

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

PERSONNEL AGENCY BOARD

GENERAL RULES

(By authority conferred on the personnel agency board by section 308 of Act No. 299 of the Public Acts of 1980, as amended, being §339.308 of the Michigan Compiled Laws)

PART 1. GENERAL PROVISIONS

R 339.5001 Definitions.

Rule 1. (1) As used in these rules, "act" means Act No. 299 of the Public Acts of 1980, as amended, being §339.101 et seq. of the Michigan Compiled Laws.

(2) As used in the act:

(a) "Bona fide acceptance," as used in section 1020(c) of the act, means that a client sent by a personnel agency to an employer in response to a valid job order has agreed with the employer as to the conditions of employment, the salary or wages to be paid, and the time and place that employment is to begin.

(b) "Put a client in direct contact with employers," as used in section 1001(k) of the act, means complying with all of the following provisions:

(i) The personnel agency has informed the client of the name and location of the employer, including the name of the individual to whom the client will report for an interview, and the job specifications and salary range.

(ii) The employer and the client have agreed, either directly or by an authorized arrangement of the referring personnel agency, to meet for an interview.

(iii) The referral to the employer has been confirmed in writing to the applicant as required in section 1013(3) of the act.

(3) Terms defined in the act have the same meanings when used in these rules.

History: 1996 AACS.

R 339.5005 Public meetings.

Rule 5. (1) Each person shall be provided a reasonable opportunity to address a board meeting on an agenda item or one not on the agenda if the person makes a request to the board's offices or to the department before the meeting is convened or to the chairperson before the conclusion of the meeting.

(2) A group of 5 or more persons is requested to give advance notice to the chairperson of its intention to attend a public meeting so that an effort may be made to provide adequate space.

(3) The chairperson shall do all of the following:

(a) Conduct the public participation portion of the public meeting in an orderly and decorous fashion.

(b) Within the time limits available, recognize each person wishing to speak on a matter.

(c) Allow for public comment on each agenda item.

(d) Allocate a specific time on the agenda for general public comments.

(e) Limit the number of persons who are admitted to the meeting room if necessary to comply with public safety laws and regulations.

(f) Temporarily recess and promptly reconvene the meeting in a larger meeting room if more space is necessary.

(g) Impose reasonable limitations on time allotted for public comments.

(h) Inquire as to the interest or interests, if any, represented by the person addressing the meeting.

(i) To preserve the rights of all parties, prohibit a member of the public from addressing the meeting on the subject of a disciplinary case pending before a board.

History: 1996 AACCS.

R 339.5009 Rescission.

Rule 9. R 338.4001 to R 338.4027 of the Michigan Administrative Code, appearing on pages 2665 to 2671 of the 1979 Michigan Administrative Code, are rescinded.

History: 1996 AACCS.

PART 2. LICENSING

R 339.5021 Examination; issuance of agency license contingent upon agent passing examination; passing score.

Rule 21. (1) An agency license shall not be issued until the individual applicant for a personnel agent license has successfully passed the qualifying examination.

(2) The passing score shall be established by the board and the department and provided to applicants with examination admission materials.

History: 1996 AACCS.

R 339.5023 Type B agencies; determination.

Rule 23. A personnel agency which performs any activity regulated under the act, but which does not put clients in direct contact with employers as described in these rules, shall be a type B personnel agency.

History: 1996 AACCS.

PART 3. STANDARDS OF CONDUCT

R 339.5031 Advertising generally; prohibitions.

Rule 31. (1) All advertising by a personnel agency shall be in compliance with state and federal statutes, federal regulations, and state rules regarding discriminatory practices.

(2) A personnel agency shall not print, publish, or circulate a false, misrepresentative, deceptive, or fraudulent notice or advertisement.

(3) A personnel agency shall not advertise a position solely for the purpose of attracting clients for other current or future positions.

(4) All advertisements for positions available shall refer to a valid job order on file with the personnel agency and available at the time the copy is given for insertion in any media.

(5) The description of a position in an advertisement shall be consistent with the information contained in the job order.

(6) An advertisement shall be canceled when the position is known to be filled, either by the agency or another source, or when knowledge is available that the position is not open.

(7) An advertisement shall carry the name, street address, and city under which the agency is licensed to do business.

(8) A display, directory, corporate, or promotional advertisement that does not list a particular position is permissible, but the advertising shall carry the licensed name, street address, and city of the personnel agency.

History: 1996 AACCS.

R 339.5033 Advertising; fee arrangements.

Rule 33. (1) A personnel agency shall not advertise a job as "free," "no fee," "negotiable," or reimbursed" or use words of similar import.

(2) A split fee or any other type of fee arrangement shall be clearly identified in each individual advertisement.

(3) A position may be advertised without indicating which party pays the fee. An advertisement shall not contain a statement such as "many of our positions are fee paid, reimbursed, or negotiable" or a statement of similar import.

History: 1996 AACCS.

R 339.5035 Advertising; salary arrangements; prohibition.

Rule 35. (1) When a salary is stated in an advertisement, the amount shall not be more than that recorded on the job order.

(2) A position shall not be advertised at maximum pay only. A position may be advertised at a range from minimum to maximum or by the words "to a maximum of \$ " or "to \$."

(3) An advertisement using an incentive in the earnings of a position, such as "but not limited to commissions, draw, stock option, profit sharing" or words of similar import, shall be clearly stated accordingly. A potential earning figure shall not be advertised without being reasonably explained.

(4) A job title shall appear in an advertisement and shall be reasonably descriptive in accordance with the type of work to be performed.

(5) An advertisement shall not state "guarantees a job," "guaranteed results," or words of similar import.

(6) An advertisement shall not state a superlative, such as "top," "maximum," "outstanding," or words of similar meaning, without stating the salary amount.

History: 1996 AACCS.

R 339.5037 Type A personnel agency fees; when earned.

Rule 37. (1) A type A personnel agency shall be deemed to have earned a fee from a client only when the agency has placed the client in direct contact with an employer as provided for in R 339.5001(2)(b) and a bona fide acceptance of employment has been made as provided for in R 339.5001(2)(a).

(2) Nothing in these rules shall prohibit a type B agency handling job listings from calling a client's attention to a particular job listing, provided the type B agency does not put the client in direct contact with the employer.

History: 1996 AACCS.

R 339.5039 Waivers.

Rule 39. Under sections 1014(2) and 1015(a) of the act, when a waiver is required to be on a separate sheet of paper as a part of the legal contract, no other part of the contract shall be on the same piece of paper as the waiver.

History: 1996 AACCS.