



ADMINISTRATIVE RULES OF MONTANA

38.2.5024 PROTECTIVE ORDER--STANDARD TERMS AND CONDITIONS --ACCESS AND MAINTENANCE OF CONFIDENTIAL INFORMATION--EMPLOYEE EXPERTS OF PARTIES

- (1) Legal counsel for a requesting party may propose access to confidential information by an employee expert of the requesting party in accordance with the following procedure.
 - (a) Legal counsel for the requesting party shall serve written notice on the legal counsel for the provider of the intent to provide confidential information to an employee expert of the requesting party. The notice must contain the name, title, job description, description of previous positions and experience, and area of expertise of the employee expert accessing the information.
 - (b) Within ten business days of service of notice, the provider must serve on the requesting party in writing either an objection or a statement indicating no objection.
 - (c) If the requesting party receives a statement of no objection, legal counsel for the requesting party may provide access to the information by the designated employee expert in accordance with the governing protective order.
 - (d) If the requesting party receives an objection within the time required, the requesting party and provider must attempt to resolve the objection. If the parties are unable to resolve the objection, the requesting party may apply to the commission for a ruling. Access to the information shall not be given to the designated employee expert pending ruling by the commission.
 - (e) The standard applied by the commission when determining a question of employee expert access to confidential information is whether access would be reasonably likely to jeopardize the confidential nature of the information.
 - (f) A party dissatisfied with a ruling by the commission may appeal to the district court, and, pending appeal, the information must not be disclosed to the designated employee expert.
- (2) To avoid unnecessary delay, counsel for the requesting party proposing access to confidential information by an employee expert should commence the above procedure as early as possible in a proceeding.
- (3) All written communication referred to in this rule must be served on the commission.
- (4) Service of written communication means physical delivery or deposit in the mail.

Implementing statute(s): 69-3-105, MCA

History: NEW, 2000 MAR p. 2037, Eff. 7/28/00; AMD, 2004 MAR p. 2592, Eff. 10/22/04; AMD, 2007 MAR p. 2135, Eff. 12/21/07.