, if they are “wholly or partially supported by public funds or expending public funds.” *City of Fayetteville v. Edmark*, 304 Ark. 179, 801 S.W.2d 275 (1990). The receipt of public

funds does not subject every record of the private entity to the FOIA. Only documents of the private entity, related to the governmental work are subject to the FOIA. When a public record is not exempt from disclosure, the appropriate governmental agency must provide access, even though it is not in actual possession of the documents at the time of the request (i.e., where the records are in the hands of a private contractor with the public agency). *See Swaney v. Tilford*, 320 Ark. 652, 898 S.W.2d 462 (1995).

The Act requires that records be “open to inspection and copying.” The request may be made in person, by telephone, by mail, by facsimile transmission, by electronic mail, or by other electronic means provided by the custodian. The request must be sufficiently specific to enable the custodian to locate the records with reasonable effort. Ark. Code Ann. § 25-19-105(a)(2)(C).

The Act grants access to “citizens” of the State of Arkansas. Residents of other states or countries are not entitled to access under the Act (although it may be a small matter for them to have an Arkansas citizen make the request on their behalf). Corporations doing business in the State can be “citizens.” *See Arkansas Highway & Trans. Dept. v. Hope Brick Works, Inc.*, 294 Ark. 490, 744 S.W.2d 711 (1988).

The Act requires access during “regular business hours” of the custodian. Presumably this refers to the hours the agency is open for business. It has been held that where a police department operated 24 hours a day, seven days a week, those were its regular business hours for purposes of the FOIA. *Hengel v. City of Pine Bluff*, 307 Ark. 457, 821 S.W.2d 761 (1991). Upon request and payment of a fee, the agency must provide copies of the records if it has the necessary duplicating equipment. Except as provided by law, the fee will not exceed the actual cost of reproduction. An agency cannot charge for

an employee's time in searching, reviewing, retrieving, or copying records. The custodian may also charge the actual costs of mailing or transmitting the record by facsimile or other electronic means. If the estimated fee exceeds \$25, the custodian may require the requestor to pay that fee in advance. The agency must provide an itemized breakdown of these charges. Ark. Code Ann. § 25-19-105(d).

The FOIA contemplates immediate access, or access as quickly as the records can be retrieved, unless the records are in "active use or storage." The custodian must certify in writing the fact that the records are in active use or storage and set a time within three working days to make the records available. In some cases, however, compliance immediately or in three days may be impossible due to the voluminous nature of the request or the need to consult legal counsel. The Attorney General has opined in such cases that a "reasonable time" should be afforded to comply with the request. Op. Att'y Gen. 94-225.

Special circumstances may also apply to certain requests for electronic information. A custodian, at his or her discretion, may agree to summarize, compile, or tailor electronic data in a particular manner or medium and may agree to provide the data in an electronic format to which it is not readily convertible. Where the cost and time involved in complying with such a request is relatively minimal, the custodian should agree to provide the data as requested. In addition to the standard copying costs, the custodian may charge the actual, verifiable costs of personnel time exceeding two hours associated with the task. The charge for personnel time may not exceed the salary of the lowest paid employee or contractor who, in the discretion of the custodian, has the necessary skill and training to respond to the request. Ark. Code Ann. § 25-19-109.

As previously discussed, Ark. Code Ann. § 25-19-105(a) provides: “Except as otherwise specifically provided by this section or by laws specifically enacted to provide otherwise, all public records shall be open to inspection” This subsection refers to the specific exemptions contained in subsection (b) of the statute, and contains a “catchall” exemption, which incorporates “specific” exemptions contained in any other law. The subsection uses the word “specifically,” when referring to the subsection (b) exemptions and the “catchall” exemption, which indicates that exemptions are to be construed narrowly.

Exemptions under the FOIA are mandatory. That is, if a record is exempt under the FOIA, the agency that is the custodian of the record may not disclose it even if it wishes to. Accordingly, the custodian cannot make available to the public those records that fall within an exemption.

Exemptions from the Act are to be narrowly construed. Under the “narrow construction” rule, if the intent to provide an exception is doubtful, openness is the result. It is significant that there is no attorney-client privilege under the FOIA; thus, a board or commission cannot meet in private with its attorney.

As discussed below, if records contain both exempt and nonexempt information, the exempt information must be redacted, and the remainder of the record made available.

A few of the frequently used exemptions listed in subsection (b) are as follows:

- (1) Medical records, adoption records, and education records as defined in the Family Educational Rights and Privacy Act of 1974.
- (2) Undisclosed investigations by law-enforcement agencies of suspected criminal activity. Only records of investigations of “law-enforcement

agencies” are eligible for the exemption. Many times, records of public agencies that would otherwise be subject to disclosure become a part of a criminal investigation. As long as the investigation is “ongoing,” the records are exempt, even if requested from the non-law-enforcement agency. Ops. Att’y Gen. 92-237 and 2002-149.

- (3) Unpublished memoranda, working papers, and correspondence of the Governor, members of the General Assembly, Supreme Court Justices, Court of Appeals Justices, and the Attorney General. The Attorney General has opined that “correspondence of” applies to both letters received by those officials and copies of letters written by them. Op. Att’y Gen. 93-166. It does not include letters written by these officials, however, when in the hands of other agencies subject to the FOIA. *See* Op. Att’y Gen. Nos. 2000-172, 93-166, and 95-128, n. 1.
- (4) Documents that are protected from disclosure by order or rule of court.
- (5) Files, which if disclosed, would give advantage to competitors or bidders.
- (6) Personnel records to the extent that disclosure would constitute a clearly unwarranted invasion of personal privacy. Most “personnel records” are open to public inspection. It is only “to the extent” that their release would constitute a “clearly unwarranted invasion of personal privacy” that records may be exempted or information excised from otherwise disclosable records. A determination must first be made that particular records are indeed “personnel records” and not “employee-evaluation or job-performance records.” (A different test is applied to the latter.)

- (7) Certain records concerning security of computers or computer systems.
- (8) Personal contact information of non-elected public employees contained in employer records.
- (9) Materials, information, examinations, and answers to examinations used by boards and commissions for purposes of testing applicants for licensure.

Unlike “personnel records,” “employee-evaluation or job-performance records” are shielded from public view except when four specific factors are present. “Employee-evaluation or job-performance records” can include such things as letters of resignation, letters of reprimand, documents upon which disciplinary action is based, and investigation records of employee misconduct, as well as standard employee evaluations.” *See* Ops. Att’y Gen. 93-356, 93-055, 92-319, and 92-310. Such records can be released only if the following elements are met:

- (1) The employee was suspended or fired;

- (2) There has been final administrative resolution of any suspension or termination proceeding. Final administrative resolution means the final step or appeal process the employee is entitled to take within the agency, or the passage of the deadline for that final step. *See* Op. Att’y Gen. No. 98-006.;

- (3) The records form the basis for the decision to terminate or suspend the employee; and

- (4) There is a compelling public interest in the disclosure of the documents.

It should be noted that a request for personnel or employee-evaluation or job-performance records triggers certain notice requirements. If an agency receives a request for such records, the custodian must decide within 24 hours whether the records are

releasable or exempt from disclosure. Many times, the custodian will need to consult counsel to make this determination. He or she must then notify the requester and the subject of the records of that decision, plus informing the subject of what documents will be released. The notice can be by phone or in person within the 24-hour period. If this notice cannot be accomplished, the custodian must send written notice by overnight mail to the subject of the records. A particular record may reference more than one employee, in which case notice must be given to each employee who is a subject of the record.

Any one of three people (the custodian, the requester, or the subject of the records) may “immediately” request an Attorney General’s Opinion on whether the custodian’s decision is consistent with the FOIA. These Opinions must be issued within three working days, and release of the records must be held pending issuance of an Opinion. This three-day Opinion procedure applies only when personnel or job performance records are at issue. It is not available when the requested records do not fall within this category.

An agency cannot deny a request to inspect a public record because information exempt from disclosure is commingled with nonexempt information. The agency must redact the exempt information and provide any reasonably segregable portion of a record with an indication of the amount redacted on the released record. The cost of separating exempt from nonexempt information is the agency’s responsibility. Ark. Code Ann. §25-19-105(f)(4).

D. Penalties and Enforcement

The Freedom of Information Act establishes both criminal and civil penalties for violation of its provisions. Arkansas Code Annotated § 25-19-104 provides that “Any person who negligently violates any of the provisions of this chapter shall be guilty of a

Class C misdemeanor.” This provision is rarely used. Cases pursuant to this provision must be brought by the prosecuting attorney. Arkansas Code Annotated § 25-19-107 provides for an appeal of a denial of FOIA rights to the appropriate circuit court. If an improperly conducted public meeting is being challenged, the plaintiff must give the governing body an opportunity to correct the violation. The Act provides for the circuit court to “fix and assess a day the petition is to be heard within seven (7) days of the date of the application . . . and to hear and determine the case.” Section 5-54-121 of the Arkansas Code is a criminal provision, which prohibits making a false entry in, or false alteration of, any public record, or erasing, obliterating, removing, destroying, or concealing a public record, each with the knowing purpose of impairing the verity, legibility, or availability of the record. Tampering with a public record is a felony.

E. Retention of Public Records

Although the Freedom of Information Act provides access to records, it does not include a general requirement for agencies to preserve public records. Act 918 of 2005 requires that all state agencies, boards, and commissions comply with the Arkansas General Records Retention Schedule upon the earlier of either July 1, 2007, or receipt of the necessary line-item appropriation. Educational resources and training materials to assist agencies in complying with the Arkansas General Records Retention Schedule can be found online at the Department of Finance and Administration’s website: <http://www.dfa.arkansas.gov>. State agencies should review the records retention schedule before making any decision with regard to the destruction of any records.

V. COMPOSITION OF BOARDS AND CONDUCT OF MEETINGS

A. Enabling Statutes and Appointment of Members

Each board's enabling legislation sets forth the qualifications for board members. Typically, a board's membership will include persons knowledgeable in the matters that are the subject of the board's responsibilities; members of the profession, and members of related professions if the board is a professional licensure board; and members of the general public who can add a consumer's perspective to the board's decisions. Board members typically are appointed by the Governor and serve terms of specific duration as stated in the enabling legislation. If the Governor does not immediately appoint a replacement for a board member whose term technically has expired, that board member may continue to serve on the board until a replacement is appointed. Constitution of Arkansas, Art. 19, § 5. This practice is commonly referred to as "holding over."

B. Officers

Every board has officers who are elected, appointed, or designated by statute. Some statutes specify the titles that the board's officers will hold; in other cases, the board chooses those officers and their titles and functions. Generally, unless otherwise specified by enabling legislation, most boards elect officers on a yearly basis.

C. Rules of Procedure

Other than the procedures specified in the Administrative Procedure Act for rulemaking and adjudications, most boards' enabling statutes do not contain a great deal of detail regarding procedures to be used by the board in conducting its business. Some boards in Arkansas use *Robert's Rules of Order* as a guideline, though it is not required by statute.

D. Quorum and Voting

A quorum is the number of board members required to be able to conduct business legally. Some boards' enabling statutes specify the number of board members that must be present to constitute a quorum. Other boards' enabling statutes may require that a certain composition of board members be present to make a quorum. If your board's statute does not specify the requirements for a quorum, then a simple majority of the members of the board will constitute a quorum. If a quorum is not present, the board cannot conduct business. If a quorum is lost during a meeting because a board member leaves the meeting for any reason, then no business can be conducted until a quorum is reestablished. If you have questions about obtaining and maintaining a quorum, you should consult your Agency Attorney.

As a general rule, action may be taken by a majority of the members present, so long as a quorum exists. *Benton County Taxpayers Ass'n, Inc. By and Through Evans v. Bolain*, 252 Ark. 472, 479 S.W.2d 566 (1972); *Mad Butcher, Inc. v. Parker*, 4 Ark. App. 124, 628 S.W.2d 582 (1982).

VI. CONDUCT AND COMPENSATION OF BOARD MEMBERS

A. Attendance, Per Diem, and Reimbursement

In order to remain on the board, each member is expected to perform his or her duty as a board member and to attend meetings regularly. If a board member does not attend regularly, the Governor can, under certain conditions, remove him or her from the board. Arkansas Code Annotated § 25-17-211 states that if a board member has unexcused absences from three *successive* regular meetings, without attending any intermediary called special meetings, he can be removed from the board. Arkansas Code Annotated § 25-16-

804 makes clear that the removal for failure to attend board meetings or other good cause as defined in that section is applicable to all board and commission members appointed by the Governor. The Board or Commission should notify the Governor when a member has missed 3 consecutive meetings without being excused. Members may be authorized to receive a stipend and reimbursement of expenses pursuant to Ark. Code Ann. § 25-16-901 et seq. The maximum amount of stipend is set by the authorizing statute. *See* Ark. Code Ann. §§ 25-16-903 – 906.

B. Ethics and Gifts

No member of a state board or commission can use or attempt to use his or her official position to secure unwarranted privileges or exemptions for themselves or others. Ark. Code Ann. § 21-8-1002; *see also* Ark. Code Ann. § 21-8-304. The penalty for such behavior is removal from office. Ark. Code Ann. § 21-8-1004. In addition, pursuant to Ark. Code Ann. § 21-8-801, no member of a state board or commission may receive a gift or compensation, other than income and benefits from the governmental body to which he or she is duly entitled, for the performance of the duties and responsibilities of his or her office or position. A gift is generally defined as any payment, entertainment, advance, services, or anything of value, unless consideration of equal or greater value has been given therefor. Ark. Code Ann. § 21-8-402. For purposes of this statute, the term gift does not include anything with a value of one hundred dollars or less; however, the value of an item shall be considered to be less than one hundred dollars if the public servant reimburses the person from whom the item was received any amount over one hundred dollars and the reimbursement occurs within ten days from the date the item was received. Additional exemptions may be found in Ark. Code Ann. § 21-8-402. The Arkansas Ethics

Commission is statutorily invested with the power to issue advisory opinions on questions regarding the foregoing statutes.

C. Criminal Offenses

Several criminal statutes address corruption in public office. Arkansas Code Annotated § 5-52-101 defines the offense of abuse of public trust as the solicitation, acceptance, or agreement “to accept on behalf of any person, political party, or other organization any benefit from another person upon an agreement or understanding that the other person will or may be appointed a public servant or designated or nominated as a candidate for public office.” Abuse of public trust also occurs when a person offers, confers, or agrees to confer any benefit, the receipt of which is prohibited by Ark. Code Ann. § 5-52-101. The value of the benefit determines whether abuse of public trust is classified as a felony or misdemeanor.

A person commits the offense of soliciting unlawful compensation if he or she requests a benefit for the performance of an official action as a public servant knowing that he or she is required to perform that action without compensation, other than authorized salary or allowances, or at a level of compensation lower than that requested. Soliciting unlawful compensation is a Class A misdemeanor. *See* Ark. Code Ann. § 5-52-104.

A person commits the offense of attempting to influence a public servant if he or she threatens violence or economic reprisal against any person or uses deceit with the purpose to alter or affect the public servant’s decision, vote, opinion, or action concerning any matter which is afterwards to be considered or performed by the public servant or the agency or body of which the public servant is a member. The act of attempting to influence a public servant is a Class A misdemeanor under Ark. Code Ann. § 5-52-105.

A public servant commits the offense of misuse of confidential information if, in contemplation of official action by himself or herself or a governmental unit with which he or she is associated or in reliance on information to which he or she has access in his or her official capacity and which has not been made public, the public servant: (1) acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information; or (2) speculates or aids another to speculate on the basis of this information. Misuse of confidential information is a Class A misdemeanor under Ark. Code Ann. § 5-52-106.

Arkansas Code Annotated § 5-52-107 addresses the crime of abuse of office. This crime is committed when a public servant, knowingly commits an unauthorized act that purports to be an act of his or her office. This can also be committed when the public servant omits to perform a duty imposed on him or her by law or is clearly inherent in the nature of his or her office. When the public servant does these acts with the purpose of benefiting in a pecuniary fashion or obtaining a sexual favor for himself or herself or another person or of harming another person, then the value of the benefit determines whether abuse of office is classified as a felony or misdemeanor.

D. Conflicts of Interest

Arkansas Code Annotated § 21-8-1001 prohibits a member of a state board or commission from participating in, voting on, influencing, or attempting to influence an official decision if the member has a pecuniary interest in the matter under consideration by the board or commission. However, that does not apply if the only pecuniary interest he may have is incidental to his position or accrues to him 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. No member of a state board or commission may participate in any discussion or vote on a rule that exclusively benefits that member. The penalty for such behavior is removal from office. *See* Ark. Code Ann. § 21-8-1004. For a general discussion of conflicts of interest for board members, see Arkansas Attorney General Opinion No. 93-446.

The Arkansas Supreme Court discussed different types of bias in *Arkansas Racing Commission v. Emprise Corp.*, 254 Ark. 975, 497 S.W.2d 34 (1973). Some types of bias require disqualification of a board member, while some do not. A preconceived point of view about issues of law or policy is not the kind of bias that requires disqualification. Bias or prejudice concerning issues of fact about the parties in a particular case can be cause for disqualification if the bias is strong enough. An attitude for or against a party is ground for disqualification when it is strong enough. Finally, personal interest (i.e., standing to gain or to lose by a decision) is a ground for disqualification if the interest is strong enough. The court stated that an officer or board member is disqualified any time “there may be reasonable suspicion of unfairness.” *Emprise*, 254 Ark. at 981. Administrative agency adjudications are subject to the same “appearance-of-bias” standard that is applicable to judges. *Id.*; *Madden v. U.S. Assoc.*, 40 Ark. App. 143, 844 S.W.2d 374 (1992); and *Wacaser v. Insurance Commissioner*, 321 Ark. 143, 900 S.W.2d 191 (1995).

Members must also be cautioned that decisions that affect competitors or that reflect a concerted effort to hinder competition could be found to be considered anticompetitive and unfair methods of competition. *North Carolina State Board of Dental Examiners v. Federal Trade Commission*, 574 U.S. 494 (2015). If anticompetitive actions

and decisions are found, the members could be subject to fines because immunity would be removed.

E. Confidentiality

No member of a state board or commission shall disclose confidential information acquired in the course of the member's official duties, or use such information to further his or her personal interests. Ark. Code Ann. § 21-8-1003. The penalty for such behavior is removal from office. Ark. Code Ann. § 21-8-1004.

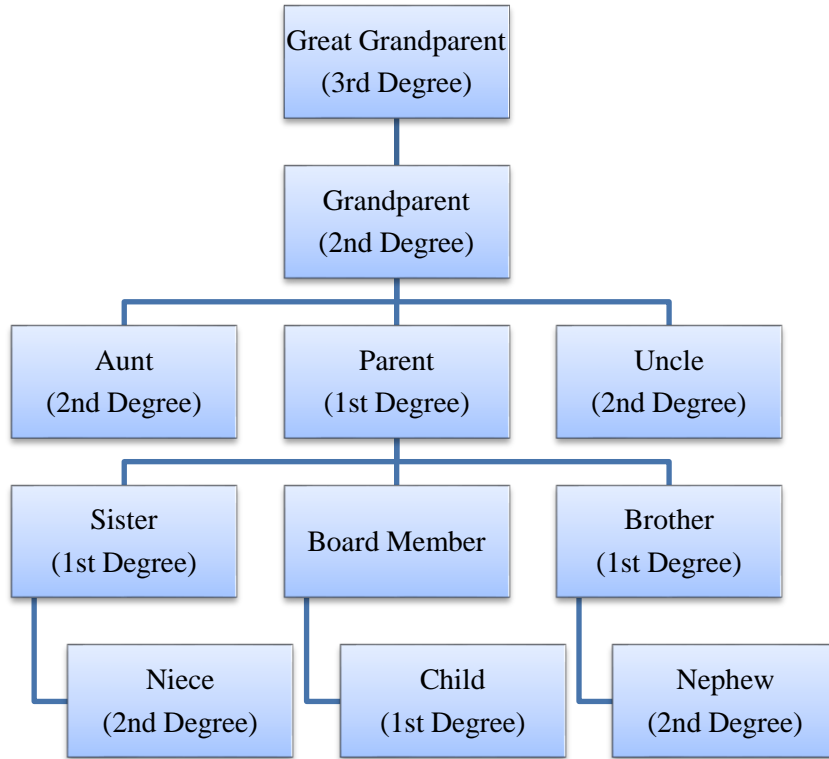
F. Nepotism

Arkansas Code Annotated § 21-8-101 provides that a person who is related within the second degree, by blood or marriage, to a member or employee of a state board or commission shall not be eligible for appointment as a member of the board. Also, a person so related to a member of a state board or commission shall not be eligible for employment by the board or commission. This section applies only to persons hired or appointed after July 28, 1995.

G. Computing Degree of Relationship

In computing the degrees of relationship between any two kinsmen who are not related in a direct line of ascent or descent, it is proper to start with the common ancestor of the kinsmen and count downward. For example, a person and his nephew are related in the second degree, for the nephew is two degrees removed from his grandparent, who is the common ancestor. *See* Ark. Code Ann. § 28-9-212.

FIGURE 1: Computing Degrees of Relationship Diagram
Example shows degrees of kinship to Board member
Designed for use in conjunction with Ark. Code Ann. § 28-9-212



Arkansas Code Annotated § 28-9-212 sets out specifically the method by which the degree of relationship is to be computed to determine kinship for purposes of application of the nepotism provision of Ark. Code Ann. § 21-8-101. Arkansas Code Annotated § 28-9-212 provides:

(a)(1) In computing the degrees of relationship between any two (2) kinsmen who are not related in a direct line of ascent or descent, it is proper to start with the common ancestor of the kinsmen and count downwards. In whatever degree the kinsmen or the more remote of them is distant from the common ancestor, that is the degree in which they are related to each other.

(2) Thus two (2) or more children of a common parent are related to each other in the first degree, because from the common parent to each of the children is counted only one (1) degree.

(3) But a person and his or her nephew are related in the second degree, for the nephew is two (2) degrees removed from his grandparent who is the common ancestor.

(4) A person and his or her second cousin are related in the third degree, for they are both three (3) degrees removed from the great-grandparent who is their common ancestor.

(b) In computing the degrees of relationship between any two (2) kinsmen related in a direct line of ascent or descent, the degree of relationship shall be determined by starting with one (1) of the persons and counting up or down to the other. Thus, a person and his or her:

(1) Parent or child are related in the first degree;

(2) Grandparent or grandchild are related in the second degree; and

(3) Great-grandparent or great-grandchild are related in the third degree.

Affinity is the tie that arises from marriage between the husband and the blood relations of the wife, and between the wife and the blood relations of the husband; there is no affinity between the blood relations of the husband and the blood relations of the wife. *Farmers Bank v. Perry*, 301 Ark. 574, 787 S.W.2d 645 (1990); *Mitchell v. Goodall*, 297 Ark. 332, 761 S.W.2d 919 (1988).

H. Financial Disclosure Forms

The law requires each public appointee to any board or commission to complete a financial disclosure form under oath every year. This form is designed to reveal a board member's financial interests so that possible conflicts-of-interest can be identified. These forms can be obtained from the Secretary of State's Office, and they must be filed by January 31 of every year. New board members also must file one of these forms within 30 days after appointment to the board. There are other reporting requirements as well in

certain instances. These requirements can be found in Ark. Code Ann. §§ 21-8-701 et seq. You can get more information from your agency attorney.

I. Penalty

Any person who purposefully violates any disclosure requirements in subchapters 4 or 6-8 of Ark. Code Ann. Chapter 21 shall be deemed guilty of a Class A misdemeanor. Ark. Code Ann. § 21-8-403.

VII. LIABILITY/IMMUNITY OF BOARDS AND MEMBERS

A. General Principles

Board and commission members are officers of the State of Arkansas, and for most purposes, employees and officers of the State enjoy sovereign immunity. This means that they are not personally liable for any damages that may come about as a result of their official actions. Article 5, Section 20 of the Arkansas Constitution states that “[t]he State of Arkansas shall never be made defendant in any of her courts.” This statement also applies to state employees acting in their official capacity. Except to the extent they are covered by liability insurance, state employees and officers are explicitly declared to be immune from personal liability from lawsuits under the provisions of Ark. Code Ann. § 19-10-305 for damages for acts or omissions (other than “malicious acts or omissions”) occurring within the course and scope of their employment.

Notwithstanding the above provisions regarding immunity, if a board or commission member or employee is served with process in any litigation, he must notify the Attorney General immediately in order to allow the Attorney General to file an appropriate pleading with the court. As a rule, the Attorney General will represent board

and commission members and employees in litigation resulting from acts or omissions during the course and scope of their official duties or responsibilities. The State will only pay for private attorneys to represent state officers or employees if the Attorney General has declined to represent that individual and the officer or employee acted without malice and in good faith. Ark. Code Ann. § 21-5-802; *see also* Ark. Code Ann. § 21-9-203. The State will pay actual damages or, if recommended by the Attorney General, settlement amounts for officers or employees acting without malice and in good faith within the course and scope of their employment in performance of their official duties. Ark. Code Ann. § 21-9-203. The State cannot reimburse anyone for an award of punitive damages.

B. Tort Claims

Sovereign immunity as granted by the Arkansas Constitution and Ark. Code Ann. § 19-10-305 applies to tort claims as well. However, a state officer may be liable in his personal capacity if he acted or failed to act out of malice. For this reason, board members should always carefully consider whether they are influenced by any personal bias or motive when taking board action that will deprive another person of a property interest.

C. § 1983 Actions

Just as the state's Constitution grants sovereign immunity to the State from lawsuits in state court, the Eleventh Amendment to the United States Constitution removes the jurisdiction of the federal courts over suits filed against the states by citizens. Absent a state's consent to being sued or a specific waiver of sovereign immunity, the Eleventh Amendment acts as an absolute bar to suits against a state or state official in federal court. An exception to this general principle is 42 U.S.C. § 1983, a statute allowing a person to sue when deprived of a life, liberty, or property interest under color of state law. That

statute cannot be used to file suit against the state, but it can be used to file a lawsuit against an individual employee or member of a state board or commission. However, there is a doctrine called “qualified immunity” that shields a state officer from individual liability when his “conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Buckley v. Fitzsimmons*, 509 U.S. 259, 267 (1993); *see also Latimore v. Widseth*, 7 F.3d 709 (8th Cir. 1993).

D. Defamation

While state officials and board members enjoy the immunities described above, it is important to make sure that an individual board member does not commit the civil tort of defamation. A private figure can only recover damages against an officer of the state if the defamatory statement goes beyond that allowed by the officer’s qualified privilege. A statement may exceed the scope of the privilege if it was not reasonably related to the subject matter of the official proceeding; if the statement was not made for the purpose of furthering the board’s interest in the proceeding; if the content of the statement or the extent to which the statement was published was more than necessary to further the board’s interest in, or discharge the board’s duty with respect to, the proceeding; if the statement was made out of hatred, ill will, or a spirit of revenge; or if the official published the statement with a lack of belief in its truthfulness. AMI 409. A statement is defamatory if it is a statement of fact that is false and actually causes harm to a person’s reputation. AMI 410. If you have any questions about defamation, you should consult your board’s attorney.

VIII. DUE PROCESS REQUIREMENTS—GENERALLY

The due process clause is found in the Fourteenth Amendment to the U.S. Constitution. It states that “[n]o State shall . . . deprive any person of life, liberty, or property without due process of law . . .” A legal turning point in agencies’ dealings with persons came when the courts held that a professional license was a property right to which the Fourteenth Amendment applied. Since that decision, courts have continually reviewed procedures used by licensing boards in dealing with the property rights of applicants or licensees. An applicant also has a liberty right under the due process clause associated with the right to be a member of a profession, barring some legitimate and non-arbitrary reason to deny licensure. *Schware v. Board of Bar Examiners*, 353 U.S. 232 (1957).

Additionally, the Constitution of the State of Arkansas contains a due process clause prohibiting any person from being deprived of his life, liberty, or property without due process of law. Arkansas Constitution, Art. 2, § 21.

Due process primarily affects the adjudicatory functions of a licensing board. A board acts in its adjudicatory capacity whenever it reviews the activities of a particular individual or party, makes determinations of fact and law based upon such a review, and issues an order affecting that specific individual or party. An individual is entitled by law to a hearing before a board makes findings of fact or issues an order affecting the party’s activities granted with a license. A board member cannot make up his mind about an issue affecting a party’s rights before a full and fair hearing is held. *See, e.g., Arkansas Racing Commission v. Emprise Corp*, 254 Ark. 975, 497 S.W.2d 34 (1973). If a board member is biased, he should disqualify himself, and a special board member can be appointed by the

Governor (or other appointing authority) if necessary to achieve a quorum to hear the matter. Ark. Code Ann. § 25-16-805.

Boards must take great care in the way they enforce their responsibility. The requirements of procedural due process are contained in court interpretations of the United States and Arkansas Constitutions, the Administrative Procedure Act, and in some statutes and rules. Although some of the requirements may seem technical, the reasons behind them ensure fundamental fairness. The law also requires that the boards be bound by certain substantive requirements in establishing jurisdiction, interpreting legal standards that apply to licensees, and imposing remedies or sanctions. Courts may review actions of all boards to determine whether or not the boards complied with due process requirements, acted within their jurisdiction, and interpreted the governing law reasonably.

The main criteria for meeting due process requirements include proper notice of hearing and other agency actions, the right to a hearing before an impartial tribunal, the right to counsel, and the right to confront witnesses. These elements are discussed in more detail in this Handbook in the discussion on hearings found at page 40.

IX. LICENSURE PROCEEDINGS

A board is given licensing authority to ensure that only those persons who are qualified may practice a profession. A board's exercise of its licensing function ensures that non-qualified applicants do not become licensed in a profession. The Legislature has decided that individuals are "qualified" for licensure by satisfying the legislative requirements for licensure found in every board's practice act. A board must make sure that an applicant is not denied a license for an arbitrary or discriminatory reason in violation

of the Fourteenth Amendment's due process clause. *Schwartz v. Board of Bar Examiners*, 353 U.S. 232 (1957).

As opposed to the disciplinary function of a board, which is largely discretionary, the licensing function of a board is primarily "ministerial" in nature. A "ministerial" act is one that involves executing fairly specific standards that allow for little interpretation by a board. The Legislature has already determined those persons qualified to practice a profession by setting out specific education and experience requirements. If those criteria are met, a board may not deny licensure, except as set out below. In this way, the Legislature has required a board to license particular persons, while withholding licensure from others.

Even though the licensing function of a board is largely ministerial, a board can and does exercise a certain degree of discretion in connection with its licensing function. First, while a board's practice act sets out those mandatory requirements for licensure, the act will also allow the board to adopt rules to implement board functions. Accordingly, even if a practice act has a mandatory examination requirement, the board has discretion in implementing this requirement by defining in its rules certain aspects of that requirement, such as the nature and scope of the examination or a cut-off score for passage. In this way, a licensing board is allowed certain discretion in carrying out its licensing function.

For purposes of the Administrative Procedure Act, a "license" is defined as any agency permit, certificate, approval, registration, charter, or similar form of permission required by law. "Licensing" is defined as any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, or amendment of a license.

Arkansas Code Ann. § 25-15-211 applies when the grant, denial, or renewal of a license is required by law to be preceded by notice and an opportunity for hearing. *See page 36 and following regarding the rules to be followed for notice and hearing in such instances.* An agency can summarily suspend a license if the public health, safety, or welfare imperatively requires emergency action. You should consult your attorney before attempting a summary suspension.

X. DISCIPLINARY INVESTIGATIONS

A. Complaints

A licensing board's receipt of a complaint is the first event in the complaint process. Most complaints consist of a statement of grievances or accusations against a licensee and a request or demand for board intervention. A complaint may be submitted orally or in writing. Before an oral complaint is resolved, however, board staff or the complaint panel may require that the complaint be stated in writing. Note that a board's enabling legislation may require that the complaint be presented in a certain form. Complaints may be submitted by anyone, including a board member or board staff, or Attorney General's staff.

B. Procedure after Complaint Receipt

Once the complaint is received, it must be determined whether the board has jurisdiction over the complaint. The board has jurisdiction if the complaint alleges or implies a violation of a statute or rule that the board is empowered to enforce. Thus, jurisdictional determinations relate exclusively to whether a board has the legal authority to act, relative to the facts presented by the particular complaint. Whether a complaint is true or can be proven is not relevant to the determination of jurisdiction.

Preliminary jurisdictional determinations may normally be made by the board's executive director or the complaint committee, which may include the Board's Agency Attorney. An investigation is usually not required to determine jurisdiction, but sometimes a limited investigation is necessary to get enough facts to determine whether the board has jurisdiction over the complaint. On occasion, a board will receive a multi-jurisdictional complaint involving practitioners licensed by several boards or involving facts that may imply jurisdiction by more than one board. In such cases, the boards with jurisdiction over the complaint should exchange information so that all the boards involved can properly investigate the complaint.

Complaints that are determined to be non-jurisdictional are dismissed by the board and, when possible, referred to other agencies that may have jurisdiction. Examples of complaints dismissed as non-jurisdictional include those that allege a licensee's commission of a crime not related to the licensee's practice; the licensee's discriminatory conduct against his employee; or a licensee's offensive personality.

C. Complaint Committee

A licensing board may establish a complaint committee if sufficient staff to whom such responsibility can be delegated is unavailable. The committee's membership is usually described in an agency's rules. The committee, in addition to assisting the executive director in making jurisdictional determinations, may also make recommendations about how best to pursue a complaint. Options typically include requesting the licensee's written response to the complaint, referring the matter for investigation, referring it to a consultant for expert advice, scheduling a disciplinary hearing with the licensee, or determining that the complaint is totally without merit. A

board member who has had a financial or professional relationship with the subject of a complaint may be prohibited from participating in complaint-committee activities involving that licensee. A discussion of disqualifications appears on pages 22-23 of this handbook.

D. Investigation of a Complaint

Complaints may be investigated by the board's executive director, its employees, board members, or an investigator hired to perform the task. The board's attorney should not be involved in the investigation itself. During the investigation of a complaint, initial contacts usually are made with the complainant and other persons who will need to be interviewed. These contacts may be made by letter or by telephone. Documents are obtained via request, authorization, subpoena, or Freedom of Information Act request to other public agencies. If the board has the authority to issue subpoenas in investigations, a subpoena for testimony may need to be obtained for a witness who wishes to be interviewed pursuant to a subpoena.

After witnesses are interviewed and acquired documents are reviewed, an interview with the licensee who is the subject of the investigation may be necessary. The licensee may be contacted by telephone, in person, or by letter and advised of the complaint. If interviewed, the licensee is informed that he or she may have counsel present during the interview.

E. Disposition of a Complaint

Upon completion of the investigation, the complaint committee reviews the information obtained and decides whether to recommend dismissal, resolution through consent order, or prosecution of the complaint before the board. The committee must

believe that there is a good reason to have a hearing under the terms of its statutes and rules. The committee may also choose to have a conference with the licensee for the purposes of negotiation, education, or conciliation. You should consult your assigned attorney if you have any questions regarding a specific procedure or a particular situation.

F. Form Letters

Samples of the types of letters used during the processing of a complaint and the investigation process are available from your attorney.

XI. HEARINGS

A. Definitions and Applicability of Administrative Procedure Act (APA)

Certain definitions contained within the APA are important in understanding the portion of the APA dealing with hearings. These definitions are as follows:

(1) Agency: Each board, commission, department, officer, or other authority of the state, whether or not within, or subject to review by, another agency.

(2) Party: Any person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any agency proceeding.

(3) Order: The final disposition of an agency in any matter other than rulemaking in which the agency is required by law to make its determination after notice and hearing.

(4) Adjudication: The agency process for the formation of an order.

(5) License: Includes any agency permit, certificate, approval, registration, charter, or similar form of permission required by law.

(6) Licensing: Any agency process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, limitation, or amendment of a license.

B. General Procedure

Section 25-15-208(a)(1) and (2) of the APA requires that all parties receive an opportunity for hearing after reasonable notice. That notice shall include the following: (1) statement of time, place, and nature of hearing, (2) statement of legal authority and jurisdiction, and (3) a short and plain statement of matters of fact and law asserted.

A licensee or permit holder has the right to certain information under § 25-15-208(a)(3). The agency is required to give this information only upon request when the agency seeks to revoke, suspend, or otherwise sanction a license or permit holder. The information must be provided by the agency or its attorney prior to the adjudicatory hearing. The information that the agency must provide includes: (1) the names and addresses of persons the agency intends to call as witnesses at any hearing; (2) any written or recorded statements and the substance of any oral statements made by the license or permit holder, or a copy of the statement; (3) any reports or statements by experts made in connection with the particular case, including results of physical or mental exams, scientific tests, experiments, or comparisons; and (4) any books, papers documents, photographs, or tangible objects that the agency intends to use in any hearing or that were obtained from, or belong to, the license or permit holder, or copies of the same. Disclosure is not required of research or records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the attorney for the agency or members of his staff or other state agents.

The hearing is generally open to the public under the Freedom of Information Act, unless a specific statute allows the board or commission to conduct the hearing in executive session. At the hearing, all parties must have the opportunity to respond and to present

evidence and argument on all issues involved. Nothing in the APA prohibits informal disposition by stipulation, settlement, consent order, or default. Corrective and disciplinary action may be accomplished through a consent order or through stipulation setting forth facts and discipline to which the licensee has agreed.

A record of the administrative action is required by Ark. Code Ann. § 25-15-208(a)(5). The record shall include: (1) all pleadings, motions, and intermediate rulings; (2) evidence received or considered, including, on request of any party, a transcript of oral proceedings or any part thereof; (3) a statement of matters officially noticed; (4) offers of proof, objections, and rulings thereon; (5) proposed findings and exceptions thereto; and (6) all staff memoranda or data submitted to the hearing officer or members of an agency in connection with their consideration of the case. Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

The procedure for issuing subpoenas is governed by Ark. Code Ann. § 25-15-208(7). If the agency can issue subpoenas or subpoenas duces tecum, then any party, by written request, can have the agency issue the same types of subpoenas on behalf of that party. The authority for an agency to issue subpoenas can be found in the agency's enacting legislation or in Ark. Code Ann. §§ 17-80-102 and 25-15-104.

Ex parte communications are banned under Ark. Code Ann. § 25-15-209 unless they are required for the disposition of ex parte matters authorized by law. This applies to members or employees of an agency assigned to render a decision, to make final or proposed findings of fact, or to make conclusions of law in any case of adjudication. Except upon notice and opportunity for all parties to participate, such persons cannot communicate, directly or indirectly, (1) in connection with any issue of fact, with any

person or party; and (2) in connection with any issue of law, with any party or his representative. An example of an ex parte communication would be a licensee, who was ordered to appear before a board in a disciplinary proceeding, directly contacting a board member at her home to discuss his case prior to the day of the hearing. If an ex parte communication occurs, it should be noted on the record. An agency member may communicate with other members of the agency, and he also may have the aid and advice of one or more personal assistants.

When the agency reaches a decision, Ark. Code Ann. § 25-15-210 requires that all parties must be served either personally or by mail with a copy of any decision or order. A final order or decision must be in writing or stated in the record, and it must include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, must be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with agency rules, a party submits proposed findings of fact in accordance with agency rules, then the decision must include a ruling upon each of the proposed findings.

An agency cannot make a decision adverse to a party other than the agency unless (1) a majority of the officials of the agency who are to render the decision have heard the case or read the record, or (2) a proposal for decision is served upon the parties and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the officials who will render the decision. Such a proposal for decision must contain a statement of the reasons therefor and of each issue of fact or law necessary thereto, prepared by the person who conducted the hearing.

There are special rules to be followed regarding hearings on licenses. Arkansas Code Annotated § 25-15-211 applies when the grant, denial, or renewal of a license is required by law to be preceded by notice and an opportunity for hearing. If there is timely and sufficient application for the license or its renewal, then: (1) it keeps the existing license from expiring until the application has been finally determined by the agency; and (2) if the application is denied or the terms of the new license are limited, it keeps the license from expiring until the last day for seeking review of the agency order or until a later day fixed by the reviewing court.

No negative action against a license is lawful unless the agency gives notice to the licensee of the intended action and the licensee is given a chance to show that he complied with all lawful requirements for retention of the license. An agency can summarily suspend a license under Ark. Code Ann. § 25-15-211(c) if the public health, safety, or welfare imperatively requires emergency action.

Hearing procedures are addressed in Ark. Code Ann. § 25-15-213. That section addresses bias on the part of an agency member. The agency, one or more of its members, or a hearing officer shall preside at the hearing, but all presiding officers and officers participating in decisions must behave in an impartial manner. An officer may withdraw from the adjudication process at any time if he deems himself disqualified. Also, any party may file an affidavit “of personal bias or disqualification” regarding an officer. The agency must grant that request if it is timely, sufficient, and filed in good faith.

A hearing officer may preside over the proceedings as noted above. Generally, in this state, for licensing boards, the hearing officer conducts the proceedings but the board or agency makes the final decision, as well as any evidentiary and procedural rulings. A

hearing officer from the Attorney General's Office may be available. If the hearing is not conducted by a board member or a hearing officer from the Attorney General's Office, then the hearing officer should be a licensed attorney.

Pursuant to published procedural rules of the agency, the person presiding over a hearing has the power to do the following: (1) issue subpoenas if the agency is authorized by law to issue them; (2) administer oaths and affirmations; (3) maintain order; (4) rule on all questions arising during the hearing or proceedings; (5) allow discovery by deposition or otherwise; (6) hold conferences for settlement or to simplify issues, (7) make or recommend decisions; and (8) generally regulate and guide the course of the pending proceeding. Also pursuant to published procedural rules of the agency, the agency or presiding officer can apply to circuit court to compel a person to respond to a subpoena, to take an oath or affirmation, to testify, or to obey an agency order.

At a hearing, the burden of proof is on the proponent of a rule or order. Evidentiary standards are different from those in courts. Under Ark. Code Ann. § 25-15-213(4), irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Also, any other oral or documentary evidence, not privileged, may be received if it is of a type commonly relied upon by reasonable, prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted of record. When a hearing will be expedited and the interests of the parties will not be substantially prejudiced, any part of the evidence may be received in written form. All parties have the right to cross-examine witnesses, and judicial notice is allowed by Ark. Code Ann. § 25-15-213(5) and (6).

Generally, the agency's attorney prosecutes the adjudication. However, to preserve his special immunity in the event of a lawsuit, the attorney may not participate in the investigation of any claim.

Persons who must appear before an agency or an agency representative for a hearing or oral testimony have the right to be accompanied and advised by a lawyer. Every person has the right to appear in person or by counsel before the agency at the hearing.

A board can impose sanctions as set forth in its statutes. In addition, Ark. Code Ann. § 25-15-217 provides that each agency with the authority to suspend, revoke, or deny a license for acts or omissions, or other conduct as provided by law, may impose alternative sanctions as set forth in subsection (b) of the statute. Some of the alternative sanctions found in subsection (b) include the ability to: (1) impose a monetary penalty not to exceed \$500 for each violation; (2) require that the person complete appropriate education programs; (3) require that the person complete licensing or credentialing examinations; (4) place conditions or restrictions upon the regulated activities of the holder of the license; and (5) take other action that would be appropriate, which would achieve the desired disciplinary purposes but not impair the public health and welfare. Finally, it should be noted that some boards have the authority to sanction persons who practice without a license; others do not have that authority.

Under Ark. Code Ann. § 25-15-214, any person can bring suit in circuit court if she thinks she is injured by an agency's unlawful, unreasonable, or capricious failure, refusal, or delay in acting.

XII. JUDICIAL REVIEW

A. Generally

Judicial review, or administrative appeal, is governed by Ark. Code Ann. § 25-15-212. Judicial review is granted to any person injured in “person, business, or property” by final agency action. The request for review is made by filing a petition within 30 days after service of the final decision. The petition may be filed in either the circuit court in the county where the petitioner resides or does business or in the Pulaski County Circuit Court. Copies of the petition must be served upon the agency and other parties of record in accordance with the Arkansas Rules of Civil Procedure. The court has discretion to allow other interested persons to intervene in the judicial review.

B. Stay of Enforcement of Agency Decision

The filing of a petition for appeal does not automatically stay enforcement of the agency’s decision. Either the agency or the reviewing court may stay enforcement on just terms. When the decision is an order from a healing arts board, the reviewing court, only after notice and hearing, may postpone the effective date of an action or preserve the status and rights of the parties pending review of the decision.

C. The Record on Judicial Review

The agency must file the entire record within 30 days after service of the petition for review. The time for filing the record can be extended by the court, but for no longer than a total of 90 days. The agency must file the original record or a certified copy. The cost of preparation of the record is borne by the agency, but the cost “shall” be recovered from the appealing party if the agency wins the appeal. Ark. Code Ann. § 25-15-212. The record consists of the items listed in Ark. Code Ann. § 25-12-208(a)(5). The record can be

shortened by stipulation of all parties, and any party who unreasonably refuses to stipulate to limit the record may be taxed for the additional costs. The court can require or allow corrections or additions after the record is filed.

D. Presentation of Additional Evidence on Judicial Review

Additional evidence beyond the record may be presented to the agency upon motion only if the court finds that the evidence is material and that there were good reasons for failure to present it in the proceedings before the agency. The agency may modify its findings and decision by reason of the additional evidence, then file that evidence and any modifications, new findings, or decisions with the reviewing court. The circuit court reviews the case without a jury, and review is limited to the record, except that in cases of alleged irregularities in procedure before the agency that are not shown on the record, the court may take testimony. Upon request, the court must hear oral argument and receive written briefs in a judicial review proceeding.

E. Reversal or Modification of Agency Decision

The reviewing court can generally affirm the agency decision, remand the case for further proceedings, or reverse or modify the decision if the petitioner's substantial rights have been prejudiced because the agency's findings, inferences, conclusions, or decisions are:

- (1) in violation of constitutional or statutory provisions;
- (2) in excess of the agency's statutory authority;
- (3) made upon unlawful procedure;
- (4) affected by other error or law;
- (5) not supported by substantial evidence in the record; or

(6) arbitrary, capricious, or characterized by abuse of discretion.

XIII. ADOPTING RULES

A. Purpose of Rules

The authority of any state agency, board, or commission to adopt, amend, or repeal rules is one of its most important tools for establishing and implementing public policy for the State. This section is designed to familiarize members of boards and commissions with the concept of rulemaking, and to provide board members with practical information relating to the rule-making process and their role during that process. It should also be noted that Ark. Code Ann. § 25-15-216 requires that as soon as practicable after each regular session and fiscal session of the General Assembly, each agency shall review any newly enacted laws to determine (1) whether any existing rule should be repealed or amended or (2) any new rule should be adopted. At the conclusion of each review, the agency shall adopt a written report of the result of the review and a copy of each report shall be maintained as a public record by the agency.

B. General Process

Administrative rules are legally binding and have the force and effect of law within the State. Rulemaking is the part of the administrative process that resembles a legislature's enactment of a statute; it is a concept designed to relieve the Legislature of the burdensome task of enacting detailed and specialized laws in numerous complex areas for which the Legislature has no expertise.

The term "rule" is defined in the Administrative Procedure Act as "any agency statement of general applicability and future effect that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice of any

agency....” The term “rule” does not include statements concerning the internal management of an agency or intra-agency memoranda. Ark. Code Ann. § 25-15-202(9).

In order for a board or commission to adopt rules, there must be a statute in effect that grants rule-making authority to the board on a given subject. Any rules adopted by a board must be authorized by statute. A state agency’s authority to promulgate a rule authorized by statute shall be narrowly interpreted. A state agency shall limit its rulemaking to only those subject matters that are absolutely necessary to fulfill its statutory obligations and shall not promulgate a rule that is inconsistent with the legislative intent of the statute.

Rulemaking is a lengthy and involved process. It is not accomplished simply by drafting rules. In fact, rule drafting is usually the first of many steps that must be followed in sequence before rules go into effect. Since each board's attorney advises the board and its staff throughout the process, this section will not attempt to explain the intricate procedures involved. Instead, it will provide board members with only a brief overview. In order to assist agencies in the rule-making process, Ark. Code Ann. § 25-15-215 directs the Attorney General to publish model rules of procedure for use by agencies. Newly created agencies must adopt those model rules that are practicable. Please note that no rule is valid unless adopted and filed in substantial compliance with Ark. Code Ann. § 25-15-204.

C. Drafting and Adopting the Rule

The first step requires the agency and its staff to draft language to address a particular problem or need in the existing rules. The agency will consult with its counsel to assure that the proposed rule is consistent with its rulemaking authority and general laws.

After drafting the proposed rule or rule changes and prior to taking other steps in the rule making process, the board or commission should vote to accept the proposed rule and begin the rule promulgation process.

Per Executive Order 15-02, all proposed rules must be submitted to the Governor for his approval. The agency must also submit the following required documentation:

- **Request for Governor’s Approval of Proposed Rules**
- BLR Questionnaire;
- BLR Financial Impact Statement;
- Proposed Rule – clean version;
- Mark-Up of Rule, if amended from previous version; and
- Copy of Act or Regulation, if Rule is pursuant to State or Federal mandate.

If the Governor determines that a proposed rule unnecessarily burdens business, the proposed rule shall not become effective nor shall it be filed with Legislative Council.

Once the agency receives the Governor’s approval, most agencies must submit their proposed rules to their Department Secretary for approval. Once approved by the Secretary, then the proposed rule and all required documentation must be submitted to Legislative Council for approval. Legislative Council will refer the proposed rule to the Administrative Rules Subcommittee of the Legislative Council (“Rules Subcommittee”) for review. Ark. Code Ann. §10-3-309(c), as amended by Act 1258 of 2015.

The proposed rule, the public notice, the financial impact statement, a statement setting forth the reason for the proposed rule, and a summary of the proposed rule must be filed with the Secretary of State in an electronic format acceptable to the Secretary of State. Ark. Code Ann. §§ 25-15-218(c) and 25-15-204(e)(1)(A). All rules filed with the Secretary of State shall conform to the Secretary of State’s numbering system. Ark. Code Ann. § 25-15-218(d). Notice must be published by the Secretary of State on the Internet for thirty (30) days in accordance with Ark. Code Ann. § 25-15-204(a)(1)(D)(ii).

Pursuant to Ark. Code Ann. § 25-15-204, prior to the adoption, amendment, or repeal of any rule, the agency must give at least 30 days' notice of its intended action. The notice does not need to contain the entire text of a proposed rule. The notice must include a statement of the terms or substance of the intended action, or a description of the subjects and issues involved, and the time, the place, and the manner in which interested persons may present their views. The notice must be mailed to any persons specified by law and to all persons who have requested advance notice of rule-making proceedings. The notice must also be published, unless otherwise specified by law, in a newspaper of general daily circulation for three consecutive days and, where appropriate, in trade, industry, or professional publications that the agency may select. The thirty-day time period begins on the first day of the publication of notice.

The agency must also afford all interested persons a reasonable opportunity to submit written data, views, or arguments, either orally or in writing. A hearing must be granted if requested by 25 persons, by a governmental subdivision or agency, or by an association having no fewer than 25 members. The agency must fully consider all written and oral submissions respecting the proposed rule. If an interested person requests a statement of the reasons for and against the adoption of a rule, either before the adoption or within 30 days thereafter, the agency shall issue a concise statement of the principal reasons for and against the adoption, incorporating its reasons for overruling the considerations urged against the adoption of the rule.

The agency shall consider various factors prior to adoption. For example, the agency shall not adopt, amend or repeal a rule unless the rule is based on the best reasonably

obtainable scientific, technical, economic or other evidence and information available concerning the need for, consequences of, and alternatives to the rule.

To have a rule placed on the Rules Subcommittee's agenda, the public comment period of the proposed rule must have expired by the 15th of the month prior to the Rules Subcommittee meeting date at which the agency would like the proposed rule to appear on the agenda. The agency shall provide the Rules Subcommittee staff with the following information: (1) a public comment summary that includes for each comment received the name of the commenter, if known; a summary of the comment; and a response by the agency to the comment; (2) a revised markup of the proposed rule that shows changes, if any, that were made subsequent to the initial filing with the Rules Subcommittee; and (3) any additional information requested by Legislative Council. For more information regarding the Rules Subcommittee and Legislative Council approvals, please see the Arkansas Attorney General publication "General Procedures for Adopting or Changing a Rule" and *Rules of the Administrative Rules and Regulations Subcommittee of Legislative Council Concerning Review and Approval of State Agency Rules*.

Any significant changes to the proposed rule during the public comment period may require the agency to start the process again. In general, changes to a rule during the process will not require a restart of the process if (1) the final rule is in character with the original scheme and was a logical outgrowth of the notice and comments arising from the proposed rule, or (2) the notice fairly apprised interested persons of the subject and issues that would be considered so the interested persons had an opportunity to comment. See Ark. Att'y Gen. Op. No. 97-358.

It should also be noted that, in certain circumstances, an agency may adopt an emergency rule without following the public notice requirements. Under the APA, if an agency finds that imminent peril to the public health, safety, or welfare requires adoption of a rule upon fewer than thirty days' notice and states in writing its reasons for that finding, it may proceed without prior notice or hearing, or upon any abbreviated notice and hearing that it may choose. The mere parroting of the statutory phrase regarding "the public health, safety, or welfare" with no specific facts is insufficient to support the adoption of an emergency rule. An emergency rule may be effective for no more than 120 days. After adopting an emergency rule, the agency should generally begin the regular rule-making process.

D. Filing Final Rule

Each state agency must file the adopted final rule with the Secretary of State in an electronic format acceptable to the Secretary of State. Ark. Code Ann. § 25-15-218(c). An agency shall not file a final rule with the Secretary of State for adoption until the final rule has been approved by Legislative Council. Ark. Code Ann. § 25-15-204(f). The new adopted rule becomes effective 10 days after filing with the Secretary of State unless a later date is specified in the rule itself or by law. Ark. Code Ann. § 25-15-204(g)(1)(A).

After the expiration of the thirty-day public comment period and before the effective date of the rule, the agency shall take appropriate measures to make the final rule known to persons who may be affected by the rule, including posting on the agency website (i) the rule; (ii) copies of written comments; (iii) a summary of all comments and the agency's response; (iv) a summary of the rule's financial impact; and (v) the proposed effective date. Ark. Code Ann. § 25-15-204(g)(1)(C).

As stated earlier, the above is a brief overview of the rule promulgation process. Please consult your board attorney or the Bureau of Legislative Research for further assistance.

XIV. EMPLOYMENT ISSUES

A. Employees

The employees of an agency, board, or commission are employees of the State of Arkansas. Most of them are “at-will” employees, which means that they may be discharged at any time for any reason that is not prohibited by law. An employee may not be discharged for an illegal reason, including but not limited to race, religion, sex, age, disability, etc. Also, some employees, particularly some administrators, are not “at-will.” A court may view an agency’s personnel policies and employee handbook as a contract that gives an employee rights beyond “at-will” employment under certain limited situations. You should consult your agency attorney if you need to determine an employee’s status.

There are state and federal laws protecting employees from discrimination based on, among other things, age, sex, race, religion, genetic information, and disability. For this reason, it is important for a state agency, board, or commission to follow good personnel policies. The Office of Personnel Management at the Department of Shared Services provides general personnel policies and procedures for agencies to use in dealing with employees. Some larger agencies must write additional personnel policies. Any policies adopted by your agency should be reviewed by your attorney for compliance with state and federal laws.

B. State Employees Grievance Appeals Panel

Most state employees may appeal a suspension or termination of employment. An employee of a state agency may file a grievance under this subchapter if his or her termination or suspension from employment was inconsistent with the agency's disciplinary policy. An expedited procedure is afforded an employee if the employee alleges that he or she was terminated by a state agency for certain actions prohibited by the Arkansas Whistle-Blower Act, which is discussed below.

C. Background Checks

Some state laws require criminal background checks for certain employees. These checks are performed by the Arkansas State Police, and they are paid for by the requesting agency. If your agency is required to perform criminal background checks, the statute should specify a procedure for your agency to deal with appeals and grievances arising from the checks. Your attorney will assist you with those procedures.

D. Drug Testing

Drug testing may only be done under certain specified conditions. If your agency, board, or commission feels that employee drug testing or screening is necessary, you should contact your attorney to discuss the specific policies and procedures that need to be in place for such testing.

E. Whistle Blowers

Arkansas Code Annotated § 21-1-601 et seq. is the Arkansas Whistle Blower Law. This statute protects employees who, in good faith, report a substantial waste of public funds, property, or manpower or a violation or suspected violation of a state, county, or municipal law, rule, or regulation. In disciplining employees, each state agency, board,

and commission must be mindful of this law and follow its procedures before trying to discipline or discharge an employee. You should consult your attorney if an employee of your agency has made a report that may fall under the Whistle Blower Law.

F. Legal Counsel

You should consult your assigned Agency Attorney if you have general questions regarding employment law or specific questions regarding a particular employment issue.



ATTORNEY GENERAL
LESLIE RUTLEDGE

ARKANSASAG.GOV

323 Center Street, Suite 200

Little Rock, Arkansas 72201

(501) 682-2007



AGLeslieRutledge



AGRutledge



AGLeslieRutledge



ArkansasAG



AGRutledge



Attorney General Leslie Rutledge