

Department of Public Service Regulation



CONFIDENTIAL
RESPONSE TEAM
COMPLAINT PURSUANT TO
§ 69-1-113, Mont. Code Ann.

The Honorable Greg Gianforte
Governor of the State of Montana
P.O. Box 200801
Helena, MT 59620-0801

August 20, 2025

Dear Governor Gianforte:

It is my unpleasant duty to write on behalf of the Response Team of the Department of Public Service Regulation (DPSR) to file this complaint requesting the immediate, temporary suspension of Public Service Commissioner Brad Molnar under § 69-1-113, Mont. Code Ann., for good cause for the reasons that follow.

INTRODUCTION:

Commissioner Brad Molnar is the President of the Montana Public Service Commission (PSC) and a high-level member of agency management. Commissioner Molnar is currently under investigation for allegations of misconduct in the workplace. DPSR has been working to carefully address these allegations in accordance with applicable laws and policies. However, Commissioner Molnar has been using his high-level position in a multitude of ways to thwart the investigation and stop it from reaching its conclusion. Any other manager who engaged in this type of behavior would normally be suspended from duty through administrative leave imposed by agency management. But a Public Service Commissioner can only be suspended from duty by the Governor.

We are compelled to make this request due to agency management's obligation to appropriately address reports of workplace misconduct and stop retaliation against those who exercise their rights to a workplace free from harassment and discrimination. As a result of Commissioner Molnar's own actions, it has become abundantly clear that this is not possible with his presence in the workplace.

In no way is this recommendation based on Commissioner Molnar's regulatory decisions, nor does it come in direct response to allegations DPSR is currently assessing regarding workplace misconduct. Rather, this suspension is necessary so DPSR can work toward proper resolution of the allegations without continued interference and unfettered retaliatory action by Commissioner Molnar.

BACKGROUND:

The agency's Internal Policy Manual (IPM) provides methodical procedures that guide agency administrative matters in accordance with state law. The IPM includes a comprehensive Code of Conduct policy that governs commissioner and staff behavior in the workplace.¹ It was developed at the recommendation of the Legislative Audit Division and adopted by the Commission in 2024 following

¹ Attachment 1 (DPSR Code of Conduct Policy).

numerous public meetings. The Code encourages informal resolution of problematic conduct, if possible, but also provides a process for individuals to file formal complaints.² The Code requires an ad hoc Response Team to receive, investigate, and respond to reports of harassment, discrimination, retaliation, or formally reported violations of agency policies.³

Please know that since 2021, DPSR has made tremendous strides to promote a healthy and productive workplace culture. Among these efforts, we have provided multiple trainings to all Commissioners regarding the policies of the agency with an emphasis on good conduct. I and other managers have each invested a great deal of time in trying to help Commissioner Molnar understand and be successful in his role as Commission President. He has received countless polite reminders regarding workplace conduct, a handful of stern rebukes, and two written warnings reminding him that retaliation is unlawful. But he remains openly averse to following agency policies and has refused to sign the Internal Policy Manual (IPM) Acknowledgment Form.

PRIMARY ISSUES:

In May 2025, the DPSR Response Team began receiving formal complaints regarding Commissioner Molnar's workplace conduct. Due to the unique nature of the situation and his position atop the DPSR's chain of command, the Response Team determined it would be necessary to seek independent review and counsel. In June 2025, DPSR retained attorney Amy D. Christensen for counsel in this matter, and Communication and Management Services, LLC (CMS) to investigate the misconduct allegations. The Response Team notified Commissioner Molnar that complaints had been received and an independent review would be commenced. Immediately thereafter, two Response Team members witnessed President Molnar threaten retaliation, so they recused themselves from the case.

Rather than working with DPSR toward resolution of the complaints, Commissioner Molnar chose to engage in a hostile pattern of activity designed to derail the investigation and prevent DPSR from properly addressing the complaints. Among these actions, Commissioner Molnar:

- 1) Threatened retaliation against anyone involved;⁴
- 2) Claimed he is not subject to the policies adopted by the PSC to regulate appropriate workplace conduct by commissioners;⁵
- 3) Declined to participate in the fact-finding phase of the investigation, in part because he was not allowed to confront and cross-examine "his accusers";⁶
- 4) Held a press conference to blow up publicity on an otherwise confidential HR matter;⁷
- 5) Made public comments that were dismissive, untruthful, and retaliatory in nature;⁸
- 6) Demanded (through counsel) that the investigation be immediately terminated;⁹
- 7) Stated (again through counsel) that as President, he will not approve any expenses DPSR incurs related to the investigation;¹⁰
- 8) Filed an official work session request to have the Commission negate the contracts with independent counsel and investigators, and to disallow the Commission's Chief Legal Counsel,

² Attachment 1, Secs. 2.11 and 2.14.

³ Attachment 1, Sec. 2.15.1.

⁴ Details pending completion of investigation.

⁵ Attachment 2 (Monforton email to Christensen, August 1, 2025).

⁶ Attachment 2 (Monforton email to Christensen, July 29, 2025).

⁷ See, eg., https://missoulain.com/news/state-regional/government-politics/article_7f48b6bc-b2fd-5c6a-8f0c-6ad4a40b7b43.html [missoulain.com]; https://helenair.com/video_53bf4918-3038-5f7d-9ee3-f02dd3a0287a.html [helenair.com].

⁸ <https://dailymontanan.com/2025/07/30/psc-president-brad-molnar-says-workplace-investigation-waste-of-taxpayer-resources/> [dailymontanan.com]; Attachment 3 (Molnar email to Lake, August 11, 2025).

⁹ Attachment 2 (Monforton email to Christensen, July 29, 2025).

¹⁰ Attachment 2 (Monforton email to Christensen, August 1, 2025).

Human Resources Officer, Executive Director and their staffs from advising the Commission on this topic.¹¹

These and other actions present insurmountable challenges for DPSR because, as the President, Commissioner Molnar possesses special supervisory powers over the agency, is the spokesperson for the Commission, is responsible for preserving order and decorum,¹² and plays an integral role in ensuring DPSR has the resources necessary to comply with its policies. Also uniquely problematic is the fact that President Molnar directly supervises the Executive Director whose job duties include ensuring compliance with the internal policies and overseeing external communications.¹³

CONCLUSION:

Commissioner Molnar's ongoing attempts to use his high-level position within the agency to stop an investigation of his own misconduct are reprehensible. He has prolonged and complicated the complaint administration process, driven up associated costs, detracted from the DPSR's ability to conduct its primary business, intimidated and defamed department personnel, and created serious liability risks for the DPSR and the State of Montana.¹⁴

After careful consideration, and in consultation with independent legal counsel, the DPSR Response Team finds itself obligated to request the temporary suspension of Commissioner Brad Molnar, and ask that it remain in effect at least until the DPSR's internal process for resolving complaints regarding his workplace conduct has concluded in accordance with the Code of Conduct policy, and he agrees to abide by the DPSR's Internal Policy Manual, including the Code of Conduct in its entirety, going forward.

Thank you for your careful consideration. Please advise if we can be of assistance.

Sincerely,



Jennifer Fielder

Vice President, Montana Public Service Commission
Acting Chair, DPSR Response Team

cc:

Tina Limesand, DPSR Business Manager/Response Team Member
Amy Christensen, Attorney/Response Team Counsel
Kristen Juras, Lieutenant Governor
Anita Milanovich, GOV General Counsel
Lucas Hamilton, DPSR Chief Legal Counsel
Alana Lake, DPSR Executive Director

¹¹ Attachment 3 (August 11, 2025, PSC Work Session Request).

¹² Administrative Rules of Montana, 38.1.101.

¹³ Job Description 00020 – JD 012425, DPSR Executive Director Position.

¹⁴ See *EEOC Enforcement Guidance on Harassment in the Workplace* (April 2024) (affirmative defense available to employer depends, in part, on whether it had an effective complaint process that provides for prompt and effective investigations and includes confidentiality and anti-retaliation protections); *Stringer-Altmaier v. Haffner*, 2006 MT 129, ¶ 27, quoting *Benjamin v. Anderson*, 2005 MT 123, ¶ 54 (“culpable acts of continuing discrimination in the work place primarily [take] the form of the employer’s failure to seriously and adequately investigate and discipline [the harasser]” and “the employer’s subsequent failure to protect [the victim] on the job.”)



SECTION 3:

PERSONNEL POLICIES

Code of Conduct Policy
Communications Policy
Drugs and Alcohol Policy
Grievances Policy
Information Technology Policy
Pay Policy
Performance Management Policy
Personnel Schedule Policy
Recruitment and Selection Policy
Safety Policy
Security Policy
Strike Plan Policy
Telework Policy
Travel Policy



Department of Public Service Regulation

CODE OF CONDUCT POLICY

Responsibility Area:	Centralized Services Division
Responsible Person:	Executive Director
Effective Date:	8/13/24
Revised Date:	[date]
Approved By:	Public Service Commission

1. REASON FOR THIS POLICY

- 1.1. For the good of the Department of Public Service Regulation (DPSR), its personnel, and the public we serve, this policy is intended to encourage personal conduct that fosters a cooperative, productive, orderly, and healthy workplace culture characterized by:
 - 1.1.1. High standards of professionalism.
 - 1.1.2. Ethical behavior.
 - 1.1.3. Respectful and enjoyable working relationships.
- 1.2. This policy is also intended to help department personnel appropriately identify, prevent, and remediate misconduct.

2. STATEMENT OF POLICY

- 2.1. Laws, administrative rules, and DPSR policies have been adopted to guide department personnel in many aspects of their work. All department personnel should strive to adhere to all applicable laws, rules, and policies, to the best of their abilities. The provisions of the DPSR Code of Conduct policy should be construed and applied to support those efforts and the objectives stated in Section 1 of this policy. The additional details included in this policy are meant to provide guidance relating to specific matters of conduct that may warrant further instruction or attention.

2.2. General Standards of Conduct and Performance

- 2.2.1. Department personnel must comply with all standards of conduct and requirements imposed by statute, including those found in [Montana Code Annotated \(MCA\) Title 2, Chapter 2](#) and [MCA Title 69](#).
- 2.2.2. Department staff members are expected to perform their essential job functions and produce work that consistently meets or exceeds professional standards and related expectations set by direct supervisors.
- 2.2.3. Commissioners are expected to perform their essential job functions and produce work that consistently meets or exceeds professional standards for individuals in the same or similar positions.
- 2.2.4. Department personnel are expected to maintain the qualifications, certification, licensure, and/or training required for their job.
- 2.2.5. Department personnel are expected to be reliable and dependable, report on time for established work hours and scheduled appointments, and follow the department's Personnel Schedule Policy when requesting and taking leave.
- 2.2.6. Department personnel are expected to maintain a professional, courteous, productive, and respectful working relationship with co-workers, peers, supervisors, and the general public. Threatening, abusive, obscene, or derisive behavior or communications are strictly prohibited.
- 2.2.7. Department personnel are expected to follow the department's written policies and the verbal or written instructions of their direct supervisor and of persons with duly delegated authority.
- 2.2.8. Department personnel are expected to provide the level of effort necessary to perform the essential functions of the job and to stay focused on job-related activities during work hours.
- 2.2.9. Department personnel are expected to comply with all laws, rules, contracts, policies, plans, or directives within the Commission's jurisdiction.
- 2.2.10. Department personnel shall not falsify office records, including time sheets, expense forms, and other documents.
- 2.2.11. Department personnel shall not steal, willfully damage, misappropriate (unlawfully use), or neglect department property.

2.3. Rules of Professional Conduct

- 2.3.1. Accountants employed by the department shall adhere to the American Institute of Certified Public Accountants (AICPA) Code of Professional Conduct. In the event of a conflict between department policy and the AICPA Code of Professional Conduct, the AICPA Code of Professional Conduct shall control.
- 2.3.2. Attorneys employed by the department shall adhere to the Montana Rules of Professional Conduct. In the event of a conflict between department policy and the Montana Rules of Professional Conduct, the Montana Rules of Professional Conduct shall control.

2.4. Avoiding Impropriety and the Appearance of Impropriety

- 2.4.1. The work of the Commission and the department often requires fair and impartial balancing of competing interests. The decisions of the Commission and the effectiveness of the work of the department may be jeopardized by statements or actions that demonstrate prejudice on the part of department personnel. For these reasons:
 - 2.4.1.1. All department personnel are expected to refrain from actions or statements that demonstrate prejudice toward any party or matter that is currently, or is likely to be, subject to commission action.
 - 2.4.1.2. When speaking about or inviting public participation in matters pending before the Commission, department personnel must take care to maintain neutrality until it is appropriate to express their views through established administrative or deliberative processes.
 - 2.4.1.3. Department personnel should not attempt to generate public pressure in support of or opposition to a party, position, or outcome in a pending commission action.
 - 2.4.1.4. When inviting public participation, department personnel should direct participants to use the department's established public participation procedures.
- 2.4.2. Department personnel shall not use, or attempt to use, their official position for personal gain, or confidential information for personal advantage.
- 2.4.3. Department personnel shall not own any financial interest (as defined in Section 6 of this policy) in any company regulated by the Commission.
- 2.4.4. Department personnel should be careful not to allow family, social, political, or other relationships to interfere with the impartial performance of official duties.

- 2.4.5. Department personnel shall refrain from financial and business dealings that tend to reflect adversely on their impartiality, interfere with the proper performance of their official duties, or exploit their position.
- 2.4.6. Department personnel are expected to be honest and impartial.
- 2.5. Communications
 - 2.5.1. When department personnel choose to publicly discuss their views on a department matter, careful respect should be given to the parameters described in the DPSR Communications Policy, with specific emphasis on sustaining the objectives of Section 1.1 of the DPSR Code of Conduct policy.
 - 2.5.2. Department personnel are required to maintain confidentiality, according to applicable rules, orders, laws, and policies.
 - 2.5.3. All department personnel are required to sign and abide by the Commission Non-Disclosure Agreement (Appendix 1).
- 2.6. Staff Independence
 - 2.6.1. Staff recommendations must be based on the facts, law, and regulatory principles.
 - 2.6.2. In accordance with the chain of command established within the DPSR Administration Policy, commissioners may consult with staff about the facts, law, and regulatory principles involved in a decision, though no commissioner may dictate the content of a staff recommendation.
 - 2.6.3. Staff recommendations do not bind the Commission. The Commission may, at its discretion, adopt or reject part or all of a staff recommendation.
 - 2.6.4. Staff is not required to make a recommendation for every commission decision. Before staff completes work on a recommendation, management may direct subordinate staff to forego making a recommendation on a matter. When staff provides no recommendation, it will instead provide a summary of any relevant facts, law, and regulatory principles involved in a decision.
 - 2.6.5. Department personnel shall not retaliate against staff for making a recommendation with which they disagree.
 - 2.6.6. Staff shall avoid taking sides in disputes among commissioners, and commissioners shall avoid drawing staff into such disputes. This provision is intended to prevent unhealthy factions within the workplace and does not preclude department personnel from carrying out their normal duties or any duties prescribed in Sections 2.12 through 2.17 of this policy.

- 2.6.7. Additional protections regarding independence may apply when staff is appointed to special roles (e.g., as hearing examiners or advocates). In these cases, the additional protections should be described in the notice appointing staff to the special role.

2.7. Commissioners' Impartial and Diligent Performance of Duties

- 2.7.1. The official duties of a commissioner take precedence over all other activities. A commissioner's duties include all the duties of office prescribed by law, administrative rule, and set forth in the DPSR Internal Policy Manual. In the performance of these duties, the following standards apply:
 - 2.7.1.1. A commissioner should be faithful to, and constantly strive toward, improving his or her competence in regulatory principles and procedures.
 - 2.7.1.2. A commissioner should base his or her decisions, deliberations, and votes on the law and the facts. In contested cases, commissioners must review and base decisions on record evidence.
 - 2.7.1.3. Commissioners should be unswayed by personal or partisan interests, pressure from special interests, or fear of criticism.
 - 2.7.1.4. Each commissioner has the duty and right to cast their vote as they believe is appropriate under the law. Department personnel must respect this right and shall never retaliate against a commissioner for their vote.
 - 2.7.1.5. A commissioner should maintain order and decorum in all proceedings, and abide by applicable rules of order.
 - 2.7.1.6. A commissioner should be patient, dignified, and courteous to litigants, lawyers, witnesses, fellow commissioners, staff, and others with whom the Commission deals in an official capacity, and should expect and strive to secure similar conduct of the same.

2.8. Commissioner Disqualification

- 2.8.1. A commissioner should disqualify himself or herself in a proceeding in which his or her impartiality might reasonably be questioned, or when he or she has a clear conflict of interest.
- 2.8.2. Circumstances warranting disqualification include, but are not limited to, instances where:
 - 2.8.2.1. The commissioner has a personal bias or prejudice concerning a party that prevents the commissioner from fairly and impartially considering the facts and the law of a case.

- 2.8.2.2. The commissioner has served as a lawyer or representative in the matter in controversy.
 - 2.8.2.3. The commissioner has previously practiced law with a lawyer or firm and, during the time the commissioner practiced law with that lawyer or firm, the lawyer or firm participated in the matter in controversy.
 - 2.8.2.4. The commissioner knows that he or she individually, or as a fiduciary, or his or her spouse or relative residing in his or her household: (1) has a financial interest in the subject matter in controversy; (2) is a party to the proceeding; or (3) has any other interest that could be substantially affected by the outcome of the proceeding.
- 2.8.3. For purposes of this section, a commissioner's interest as a ratepayer of a regulated entity is not a basis for disqualification.
- 2.9. Activities to Improve Regulation and Administration
 - 2.9.1. As long as they do not interfere with the proper performance of essential job functions, or conflict with the department's policies, department personnel may engage in the following activities if they do not cast doubt on their capacity to impartially decide or participate in any proceeding that may come before the Commission:
 - 2.9.1.1. Department personnel may speak, write, lecture, teach, and participate in other activities concerning regulation and the administration of commission business.
 - 2.9.1.2. Department personnel may appear at a public hearing before an executive or legislative body or official, subject to the provisions of the department's Communications Policy.
- 2.10. Identification and Prevention of Misconduct
 - 2.10.1. All department personnel should familiarize themselves with this policy and strive to exercise good judgment in meeting the objectives stated in Section 1.1, and further detailed in Section 2 of this policy. Every member of the department is asked to do their part to prevent misconduct by regulating their own behavior.
- 2.11. Informal Resolution of Misconduct
 - 2.11.1. If department personnel observe conduct that they believe is in violation of Sections 2.1 through 2.13 of this policy, they should consider the degree to which a response is warranted, if any. In instances where an offending individual may not be aware that they are violating this policy, the solution may be as simple as a polite conversation to bring it to their attention so they have an opportunity to understand the issue and make voluntary corrections.

- 2.11.2. In other instances, it may be more appropriate to bring the matter to the attention of department management so it may be addressed in a more formal manner.
- 2.12. Equal Employment Opportunity, Non-discrimination, and Harassment Prevention
 - 2.12.1. The department follows the State of Montana's Equal Employment Opportunity, Non-discrimination, and Harassment Prevention Policy, found in [Administrative Rules of Montana \(ARM\) Title 2, Chapter 21, Subchapter 40](#).
 - 2.12.2. The department will not tolerate any behavior that negatively focuses on a protected class. Although a behavior or pattern of behavior might not constitute illegal discrimination, it might still violate this policy.
 - 2.12.3. Department personnel who believe they have been discriminated against are encouraged to contact their supervisor or one or more members of the Response Team.
 - 2.12.4. Supervisors who observe behavior that could be viewed as discrimination or harassment shall stop the behavior and notify the Human Resources Officer (HRO) or another member of the Response Team as soon as possible.
- 2.13. Retaliation
 - 2.13.1. The department does not tolerate retaliation against individuals who report violations of this policy, or who exercise their rights to a workplace free from harassment and discrimination. Department personnel who retaliate are subject to disciplinary action, up to and including termination of their employment.
 - 2.13.2. Supervisors shall not retaliate or allow, condone, or encourage others to retaliate against any current or former employee or job applicant for opposing unlawful discriminatory practices, filing a discrimination complaint, or participating in a discrimination proceeding, including testifying in court.
 - 2.13.3. Supervisors who perceive retaliatory behavior must notify the appropriate direct supervisor, Business Manager, Executive Director, Chief Legal Counsel, or President as soon as possible, but no later than one working day after the supervisor becomes aware of the retaliatory behavior.
- 2.14. Reporting
 - 2.14.1. Department personnel may formally report violations of Sections 2.1 through 2.13 of this policy to a direct supervisor or a member of the Response Team.
 - 2.14.1.1. A direct supervisor or a member of the Response Team who receives a report must notify the HRO within one working day, regardless of their perception of the validity of a report. The HRO shall notify the members of the Response Team within one working day of receiving a report.

Department of Public Service Regulation

- 2.14.2. Reporting harassment, discrimination, or retaliation to management is an essential step toward correcting the behavior. Department personnel should report any of these behaviors on the part of any department personnel to a direct supervisor or a member of the Response Team.
- 2.14.3. For violations of [MCA Title 2, Chapter 2, Part 1](#), department personnel may also file a complaint with the Commissioner of Political Practices, as described in [MCA 2-2-136](#).
- 2.14.4. Fraud, waste, or abuse of state resources may also be reported to the [Montana State Legislature's Fraud Hotline](#).
- 2.15. Response Team
 - 2.15.1. The department shall maintain an ad hoc Response Team to receive, investigate, and respond to reports of harassment, discrimination, retaliation, or formally reported violations of this policy.
 - 2.15.2. The Response Team is comprised of the Commission President, Executive Director, Chief Legal Counsel, and HRO.
 - 2.15.3. The Chief Legal Counsel shall serve as Chair of the Response Team and the HRO shall serve as Secretary.
 - 2.15.4. The Response Team shall keep its proceedings confidential, except as required by this policy and applicable laws.
- 2.16. Investigations
 - 2.16.1. Within five business days of all members having received the report, the Response Team shall meet to discuss the appropriate course of action.
 - 2.16.1.1. If the report is against any member of the Response Team, that individual is excluded from the meeting and the administration of any investigative process. The discussion must focus on measures to stop the alleged behavior, a review of the investigative process, and management's role in the process.
 - 2.16.1.2. If the Response Team determines an internal investigation is appropriate, it must designate an individual to conduct the investigation. All investigations must be conducted consistent with [ARM 2.21.4020](#) and [2.21.4021](#).
 - 2.16.1.3. If the Response Team and the appropriate direct supervisor determine an internal investigation would not be appropriate because of a potential conflict, they may request assistance from the State Human Resources Division or another outside source.

2.17. Discipline for Noncompliance

- 2.17.1. The Response Team may make a recommendation to the Commission, and the Commission has authority to act on the recommendation at a properly noticed public meeting, with respect to:
 - 2.17.1.1. Removal of a commission officer from his or her post as an officer of the Commission, by an affirmative vote of at least four commissioners.
 - 2.17.1.2. A public censure of a commissioner or a complaint to the Governor pursuant to [MCA 69-1-113](#), by an affirmative vote of at least four commissioners.
 - 2.17.1.3. Discipline of the Executive Director, up to and including termination of employment, by an affirmative vote of at least three commissioners.
- 2.17.2. The Response Team may make a recommendation to the President, and the President has authority to act on the recommendation, with respect to revoking privileges that have or may be granted to an offending commissioner at the discretion of the President.
- 2.17.3. The Response Team may make a recommendation to the Executive Director and Commission Leadership. The Executive Director, with concurrence from Commission Leadership, has authority to act upon the recommendation, with respect to discipline of a member of the personal staff.
- 2.17.4. The Response Team may make a recommendation to the Executive Director, and the Executive Director has authority to act upon the recommendation, with respect to discipline of a member of the classified staff or an agency contractor. Discipline of staff may include termination of employment.

2.18. Privacy and Confidentiality

- 2.18.1. Management shall make every attempt to reasonably protect the privacy of individuals making or named in a report; however, management cannot guarantee individual privacy.
- 2.18.2. Management may not prohibit department personnel from discussing a complaint or ongoing investigation with co-workers unless management conducts an individualized assessment and demonstrates that one of the following factors exists:
 - 2.18.2.1. There are witnesses in need of protection.
 - 2.18.2.2. Evidence is in danger of being destroyed.
 - 2.18.2.3. Testimony is in danger of being fabricated.

- 2.18.2.4. There is a need to prevent a cover-up.
- 2.18.3. Management shall document the rationale for requiring department personnel to refrain from discussing a complaint or ongoing investigation.
- 2.18.4. Disciplinary action records resulting from an investigation are confidential personnel records. Other documented information related to an investigation, while not a part of a personnel record, will be treated as confidential to protect the privacy of the individuals involved. If a request for the information is made, the Response Team shall review the information and balance the merits of public disclosure against an individual's right to privacy to determine whether the information or portions of the information may be released.
- 2.18.5. The HRO shall maintain all investigative reports and supporting documents in a secure, confidential case file separate from the regular employee file.

3. INDIVIDUALS AND ENTITIES AFFECTED BY THIS POLICY

- 3.1. Department personnel

4. EXCLUSIONS

- 4.1. None

5. RESPONSIBILITIES

- 5.1. Commission:
 - 5.1.1. Acts on recommendations from the Response Team per Section 2.15.1.
- 5.2. Commission President:
 - 5.2.1. Serves as a member of the Response Team.
 - 5.2.2. Acts on recommendations from the Response Team per 2.15.2.
- 5.3. Commission Leadership:
 - 5.3.1. Acts on recommendations from the Response Team per 2.15.2.
- 5.4. Executive Director:
 - 5.4.1. Ensures adherence to this policy.

- 5.4.2. Serves as a member of the Response Team.
- 5.4.3. Acts on recommendations from the Response Team per 2.15.2.
- 5.5. Chief Legal Counsel:
 - 5.5.1. Serves as Chair of the Response Team.
- 5.6. Human Resources Officer:
 - 5.6.1. Serves as Secretary of the Response Team.
- 5.7. Response Team:
 - 5.7.1. Reviews, investigates, and responds to all reports of violations of this policy.
 - 5.7.2. Makes recommendations in accordance with 2.15.
- 5.8. Department Personnel:
 - 5.8.1. Review this policy and strive to exercise good judgment in meeting the objectives stated in Section 1.1, and further detailed in Section 2.

6. DEFINITIONS

- 6.1. For purposes of this policy:
 - 6.1.1. “Department personnel” includes commissioners and all department staff.
 - 6.1.2. “Ethical” means truthful, fair, and honest.
 - 6.1.3. “Fiduciary” includes such relationships as executor, administrator, trustee, and guardian.
 - 6.1.4. “Financial interest” means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that: (1) ownership in a mutual or common investment fund that holds securities is not a “financial interest” in such securities unless the department personnel participates in the management of the fund; (2) an office in an educational, religious, charitable, fraternal, or civic organization is not a “financial interest” in securities held by that organization; and/or (3) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or a similar proprietary interest, is a “financial interest” in the organization only if the outcome of the proceeding could substantially affect the value of the interest.
 - 6.1.5. “Harassment” is defined in [ARM 2.21.4013](#).

7. RELATED DOCUMENTS, FORMS, AND TOOLS

- 7.1. [MCA Title 2, Chapter 2](#)
- 7.2. [DPSR Administration Policy](#)
- 7.3. [DPSR Communications Policy](#)
- 7.4. [AICPA Code of Professional Conduct](#)
- 7.5. [Montana Rules of Professional Conduct](#)
- 7.6. [State of Montana Equal Employment Opportunity, Non-discrimination, and Harassment Prevention Policy](#)
- 7.7. [Montana State Legislature Fraud Hotline](#)
- 7.8. [Commission Non-Disclosure Agreement \(Appendix 1\)](#)

8. HISTORY AND UPDATES

- 8.1. 8/13/24 Adopted by the Public Service Commission

9. APPENDIX

- 9.1. Appendix 1 – Commission Non-Disclosure Agreement.

From: Amy Christensen

Sent: Tuesday, August 5, 2025 9:59 AM

To: Matthew Monforton <matthewmonforton@yahoo.com>

Subject: RE: Commissioner Brad Molnar

Mr. Monforton,

Thank you for your response. As I previously indicated, because Commissioner Molnar is declining to participate in the investigation, it will proceed to its conclusion without the benefit of his responses to the concerns that have been raised regarding his workplace conduct.

I understand from your emails that you believe Title 2 does not provide authority over an elected official and therefore cannot be the basis for the PSC's workplace conduct policies as applied to commissioners. However, Commissioner Molnar is part of the PSC, which is the "department head" that adopts policies applicable to the agency. Following numerous public meetings, the "department head" adopted a lawful Code of Conduct Policy that includes commissioners within its scope. Those policies were in place at the time Commissioner Molnar was sworn into office, and the PSC has not chosen to change them.

Importantly, Commissioner Molnar's conduct has a significant impact on the workplace. As such, his actions can give rise to claims against the PSC under the Montana Human Rights Act, the Governmental Code of Fair Practices, and Title VII of the Civil Rights Act of 1964, among other laws. When assessing whether an employer, like the PSC, is vicariously liable for discrimination by a supervisor, the U.S. Supreme Court has recognized an affirmative defense for employers who act reasonably to prevent and promptly correct harassment. See *Farragher v. City of Boca Raton*, 524 U.S. 775 (1998). The defense requires an employer to have policies that prohibit discrimination and that provide a complaint process with an investigation component that enables the employer to identify and then prevent and correct discriminatory conduct. *EEOC Enforcement Guidance on Harassment in the Workplace* (April 2024); *Stringer-Altmaier v. Haffner*, 2006 MT 129, Para. 27, quoting *Benjamin v. Anderson*, 2005 MT 123, Para. 54 ("culpable acts of continuing discrimination in the work place primarily [take] the form of the employer's failure to seriously and adequately investigate and discipline [the harasser] following the assault and

the employer's subsequent failure to protect [the victim] on the job.") The administrative rules that the PSC chose to incorporate into the Internal Policy Manual's Code of Conduct policy are consistent with the EEOC's guidance regarding this affirmative defense.

In addition, the Montana Wrongful Discharge from Employment Act provides a cause of action against the employer if the employee leaves employment due to intolerable working conditions. Sec. 39-2-903(1)-(2), MCA. The manner in which the employer responds to those conditions impacts its defense, and an employer acts at its own peril if it ignores complaints about conduct involving those at the highest levels of an agency. It is therefore critical that the PSC comply with its policies governing workplace conduct and investigate potential violations, not only because it values its employees but also to limit the risk of liability to the agency.

While these laws apply to the PSC as an employer who is responsible for the work environment, I understand your concern relates to whether President Molnar can be held individually accountable for violations of the policies, as well as whether the internal processes under which he could be held accountable are sufficient. I also understand that we disagree regarding whether those processes apply to him. I believe that the processes apply to all Department personnel, are legally sufficient, are not contrary to but in compliance with the law, are necessary to provide employees with a means to complain and the PSC with the ability to correct problems that arise, were adopted after numerous public meetings and votes by the PSC, and are consistent with recommendations from the Legislative Auditor. If Commissioner Molnar concludes that the policies governing workplace conduct do not apply to him and then he acts inconsistently with them, it can create liability for the agency. In addition, he could be subject to the remedies listed under the Code of Conduct Policy, which are consistent with the law. Even if the Code of Conduct Policy did not apply to Commissioner Molnar, as you contend, the PSC could still choose to remove him as President, publicly censure him, or refer a complaint to the Governor's Office under Sec. 69-7-113, MCA. These remedies therefore do not exceed the authority the PSC already possesses.

Lastly, with regard to your statement regarding payment of fees relating to this investigation, I am hopeful that the conflict of interest apparent in taking such a position will lead to a resolution of the issue in accordance with the contracts signed by the agency.

Amy D. Christensen

The Montana Club Building

24 W. 6th Ave., Fifth Floor

Helena, MT 59601

o: (406) 442-3690

d: (406) 603-4001

f: (406) 603-4008

amy@cplawmt.com



Email Disclaimer: The information contained in this transmission is confidential, may be subject to the attorney-client and/or work product privileges and is intended only for use of the recipient named above. If the reader is not the intended recipient, or the employee or agent responsible for delivery of this information to the intended recipient, you are notified that this is not a waiver of privilege, and unauthorized review, use, disclosure, copying, or distribution of this information is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by telephone at (406) 442-3690, and return this transmittal to the sender, by United States Postal Service, at the address above.

From: Matthew Monforton <matthewmonforton@yahoo.com>

Sent: Friday, August 1, 2025 1:12 PM

To: Amy Christensen <Amy@cplawmt.com>

Subject: Re: Commissioner Brad Molnar

Ms. Christensen:

Thank you for your email of July 30, 2025, and for providing additional information regarding the PSC's purported authority for this investigation. Your citation to Mont. Code Ann. § 2-15-112 as the foundation for the PSC's Internal Policy Manual actually serves to further undermine the legality of this investigation rather than support it.

I. Section 2-15-112 Confirms Lack of Authority Over Elected Officials

Section 2-15-112, MCA, provides that department heads may “establish policies to be followed by the department and its employees.” The statute’s plain language limits departmental policy-making authority to “employees”—a term that has specific meaning under Montana law and does not encompass elected officials.

As we have previously noted, Mont. Code Ann. § 2-18-103(1) explicitly excludes “elected officials” from the state personnel system. This exclusion is not merely about “classification, compensation, and benefits” as you suggest, but reflects the fundamental legal distinction between employees and elected officials under Montana law. The Legislature’s deliberate use of the term “employees” in Mont. Code Ann. § 2-15-112, rather than the broader term “personnel” or “officials,” confirms that department heads lack authority to establish investigative and disciplinary policies governing elected officials.

Your reliance on Mont. Code Ann. § 2-15-112 thus confirms our position: the PSC’s Internal Policy Manual, including its Code of Conduct Policy, cannot lawfully be applied to Commissioner Molnar as an elected official.

II. Ultra.Vires Expenditures

The expenditures being incurred for this investigation—including but not limited to fees paid to CMS, your legal fees, and other related costs—constitute *ultra vires* expenditures that exceed the PSC’s lawful authority. Government agencies cannot expend public funds for purposes beyond their statutory authority. Since the PSC lacks legal authority to investigate Commissioner Molnar under the circumstances described, any expenditures related to such investigation are unauthorized and improper.

III. Commissioner Molnar’s Authority Over PSC Expenditures

Montana Code Annotated § 69-1-111 provides that the presiding officer of the PSC has sole authority to approve PSC expenditures. As the PSC’s presiding officer, Commissioner Molnar will not approve any expenditures related to this unlawful investigation. Any such

expenditures made without his approval would constitute additional violations of Montana law.

IV. Final Response Regarding Participation

In response to your request for confirmation by close of business on August 1, 2025: Commissioner Molnar will not participate in this investigation. This decision is based on the lack of legal authority for the investigation as detailed in our previous correspondence and confirmed by your own citation to Mont. Code Ann. § 2-15-112.

Commissioner Molnar reserves all rights to challenge these proceedings and any expenditures made in connection therewith.

Sincerely,

Matthew G. Monforton, Esq.

CA State Bar #175518, MT State Bar #5245

Monforton Law Offices, PLLC

32 Kelly Court

Bozeman, Montana 59718

Telephone: (406) 570-2949

Facsimile: (406) 551-6919

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

On Wednesday, July 30, 2025 at 03:18:08 PM MDT, Amy Christensen <amy@cplawmt.com> wrote:

Mr. Monforton,

I have not heard back from you in response to my email below, and it is fine to take a few days to consider how to proceed. I would appreciate it if you could let me know by close of business on Friday, August 1, whether Commissioner Molnar is declining to participate in an interview. If I do not hear back from you by that date, I will conclude that he does not intend to participate, and the investigation will proceed to its conclusion without his input.

In the meantime, I wanted to provide you with some additional information regarding the PSC's authority for this investigation. I previously provided you with the Code of Conduct Policy, and I have now attached to this email the PSC's entire Internal Policy Manual, to which Commissioner Molnar has had access. There is a section called "Internal Policy Manual Policy," which describes the purpose of the Manual and the legal authority for it. The policy cites Section 2-15-112, MCA, which allows department heads to establish policies to be followed by the department and its employees. "Departments" include the department of public service regulation. Sec. 2-15-104(1)(k), MCA. The PSC is considered the "department head" of the department of public service regulation. Sec. 2-15-2601, MCA. The PSC undertook an extensive policy development process that culminated in the Internal Policy Manual, which the PSC formally and lawfully adopted as the department head. The Manual includes the Code of Conduct Policy addressing misconduct, discrimination, harassment, and retaliation, and providing a mechanism for investigating complaints.

If you have any further questions regarding this matter, please feel free to contact me.

Amy D. Christensen

The Montana Club Building

24 W. 6th Ave., Fifth Floor

Helena, MT 59601

o: (406) 442-3690

d: (406) 603-4001

f: (406) 603-4008

amy@cplawmt.com



Email Disclaimer: The information contained in this transmission is confidential, may be subject to the attorney-client and/or work product privileges and is intended only for use of the recipient named above. If the reader is not the intended recipient, or the employee or agent responsible for delivery of this information to the intended recipient, you are notified that this is not a waiver of privilege, and unauthorized review, use, disclosure, copying, or distribution of this information is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by telephone at (406) 442-3690, and return this transmittal to the sender, by United States Postal Service, at the address above.

From: Amy Christensen

Sent: Tuesday, July 29, 2025 5:18 PM

To: Matthew Monforton <matthewmonforton@yahoo.com>

Subject: RE: Commissioner Brad Molnar

Mr. Monforton,

It is clear from your email that there are many ways in which we disagree with each other's analysis. I will not respond to each of your comments below, as I believe I have already done so, but one comment requires clarification. Specifically, you contend below that the Code of Conduct Policy would allow for Commissioner Molnar's removal from "elected office" without due process. The policy does not include such a provision. Rather, Section 2.17.1.1 provides that an affirmative vote of four commissioners could result in the removal of a "commission officer from his or her post as an officer of the Commission." In other words, the other commissioners could vote to remove President Molnar from his post as president. The policy does not state that the other commissioners could remove him as a commissioner.

With regard to the request for an interview with Commissioner Molnar, I interpret your message below to mean that he has decided to decline the opportunity. Please confirm that is the case. If so, the investigation will proceed to its completion without the benefit of his participation or responses to questions. If there is a possibility that Commissioner Molnar will participate in an interview, we can discuss the other items you mentioned in your email from yesterday morning. Although I asked who you were proposing to have attend the interview, it appears the question was interpreted as a rejection of your request to have the interview recorded. To clarify, we are open to further discussion on that topic.

I look forward to hearing from you.

Amy D. Christensen

The Montana Club Building

24 W. 6th Ave., Fifth Floor

Helena, MT 59601

o: (406) 442-3690

d: (406) 603-4001

f: (406) 603-4008

amy@cplawmt.com



Email Disclaimer: The information contained in this transmission is confidential, may be subject to the attorney-client and/or work product privileges and is intended only for use of the recipient named above. If the reader is not the intended recipient, or the employee or agent responsible for delivery of this information to the intended recipient, you are notified that this is not a waiver of privilege, and unauthorized review, use, disclosure, copying, or distribution of this information is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by telephone at (406) 442-3690, and return this transmittal to the sender, by United States Postal Service, at the address above.

From: Matthew Monforton <matthewmonforton@yahoo.com>

Sent: Tuesday, July 29, 2025 10:31 AM

To: Amy Christensen <Amy@cplawmt.com>

Subject: Re: Commissioner Brad Molnar

Ms. Christensen:

Your latest response confirms our position that this investigation lacks legal authority and violates fundamental due process principles. Your efforts to sidestep the clear statutory exemption for elected officials in Montana Code Annotated § 2-18-103(1) leads to the obvious conclusion that this investigation is proceeding without legal authority.

I. Lack of Legal Authority Confirmed

Your assertion that "there is no prohibition on the PSC itself choosing a set of rules to govern its conduct" fundamentally misunderstands the limitations on governmental authority. Government agencies cannot create jurisdiction that the Legislature has not granted them. The Legislature's explicit exclusion of elected officials from the state personnel system in MCA § 2-18-103(1) is not merely about "classification, compensation, and benefits"—it removes elected officials entirely from the administrative framework that forms the foundation of your investigation procedures.

Moreover, your acknowledgment that MCA § 69-1-113 provides "one possible outcome" actually supports our position. The Legislature provided a specific, exclusive statutory process for addressing commissioner conduct. The PSC cannot circumvent this legislative framework by adopting internal policies that create parallel investigative and disciplinary procedures for elected officials.

II. Fundamental Due Process Violations

Even more troubling is your dismissal of basic due process protections. Your statement that there is "no right of cross-examination or discovery" because this is merely an "investigative phase" reveals a profound misunderstanding of constitutional protections. According to the PSC's internal rules, an investigation can lead directly to report to the PSC members, followed by a vote by PSC commissioner members for removal of the member from elected office. To argue, as you do, that Commissioner Molnar can be removed from office without ever seeing the evidence against him or cross-examining his accusers is simply absurd. Due process attaches from the beginning of the process, not just at its conclusion.

A. No Opportunity to Review Evidence

The PSC Code of Conduct Policy provides no mechanism for Commissioner Molnar to review the evidence against him before being required to respond. Section 2.16 of the policy establishes that investigations shall be conducted "consistent with ARM 2.21.4020 and 2.21.4021," but these rules apply to state employees, not elected officials. More critically, nowhere in the policy is there any provision for:

- Disclosure of specific allegations prior to interview
- Access to witness statements or documentary evidence
- Review of the investigative file before decisions are made
- Any meaningful opportunity to prepare a defense

B. No Right of Confrontation

The policy similarly provides no opportunity for cross-examination of accusers. Your concern about "retaliation" does not justify denying this fundamental right. Section 2.16 of the policy establishes a confidential process but provides no procedures for testing the credibility of accusers or challenging their statements. This is particularly problematic when the policy acknowledges in Section 2.17.1.2 that the investigation could result in "a complaint to the Governor pursuant to MCA 69-1-113" seeking removal from office.

C. Counsel Restrictions

Your limitation of counsel to an "observational only" role further demonstrates the fundamentally flawed nature of this process. You have also failed to address whether the interview may be recorded by Commissioner Molnar, which is a basic protection when facing potential removal from elected office.

III. The Investigation Is a Sham Process

The combination of these factors—lack of legal authority, absence of basic due process protections, and refusal to afford meaningful rights of defense—reveals this investigation to be a sham process designed to circumvent the legislative protections afforded to elected officials. The PSC Code of Conduct Policy, as applied to Commissioner Molnar, creates a kangaroo court procedure that:

1. Proceeds without legal jurisdiction over elected officials
2. Denies the right to know the evidence against him
3. Prohibits meaningful participation by counsel

4. Provides no opportunity to confront accusers
5. Can recommend removal based on secret proceedings

IV. Invalid Actions and Lack of Participation

Given these fundamental defects, any actions taken against Commissioner Molnar by other PSC members based on this investigation would be legally invalid and without authority. Commissioner Molnar cannot and will not participate in a process that violates his constitutional rights and exceeds the PSC's statutory authority.

We demand that this investigation be terminated immediately. The proper recourse, if any violations of law have occurred, is through the statutory process established in MCA § 69-1-113, not through this unauthorized internal investigation.

Commissioner Molnar reserves all rights to challenge these proceedings and any actions taken as a result of them.

Matthew G. Monforton, Esq.
CA State Bar #175518, MT State Bar #5245
Monforton Law Offices, PLLC
32 Kelly Court
Bozeman, Montana 59718
Telephone: (406) 570-2949
Facsimile: (406) 551-6919

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

On Monday, July 28, 2025 at 03:43:56 PM MDT, Amy Christensen <amy@cplawmt.com> wrote:

Mr. Monforton,

Thanks for your response. It appears we will have to agree to disagree regarding the legal authority for the workplace investigation that is currently underway.

While Section 2-18-103(1), MCA, provides that the State's classification, compensation, and benefits provisions do not apply to elected officials, there is no prohibition on the PSC itself choosing a set of rules to govern its conduct, which is what occurred here. The PSC adopted internal policies governing how the commissioners and staff would interact with each other, and those policies provide a complaint mechanism for addressing concerns if the interactions did not comply with the policies. The complaint mechanism the PSC approved incorporated the State's rules relating to investigations.

In addition, the Code of Conduct Policy acknowledges that a complaint about a commissioner could be submitted to the Governor pursuant to Section 69-1-113, MCA. The policy does not circumvent Section 69-1-113, but recognizes a complaint to the Governor pursuant to the statute as one possible outcome following a workplace investigation. Like Section 2-18-103, there is nothing in Section 69-1-113 that prohibits the PSC from adopting standards to govern its conduct or implementing a framework for addressing complaints if the conduct does not meet those standards. The Code of Conduct Policy is not contrary to either statute and provides the jurisdiction for the investigation being conducted.

With regard to your due process concerns, this matter is currently in an investigative phase – it is not part of an administrative hearing or court case (civil or criminal) so there is no right of cross-examination or discovery. The “right of confrontation” would be especially problematic in this setting because of the prospect for retaliation such confrontation would entail. All complaints are currently confidential pursuant to ARM 2.18.4022. See also EEOC's *Enforcement Guidance on Harassment in the Workplace* (April 2024). As previously explained, Commissioner Molnar will have the ability to respond to allegations before any findings are made, and he can offer any follow-up information he wishes after his interview. Any information he provides will be reviewed. The investigation will be reasonable, which is the applicable standard for this process. See *Baldwin v. Blue Cross Blue Shield*, 480 F.3d 1287 (11th Cir. 2007). At the conclusion of the investigation,

recommendations may be made to the PSC for decision. It is my opinion that Commissioner Molnar would have a conflict of interest in deciding whether to adopt any recommendations.

As for the terms you have proposed for the interview, could you please let me know who you would like to attend the interview? While there is no legal right to have counsel present for such an interview, we would be open to having you attend, with the understanding that your role would be observational only. Please let me know if this is acceptable to you.

Thanks,

Amy D. Christensen

The Montana Club Building

24 W. 6th Ave., Fifth Floor

Helena, MT 59601

o: (406) 442-3690

d: (406) 603-4001

f: (406) 603-4008

amy@cplawmt.com



Email Disclaimer: The information contained in this transmission is confidential, may be subject to the attorney-client and/or work product privileges and is intended only for use of the recipient named above. If the reader is not the intended recipient, or the employee or agent responsible for delivery of this information to the intended recipient, you are notified that this is not a waiver of privilege, and unauthorized review, use, disclosure, copying, or distribution of this information is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by telephone at (406) 442-3690, and return this transmittal to the sender, by United States Postal Service, at the address above.

From: Matthew Monforton <matthewmonforton@yahoo.com>

Sent: Monday, July 28, 2025 9:59 AM

To: Amy Christensen <Amy@cplawmt.com>

Subject: Re: Commissioner Brad Molnar

Ms. Christensen:

Thank you for providing the PSC Code of Conduct Policy. After careful review, we maintain our position that the PSC lacks authority to conduct the proposed investigation of Commissioner Molnar for the following reasons:

I. Lack of Legal Authority for Investigation of Elected Officials

The PSC Code of Conduct Policy cannot expand the Commission's statutory authority beyond what the Legislature has granted. Montana Code Annotated § 2-18-103(1) explicitly excludes "elected officials" from the state personnel system governed by Parts 1 through 3 and 10 of Chapter 18, Title 2. As an elected official, Commissioner Molnar is not subject to the general state employee investigation procedures that form the foundation of the PSC's adopted policy.

Moreover, the Legislature has provided a specific statutory framework for addressing Public Service Commissioner conduct in Mont. Code Ann. § 69-1-113, which establishes the exclusive process for removal or suspension of commissioners. The existence of this specific statutory remedy indicates legislative intent that commissioners be treated differently from appointed employees and that the general personnel investigation procedures do not apply to elected commissioners.

The PSC cannot, through adoption of internal policies, create investigative and disciplinary authority over elected officials that state statutes do not permit. Internal policies must operate within, not expand beyond, the statutory framework established by the Legislature.

II. Due Process Concerns

Even assuming, arguendo, that the PSC possessed such authority, the proposed process raises serious due process concerns. Specifically, we request clarification on the following:

1. **Right to Examine Evidence:** At what point, if ever, will Commissioner Molnar be permitted to review the evidence and allegations against him? Due process requires that an accused individual have a meaningful opportunity to know the charges and evidence before being required to respond.

2. **Right of Confrontation:** When will Commissioner Molnar have the opportunity to cross-examine his accusers and challenge the evidence presented against him?

The current process, which keeps the “investigative file confidential” and only permits Commissioner Molnar to “respond to specific allegations during his interview,” appears to deny basic due process protections typically afforded even in administrative proceedings.

III. Conditions for Any Interview

Should the PSC persist in its position despite these jurisdictional concerns, please be advised that any interview of Commissioner Molnar will be conducted under the following conditions:

1. The interview will be recorded by Commissioner Molnar
2. I and other members of his team will be present as his counsel during the interview.
3. Commissioner Molnar reserves all rights to challenge the authority and validity of these proceedings

IV. Request for Response

We respectfully request that you address the jurisdictional question raised above and explain how the PSC can lawfully investigate an elected officer when state statutes explicitly exclude such officials from the general personnel system. We also request a response to our due process inquiries regarding Commissioner Molnar’s right to examine evidence and confront accusers.

Thank you for your attention to these matters.

Matthew G. Monforton, Esq.
CA State Bar #175518, MT State Bar #5245
Monforton Law Offices, PLLC
32 Kelly Court
Bozeman, Montana 59718
Telephone: (406) 570-2949
Facsimile: (406) 551-6919

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the

recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

On Friday, July 25, 2025 at 01:05:32 PM MDT, Amy Christensen <amy@cplawmt.com> wrote:

Mr. Monforten,

Thanks for your response. The investigation is being conducted in accordance with the PSC's Internal Policy Manual. Specifically, the Code of Conduct policy includes an investigative process to review reported violations of the policy. The policy was adopted by the PSC in August 2024, and a copy is attached for your reference (Section 2.16 addresses investigations). The policy also lists possible outcomes in the event of noncompliance with the policy, including the process described in Section 69-1-113, MCA, which you mention below. (See Section 2.17.)

If you want to discuss the jurisdictional issue further after reviewing the policy, please feel free to contact me.

Amy D. Christensen

The Montana Club Building

24 W. 6th Ave., Fifth Floor

Helena, MT 59601

o: (406) 442-3690

d: (406) 603-4001

f: (406) 603-4008

amy@cplawmt.com



Email Disclaimer: The information contained in this transmission is confidential, may be subject to the attorney-client and/or work product privileges and is intended only for use of the recipient named above. If the reader is not the intended recipient, or the employee or agent responsible for delivery of this information to the intended recipient, you are notified that this is not a waiver of privilege, and unauthorized review, use, disclosure, copying, or distribution of this information is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by telephone at (406) 442-3690, and return this transmittal to the sender, by United States Postal Service, at the address above.

From: Matthew Monforton <matthewmonforton@yahoo.com>

Sent: Friday, July 25, 2025 12:24 PM

To: Amy Christensen <Amy@cplawmt.com>

Subject: Re: Commissioner Brad Molnar

Ms. Christensen:

Thank you for responding to my email.

Commissioner Molnar respectfully requests clarification of the legal authority for this investigation. Mont. Code Ann. § 2-18-103(1) explicitly excludes "elected officials" from the state personnel system governed by Parts 1 through 3 and 10 of Chapter 18, Title 2. As an elected Public Service Commissioner, Commissioner Molnar is not subject to the general state employee investigation procedures referenced in Mont. Admin. R. 2.21.4002(3)(c).

Moreover, Mont. Code Ann. § 69-1-113 provides the specific statutory framework for any removal or suspension proceedings involving Public Service Commissioners, suggesting the Legislature intended a distinct process separate from general employment investigations.

Given these statutory provisions, we respectfully request that you identify the specific legal authority under which the PSC purports to conduct this investigation of an elected constitutional officer.

We will address scheduling once the jurisdictional question is resolved.

Thank you for your prompt attention to this matter.

Matthew G. Monforton, Esq.
CA State Bar #175518, MT State Bar #5245
Monforton Law Offices, PLLC
32 Kelly Court
Bozeman, Montana 59718
Telephone: (406) 570-2949
Facsimile: (406) 551-6919

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.

On Friday, July 25, 2025 at 11:17:41 AM MDT, Amy Christensen <amy@cplawmt.com> wrote:

Mr. Monforton,

I have been retained to advise the Public Service Commission regarding the workplace investigation being conducted by CMS. In that capacity, Jim Kerins forwarded me your email below. We will work through you to communicate with Commissioner Molnar going forward.

With regard to your request for any complaints involving Commissioner Molnar, the investigative file is considered confidential under ARM 2.21.4022. We do not disclose the contents of the file during the investigation in order to ensure the integrity of the process and maintain the confidentiality of those involved. Commissioner Molnar will have a chance to respond to specific allegations during his interview and, if he later feels that he has additional information to share or wants to elaborate on any answers he provided, CMS can meet with him again or he can provide written information for the investigator's consideration. I understand CMS has offered to conduct the interview on Tuesday, July 29, 2025. Please let me know if that afternoon will work for Commissioner Molnar.

Thanks,

Amy D. Christensen

The Montana Club Building

24 W. 6th Ave., Fifth Floor

Helena, MT 59601

o: (406) 442-3690

d: (406) 603-4001

f: (406) 603-4008

amy@cplawmt.com



Email Disclaimer: The information contained in this transmission is confidential, may be subject to the attorney-client and/or work product privileges and is intended only for use of the recipient named above. If the reader is not the intended recipient, or the employee or agent responsible for delivery of this information to the intended recipient, you are notified that this is not a waiver of privilege, and unauthorized review, use, disclosure, copying, or distribution of this information is strictly prohibited. If you have received this transmission in error, please immediately notify the sender by telephone at (406) 442-3690, and return this transmittal to the sender, by United States Postal Service, at the address above.

From: Matthew Monforton <matthewmonforton@yahoo.com>

Sent: Thursday, July 24, 2025 12:04 PM

To: Jim Kerins <Jkerins@cmsmontana.com>

Subject: Commissioner Brad Molnar

Mr. Kerins:

Please be advised that my office represents Commissioner Brad Molnar in connection with the complaints you have referenced as having been lodged against him.

Accordingly, I request that all future communications regarding this matter be directed to my office. Additionally, please identify any attorneys, other individuals, or entities on whose behalf you are acting and provide copies of any and all complaints involving Commissioner Molnar at your earliest convenience.

Sincerely,

Matthew G. Monforton, Esq.

CA State Bar #175518, MT State Bar #5245

Monforton Law Offices, PLLC

32 Kelly Court

Bozeman, Montana 59718

Telephone: (406) 570-2949

Facsimile: (406) 551-6919

This email may contain information that is confidential or attorney-client privileged and may constitute inside information. The contents of this email are intended only for the recipient(s) listed above. If you are not the intended recipient, you are directed not to read, disclose, distribute or otherwise use this transmission. If you have received this email in error, please notify the sender immediately and delete the transmission. Delivery of this message is not intended to waive any applicable privileges.



WORK SESSION REQUEST

**DATE OF
REQUEST:**

DESIRED DATE OF WORK SESSION:

(Per Commission Proceedings Policy 2.3.3.1.2. the Work Session Request Form must be completed and submitted to the Commission Secretary at least five business days prior to the date the requestor desires the Business Meeting Work Session to be held.)

REQUEST IS:

- ☒ Routine — on agenda, normal day and time of work sessions
- ☐ Special — on agenda, special day or time:
- ☐ Out-of-Cycle — not on agenda, day and time:
- ☐ Other Meeting — day, time, and location:

CALLED BY:

President Molnar

PARTICIPANTS:

All Commissioners

**DOCKET
NUMBER:**

**APPLICANT OR
PETITIONER:**

Brad Molnar

**CASE OR
SUBJECT:**

Contracts with Amy Christenson Atty and Communication & Management Services

PURPOSE:

To negate contracts with Amy Christensen Atty and CMS

**STAFF RECOMMENDED,
SUGGESTED, OR
ALTERNATIVE MOTIONS:**

Chief Legal, ED, and HR are involved so do not believe that they or their subordinates should be giving counsel. The PSC Commissioners are fully capable of understanding and acting on these issues.

**ADDITIONAL
INFORMATION:**

Handouts will be provided

REFERENCE MATERIALS:

(Per Commission Proceedings Policy 2.3.3.1.2. pertinent documents should be provided by the requestor in an orderly manner at least four business days prior to the date of the Business Meeting Work Session)

ESTIMATED TIME REQUIRED:

30-45 MINUTES