

Fiduciary Duties and Ethics
for Public Housing Authority Officials

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Fiduciary Duties and Ethics **for Public Housing Authority Officials**

Creating a Culture of Honesty and High Ethics

FIDUCIARY BASICS

- **What is a Fiduciary?**

A fiduciary is an organization or person acting on behalf of another based on an expectation of trust, confidence or responsibility. Fiduciary duty is the highest legal duty of one party to another, and requires the fiduciary to act ethically in the other party's best interest.

A fiduciary's duties are both ethical and legal. When a party accepts fiduciary responsibility to another party (the "principal"), the fiduciary is required to act in the best interests of the principal, and cannot personally benefit from the fiduciary relationship unless explicit consent is granted at the time the relationship is created. An agreement for the fiduciary to be paid for acting as a fiduciary is an example.

A fiduciary is judged by the "prudent person" standard of care, and a person acting as a fiduciary is required to act in a manner that would be expected of an ordinary, reasonable and prudent person in the same circumstances.

- **What are my responsibilities as a Fiduciary?**

The general duties of a fiduciary are a duty of care, a duty of loyalty, and a duty of obedience. These are further defined as follows:

- a) **Duty of Care.** A duty of care is taking care and exercising good judgment that any reasonably prudent person would take in a like position under similar circumstances
- b) **Duty of Loyalty.** A board and its members must consider and act in good faith to advance the interest of the organization, rather than personal interests of the individual or others, or other entities to which the board member may also have certain fiduciary responsibilities.

If a fiduciary finds himself or herself in a situation with conflicting loyalties, where the interests of one entity or individual may conflict with the interest of another entity to whom fiduciary duty is owed, such real or perceived conflicts of interest on part of the fiduciary can lead to situations in which the individual has breached his or her fiduciary duty. **It is important, therefore, for the fiduciary in such a situation to disclose a potential conflict and either withdraw from consideration of the matter in which**

the conflicts arise or obtain approval of a transaction upon informed consent of disinterested directors/fiduciaries.

- c) Duty of Obedience. A fiduciary is required to act with fidelity within the bounds of law, honoring the entity's mission and purpose, and complying with organizational documents, by-laws, and agreements. It requires fiduciaries to know the state and federal laws and regulations that apply to the entity, and to ensure that the Board and the entity operate within those parameters.

- **What if a fiduciary breaches the duties?**

Fiduciaries, including officers and directors of an entity, can face substantial civil penalties and fines for a breach of fiduciary duty, even if the breach does not result in financial loss to the entity.

Example: The Delaware Supreme Court determined that a lawsuit filed against the board of directors of Blue Bell Creameries could move forward where the board failed to “exercise oversight”. The Delaware Supreme Court reiterated that directors have a duty “to exercise oversight” and to monitor the corporation’s operational viability, legal compliance, and financial performance. The board’s “utter failure” to create a reasonable information and reporting system was an act of bad faith in breach of the duty of loyalty.

The failure to make a good faith effort to oversee the company’s operations “breaches the duty of loyalty” and can expose a director to liability. The Court’s opinion stated that, although “directors have great discretion to design context- and industry-specific approaches tailored to their companies’ businesses and resources, the board must make a good faith effort— *i.e.* try—to put in place a reasonable board-level system of monitoring and reporting.”

STATUTORY REQUIREMENTS

Missouri Statutes contain requirements and prohibitions for public officials, including employees and commissioners of public housing authorities, and include the following, which are included starting at page 8:

Section 105.452. Prohibited acts by elected and appointed public officials and employees;

Section 105.454. Additional prohibited acts by certain elected and appointed public officials and employees, and

Chapter 99: The Housing Authorities Law (selected sections)

CONFLICT OF INTEREST

Missouri law requires that public officials follow conflict of interest laws. These laws apply to actions by commissioners and employees of housing authorities. The holding of public office and public employment is intended to be a public trust. These individuals are delegated power as the public's trustees. They owe a duty of loyalty to the public interest. Actions which would tend to undermine that loyalty are destructive to the public's confidence in government and are prohibited by these laws

What Actions and Issues are Covered by Conflict of Interest Laws?

▪ **Prohibition of Financial Gain**

Missouri law prohibits a public officer or employee from:

- **Making Decisions** or engaging in activities which result in financial gain or receipt of monetary benefit for the officer, employee or family member.
- **Using their decision-making authority** to obtain financial gain which materially enriches them or their family members, or to coerce or extort anything of actual monetary value from another person or entity.
- **Exerting Influence** over a decision that affects transactions dealing with the official or employee, spouse, dependent child, or businesses with which they are associated. If public notice and competitive bidding are required, there are exceptions to the prohibition, if the official, employee, family member or family business is the low bidder
- **Using or disclosing confidential information** obtained in an official capacity or during employment with the intent of financial gain for themselves, spouse, dependent children, or related business.
- **Quid Pro Quo actions** in which a public official or employee acts or refrains from acting by reason of payment or receipt of value.

▪ **Employment**

In general, an elected or appointed public official cannot be employed in another capacity or position in the same political subdivision. For example, a Commissioner cannot also serve as the Executive Director of the Housing Authority. (However, Missouri law allows one commissioner of a Housing Authority to be an officer or employee of the city or county for which the Authority is created.) In addition, for a one-year period following termination of their role as a public official, they may not attempt to influence a decision of any agency or political subdivision of which they were an officer, employee, or over which they had supervisory authority, with limited exceptions.

- **Providing Services**

A public official may provide services or perform services for the political subdivision only if the amounts are under \$500 per transaction or \$5,000 annually, unless there is public notice and competitive bidding and the awarded bid is the lowest bid received.

- **Nepotism**

Nepotism is the practice of showing favoritism toward one's relatives to provide them with economic or employment benefits. Granting favors or jobs to relatives is a form of nepotism. The nepotism provision applies to both unpaid and volunteer positions.

Missouri law provides for an absolute ban on nepotism for public officials and public employees. Article VII, Section 6 of the Missouri Constitution specifically forbids the appointment or hiring of relatives. Section 6 provides:

Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment.

This definition of relative extends to include first cousins and grand nephews, and reaches to relationships created both by blood and by marriage. There is a Relationship Chart on the Missouri Ethics Commission website that provides further guidance on this definition:

Missouri Ethics Commission

Conflict of Interest Rules are enforced by the Missouri Ethics Commission, which also issues advisory opinions for questions which may occur, and provides a resource for any public official who may have questions about the statutory requirements. It can be reached at www.mec.mo.gov.

SUNSHINE LAW: TOP TEN THINGS TO KNOW

1. When in doubt, a meeting or record of a public body should be opened to the public.
2. The Sunshine Law applies to all records, regardless of what form they are kept in, and to all meetings, regardless of the manner in which they are held.
3. The Sunshine Law allows a public body to close meetings and records to the public in some limited circumstances, but it almost never requires a public body to do so.
4. Except in emergency situations, a public body must give at least 24 hours' public notice before holding a meeting. If the meeting will be closed to the public, the notice must state the specific provision within Section 610.021, RSMo., that allows the meeting to be closed.
5. Each public body must have a written Sunshine Law policy and a custodian of records whose name is available to the public upon request.
6. The Sunshine Law requires a custodian of records to respond to a record request as soon as possible but no later than three business days after the custodian receives it.
7. The Sunshine Law deals with whether a public body's records must be open to the public, but it generally does not state what records the body must keep or for how long. A body cannot, however, avoid a records request by destroying records after it receives a request for those records. For more information concerning records retention schedules, please visit the Missouri Secretary of State's Website – the Local Records Division for local public governmental bodies, and the Records Management Division for state agencies.
8. The Sunshine Law allows for public meetings to be both audio and video recorded by attendees. Each public governmental body may set up guidelines regarding the recording process. These guidelines can be found in the body's Sunshine Law Policy. No one is allowed to record a closed meeting, if they are not given permission to do so.
9. When responding to a request for copies of its records, the Sunshine Law limits how much a public body can charge – per page, and per hour – for copying and research costs.
10. There are specific provisions governing access to law enforcement and judicial records.

For more information, see the Missouri Sunshine Law Handbook at:

<https://ago.mo.gov/docs/default-source/publications/missourisunshinelaw.pdf?sfvrsn=20>

Missouri Attorney General Sunshine Law FAQs:

<https://ago.mo.gov/missouri-law/sunshine-law/sunshine-law-faqs>

WHISTLEBLOWING RIGHTS FOR PUBLIC EMPLOYEES

During the spring of 2018, the Missouri Legislature passed, and the governor signed legislation providing whistleblower protections for all public employees in Missouri. The legislation was intended to allow all public employees to report corruption, fraud, or waste of taxpayer dollars without fear of termination or discipline from their employers.

Background:

Prior Law: Under prior law, **state employees** had specific statutory protection from a retaliation for whistleblowing, and Missouri courts had upheld the right of all employees to be protected from retaliation for whistleblowing.

However, in 2017, the legislature passed an act making it more difficult for plaintiffs in litigation to prove discrimination. As a result of the 2017 *Whistleblowers Protection Act*, (i) only an employee of a private, non-public organization could make a claim under the Act, (ii) no independent protection from the courts was possible outside of the Act, and, (iii) public employees who were not directly employed by the state had no protection from retaliation for any whistleblowing activity.

2018 Act: The legislation enacted in 2018 was intended to cover this gap to specifically provide protection for whistleblowing for all public employees, including an employee, volunteer, intern or other individual performing work or services for a public employer, including any state agency or office, the general assembly, any legislative or governing body of the state, any unit or political subdivision of the state, or any other instrumentality of the state.

Now supervisors and appointing authorities cannot prohibit any public employee from

- discussing the operations of the public employer with any member of the legislature, state auditor, attorney general, a prosecuting attorney, a law enforcement agent, news media, the public, or any state office or body charged with investigation of alleged misconduct of a public employer; or
- disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:
 - (1) a violation of any rule of law or regulation, or
 - (2) mismanagement, as long as the disclosure is not specifically prohibited by law.

In addition, the public employer cannot require that public employees give notice to a supervisor or the employer prior to disclosing that activity, and cannot prevent a public employee from testifying before a court, administrative body, or legislative body concerning the information.

The statute further provides that each public employer shall prominently post a copy of the statute in locations where it can reasonably come to the attention of all employees. (A copy of the statute is attached.)

A person may bring a civil action for damages against a public employer for alleged retaliation, and if the person shows by clear and convincing evidence that he has reported or was about to report a prohibited activity, the employer then has the burden of proving that any disciplinary action was not the result of such a report.

PERTINENT MISSOURI STATUTORY PROVISIONS

Conflict of Interest Provisions

1. 105.452. Prohibited acts by elected and appointed public officials and employees. —

1. No elected or appointed official or employee of the state or any political subdivision thereof shall:

(1) Act or refrain from acting in any capacity in which he is lawfully empowered to act as such an official or employee by reason of any payment, offer to pay, promise to pay, or receipt of anything of actual pecuniary value paid or payable, or received or receivable, to himself or any third person, including any gift or campaign contribution, made or received in relationship to or as a condition of the performance of an official act, other than compensation to be paid by the state or political subdivision; or

(2) Use confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself, his spouse, his dependent child in his custody, or any business with which he is associated;

(3) Disclose confidential information obtained in the course of or by reason of his employment or official capacity in any manner with intent to result in financial gain for himself or any other person;

(4) Favorably act on any matter that is so specifically designed so as to provide a special monetary benefit to such official or his spouse or dependent children, including but not limited to increases in retirement benefits, whether received from the state of Missouri or any third party by reason of such act. For the purposes of this subdivision, “**special monetary benefit**” means being materially affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected. In all such matters such officials must recuse themselves from acting, except that such official may act on increases in compensation subject to the restrictions of Section 13 of Article VII of the Missouri Constitution; or

(5) Use his decision-making authority for the purpose of obtaining a financial gain which materially enriches himself, his spouse or dependent children by acting or refraining from acting for the purpose of coercing or extorting from another anything of actual pecuniary value.

2. No elected or appointed official or employee of any political subdivision shall offer, promote, or advocate for a political appointment in exchange for anything of value to any political subdivision.

2. 105.454. Additional prohibited acts by certain elected and appointed public officials and employees, exceptions. — 1. No elected or appointed official or employee of the state or any political subdivision thereof, serving in an executive or administrative capacity, shall:

(1) Perform any service for any agency of the state, or for any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power for receipt or payment of any compensation, other than of the compensation provided for the performance of his or her official duties, in excess of five hundred dollars per transaction or five thousand dollars per annum, except on transactions made pursuant to an award on a contract let or sale made after public notice and competitive bidding, provided that the bid or offer is the lowest received;

(2) Sell, rent or lease any property to any agency of the state, or to any political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power and received consideration therefor in excess of five hundred dollars per transaction or five thousand dollars per year, unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(3) Participate in any matter, directly or indirectly, in which he or she attempts to influence any decision of any agency of the state, or political subdivision thereof in which he or she is an officer or employee or over which he or she has supervisory power, when he or she knows the result of such decision may be the acceptance of the performance of a service or the sale, rental, or lease of any property to that agency for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per annum to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received;

(4) Perform any services during the time of his or her office or employment for any consideration from any person, firm or corporation, other than the compensation provided for the performance of his or her official duties, by which service he or she attempts to influence a decision of any agency of the state, or of any political subdivision in which he or she is an officer or employee or over which he or she has supervisory power;

(5) Perform any service for consideration, during one year after termination of his or her office or employment, by which performance he or she attempts to influence a decision of any agency of the state, or a decision of any political subdivision in which he or she was an officer or employee or over which he or she had supervisory power, except that this provision shall not be construed to prohibit any person from performing such service and receiving compensation therefor, in any adversary proceeding or in the preparation or filing of any public document or to prohibit an employee of the executive department from being employed by any other department, division or agency of the executive branch of state government. For purposes of this subdivision, within ninety days after assuming office, the governor shall by executive order designate those members of his or her staff who have supervisory authority over each department, division or agency of state government for purposes of application of this subdivision. The executive order shall be amended

within ninety days of any change in the supervisory assignments of the governor's staff. The governor shall designate not less than three staff members pursuant to this subdivision;

(6) Perform any service for any consideration for any person, firm or corporation after termination of his or her office or employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment.

2. No elected or appointed official or employee of any school district shall perform a service or sell, rent, or lease any property to the school district for consideration in excess of five hundred dollars' value per transaction or five thousand dollars' value per annum to him or her, to his or her spouse, to a dependent child in his or her custody or to any business with which he or she is associated unless the transaction is made pursuant to an award on a contract let or sale made after public notice and in the case of property other than real property, competitive bidding, provided that the bid or offer accepted is the lowest received.

Housing Authority Commissioners

99.050. Commissioners — appointment — qualifications — term — compensation.

When the governing body of a city adopts a resolution or other declaration as aforesaid, it shall promptly notify the mayor of such adoption. Upon receiving such notice, the mayor shall appoint five persons who shall be taxpayers who have resided in said city for one year prior to such appointment as commissioners of the authority created for said city. When the governing body of a county adopts a resolution or other declaration as aforesaid, said body shall appoint five persons as commissioners of the authority created for said county. Three of the commissioners who are first appointed shall be designated to serve for terms of one, two, and three years, respectively, from the date of their appointment, and two shall be designated to serve for terms of four years from the date of their appointment. Thereafter commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified, unless sooner removed according to sections [99.010 to 99.230](#). A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services for the authority, in any capacity, but he shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. The powers of each authority shall be vested in the commissioners thereof in office from time to time. One more than one-half of all commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of a quorum, unless in any case the bylaws of the authority shall require a larger number. The mayor (or in the case of an authority for a county, the governing body of the county) shall designate which of the commissioners shall be the first chairman and he shall serve in the capacity of chairman until the expiration of his term of office as commissioner. When the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its commissioners a vice chairman, and it may employ a

secretary (who shall be executive director), technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or the county or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

99.051. Additional provisions, additional commissioners, St. Louis City — to be tenants of housing authority — qualifications, vacancies. — 1. Notwithstanding any conflicting provisions of section [99.050](#), in cities not within a county the following provisions shall govern the composition of the housing authority commission and the selection of the members thereof:

(1) Appointive members of the housing authority commission shall be appointed by the mayor subject to the approval of the governing body of the city;

(2) Within one hundred days of the date the term of two appointed members is to expire, and every fourth year thereafter, an election shall be conducted by the housing authority commission, after ten days' written notice to each tenant of the housing authority, to elect from among the tenants in good standing of the housing authority two housing authority commissioners in addition to the five appointed members. The election shall be by written ballot and each tenant of the housing authority who has attained the age of eighteen years shall be entitled to one vote. The two persons, tenants of the housing authority, receiving the two highest numbers of votes cast at the election shall be elected to terms of four years and until their successors are elected and qualified. The elective members of the commission, in addition to being tenants in good standing of the housing authority, shall possess the other qualifications required for the office by the provisions of sections [99.010](#) to [99.230](#), and shall not be employed in any capacity by the authority.

2. Commissioners of the housing authority required by this section to be tenants of the housing authority shall not be construed, because of such tenancy, to have a direct or indirect interest in any housing authority project, or in any property included or planned to be included in any project, or in any proposed contract for materials or services within the meaning of section [99.060](#).

3. Any commissioner required by provisions of this section to be a tenant of the housing authority who ceases to be such shall thereby forfeit his office. In the event a tenant commissioner forfeits his office, a special election shall be held for the purpose of filling the vacancy. The election shall be conducted according to the procedures specified in subdivision (2) of subsection 1 of this section governing the conduct of regular elections of tenant commissioners. The successor elected at a special election shall serve only the remaining term of his predecessor.

99.052. Commissioner may be employee of city or county. — Notwithstanding any provision in section [99.050](#) to the contrary, one commissioner of an authority may be an officer or employee of the city or county for which the authority is created.

99.053. Appointment of additional housing commissioner authorized where necessary to comply with federal law. — 1. Notwithstanding any provision of section [99.050](#) to the contrary regarding the number of housing commissioners, in any political subdivision except those

described in subsection 2 of this section, a sixth housing commissioner may be appointed. Such a commissioner may be appointed, in the same manner as other appointees pursuant to section 99.050, if the housing authority determines that such a commissioner is needed to fulfill any federal requirement stating that at least one person who receives direct assistance from the housing authority shall serve as a commissioner. Any commissioner appointed to serve as a commissioner for the purposes of meeting the requirement of having a person who is directly assisted by the housing authority shall forfeit such appointment if that person:

(1) Ceases to meet the requirements of housing commissioners pursuant to section 99.050; or

(2) Ceases receiving direct assistance from the housing authority for which he or she is a commissioner.

2. The provisions of this section shall not apply to those housing authorities:

(1) Located within a city not within a county;

(2) Located within a city with a population of over four hundred thousand inhabitants;

(3) Which are exempted, pursuant to federal law or regulation, from any federal requirement stating that at least one person who receives direct assistance from the housing authority shall serve as a commissioner.

99.060. Commissioner or employee of authority to have no interest in any housing project.

— No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure so to disclose such interest shall constitute misconduct in office. Upon such disclosure such commissioner or employee shall not participate in any action by the authority affecting such property.

99.070. Commissioner, how removed. — For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the mayor (or in the case of an authority for a county, by the governing body of said county), but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.



Words

1st search term or section number

And

2nd search term



Title VII CITIES, TOWNS AND VILLAGES

Chapter 99

Effective - 28 Aug 1988



99.080. Authority to constitute municipal corporation — powers — profits — profits to be applied, how — agents of authority, restrictions. — 1. An authority shall constitute a municipal corporation, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of sections [99.010 to 99.230](#), including the following powers in addition to others herein granted:

(1) To sue and be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules and regulations, not inconsistent with sections [99.010 to 99.230](#), to carry into effect the powers and purposes of the authority;

(2) Within its area of operation: To prepare, carry out, acquire, lease and operate housing projects; to provide for the construction, reconstruction, improvement, alteration or repair of any housing project or any part thereof; except that, when the authority shall lie within an unincorporated area of a first class county having a charter form of government and that unincorporated area is bordered by a city or cities of the third class which may provide services to that authority, the city or cities shall give its approval before said construction, reconstruction, improvement, alteration or repair takes place;

(3) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in sections [99.010 to 99.230](#) or any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the federal government may have attached to its financial aid of the project;

(4) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures or facilities embraced in any housing project and (subject to the limitations contained in

sections 99.010 to 99.230) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property in fee simple or other estate; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein; to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure or agree to the procurement of insurance or guarantees from the federal government of the payment of any bonds or parts thereof issued by an authority, including the power to pay premiums on any such insurance; to allocate federal or state tax credits or other economic benefits or inducements allocated to an authority;

(5) To invest any funds held in reserves or sinking funds, or any funds not required for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled;

(6) Within its area of operation: To investigate into living, dwelling and housing conditions and into the means and methods of improving such conditions; to determine where blighted areas exist or where there is a shortage of decent, safe and sanitary dwelling accommodations for persons of very low, lower and moderate income; to make studies and recommendations relating to the problem of clearing, replanning and reconstructing of blighted areas, and the problem of providing dwelling accommodations for persons of very low, lower and moderate income, and to cooperate with the city, the county, the state or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies and experimentation on the subject of housing;

(7) Acting through one or more commissioners or other person or persons designated by the authority: To conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the state or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the

public health, morals, safety or welfare;

(8) To contract with private owners to manage, lease and operate any rental, cooperative or condominium housing project within its area of operation and to act as management agent for any such project for a management fee;

(a) The persons and families who occupy the housing project shall be very low, lower or moderate income persons as defined in sections [99.010 to 99.230](#);

(b) Any profit derived by housing authorities from such management fees should be applied to the development, improvement or maintenance of housing projects in the following manner: no less than fifty percent of said profits shall be applied toward improving, developing or maintaining housing units that are occupied by or will be occupied by persons of very low income; the remaining profits shall be applied toward improving, developing or maintaining housing units that are occupied by, or will be occupied by persons of low income;

(9) To loan the proceeds of its bonds and notes to provide for the purchase, construction, extension and improvement of any housing project;

(10) To exercise all powers or parts or combination of powers necessary, convenient or appropriate to undertake and carry out housing projects and all the powers herein granted.

2. No provision of law with respect to the acquisition, operation or disposition of property by other public bodies shall be applicable to an authority unless the law shall specifically so state.

3. An authority may exercise any and all of the powers conferred upon it by this section, either generally or with respect to any specific activity or activities, through or by any agent which it may designate including any corporation or corporations formed under the laws of this state and for such purposes, an authority may cause one or more corporations to be formed under the laws of this state, provided, however, that no employee of any housing authority or publicly elected official shall receive, directly or indirectly, any compensation therefrom other than their salary as such an employee or publicly elected official and that all profits from such corporations and agents shall be distributed in the following manner: not less than seventy percent of said profits shall be applied, in such manner as the housing authority shall determine, toward improving, developing or maintaining housing units that are occupied by, or will be occupied by persons of very low or lower income; not more than thirty percent of said profits shall be applied in such manner as the

housing authority shall determine; and if such corporation or agent is involved in managing, developing or purchasing a housing project, at least twenty percent of the units of said project shall be reserved for very low or low income. The distribution of project units reserved for persons of very low and lower income by size shall be proportional to the distribution of units by size for the entire housing project.

(RSMo 1939 § 7860, A.L. 1978 H.B. 1155, A.L. 1986 S.B. 767, A.L. 1988 H.B. 1105)

---- end of effective 28 Aug 1988 ----
use this link to bookmark section 99.080

Click here for the **Reorganization Act of 1974 - or - Concurrent Resolutions Having Force & Effect of Law**
In accordance with Section **3.090**, the language of statutory sections enacted during a legislative session are updated and available on this website on the effective date of such enacted statutory section.



Other Information

Other Links



Missouri Senate



MO.gov



Missouri House

Errors / suggestions -
WebMaster@LR.mo.gov



History and Fun Facts

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ADDENDUM

Title VIII PUBLIC OFFICERS AND EMPLOYEES, BONDS AND RECORDS

Chapter 105, Effective - 28 Aug 2018

105.055. Reporting of mismanagement or violations of agencies, discipline of employee prohibited — appeal by employee from disciplinary actions, procedure — violation, penalties — civil action, when — auditor to investigate, when. — 1. As used in this section, the following terms mean:

(1) **"Disciplinary action"**, any dismissal, demotion, transfer, reassignment, suspension, reprimand, warning of possible dismissal or withholding of work, regardless of whether the withholding of work has affected or will affect the employee's compensation;

(2) **"Public employee"**, any employee, volunteer, intern, or other individual performing work or services for a public employer;

(3) **"Public employer"**, any state agency or office, the general assembly, any legislative or governing body of the state, any unit or political subdivision of the state, or any other instrumentality of the state.

2. No supervisor or appointing authority of any public employer shall prohibit any employee of the public employer from discussing the operations of the public employer, either specifically or generally, with any member of the legislature, state auditor, attorney general, a prosecuting or circuit attorney, a law enforcement agency, news media, the public, or any state official or body charged with investigating any alleged misconduct described in this section.

3. No supervisor or appointing authority of any public employer shall:

(1) Prohibit a public employee from or take any disciplinary action whatsoever against a public employee for the disclosure of any alleged prohibited activity under investigation or any related activity, or for the disclosure of information which the employee reasonably believes evidences:

(a) A violation of any law, rule or regulation; or

(b) Mismanagement, a gross waste of funds or abuse of authority, violation of policy, waste of public resources, alteration of technical findings or communication of scientific opinion, breaches of professional ethical canons, or a substantial and specific danger to public health or safety, if the disclosure is not specifically prohibited by law;

(2) Require a public employee to give notice to the supervisor or appointing authority prior to disclosing any activity described in subdivision (1) of this subsection; or

(3) Prevent a public employee from testifying before a court, administrative body, or legislative body regarding the alleged prohibited activity or disclosure of information.

4. This section shall not be construed as:

(1) Prohibiting a supervisor or appointing authority from requiring that a public employee inform the supervisor or appointing authority as to legislative requests for information to the public employer or the substance of testimony made, or to be made, by the public employee to legislators on behalf of the public employer;

(2) Permitting a public employee to leave the employee's assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves, unless the public employee is requested by a legislator or legislative committee to appear before a legislative committee;

(3) Authorizing a public employee to represent his or her personal opinions as the opinions of a public employer; or

(4) Restricting or precluding disciplinary action taken against a public employee if: the employee knew that the information was false; the information is closed or is confidential under the provisions of the open meetings law or any other law; or the disclosure relates to the employee's own violations, mismanagement, gross waste of funds, abuse of authority or endangerment of the public health or safety.

5. In addition to any other remedies provided by law, any state employee may file an administrative appeal whenever the employee alleges that disciplinary action was taken against the employee in violation of this section. The appeal shall be filed with the administrative hearing commission. The appeal shall be filed within one year of the alleged disciplinary action. Procedures governing the appeal shall be in accordance with [chapter 536](#). If the commission finds that disciplinary action taken was taken for any reason that violates this section, the commission shall modify or reverse the agency's action and order such relief for the employee as the commission considers appropriate. If the commission finds a violation of this section, it may review and recommend to the appointing authority that the violator be suspended on leave without pay for not more than thirty days or, in cases of willful or repeated violations, may review and recommend to the appointing authority that the violator forfeit the violator's position as a state officer or employee and disqualify the violator for appointment to or employment as a state officer or employee for a period of not more than two years. The decision of the commission in such cases may be appealed by any party pursuant to law.

6. Each public employer shall prominently post a copy of this section in locations where it can reasonably be expected to come to the attention of all employees of the public employer.

7. (1) In addition to the remedies in subsection 5 of this section or any other remedies provided by law, a person who alleges a violation of this section may bring a civil action against the public employer for damages within one year after the occurrence of the alleged violation.

(2) A civil action commenced pursuant to this subsection may be brought in the circuit court for the county where the alleged violation occurred, the county where the complainant resides, or the county where the person against whom the civil complaint is filed resides. A person commencing such action may request a trial by jury.

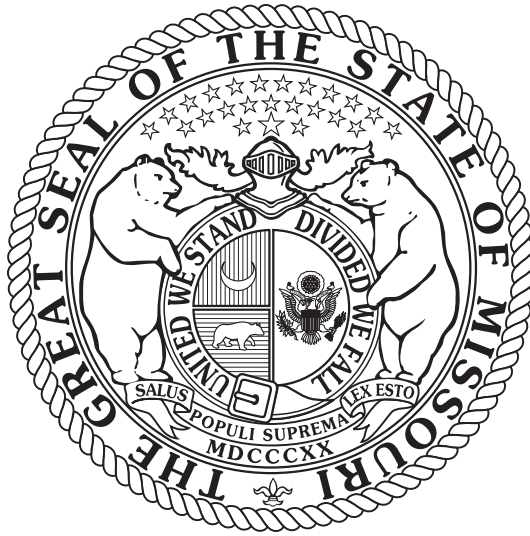
(3) A public employee shall show by clear and convincing evidence that he or she or a person acting on his or her behalf has reported or was about to report, verbally or in writing, a prohibited activity or a suspected prohibited activity. Upon such a showing, the burden shall be on the public employer to demonstrate that the disciplinary action was not the result of such a report.

(4) A court, in rendering a judgment in an action brought pursuant to this section, shall order, as the court considers appropriate, actual damages and may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees.

8. If the alleged misconduct is related to the receipt and expenditures of public funds, a public employee alleging that disciplinary action was taken against the employee in violation of this section may request the state auditor to investigate the alleged misconduct and whether the disciplinary action was taken in violation of this section. If the state auditor uses his or her discretion to make such an investigation, the time to appeal such disciplinary action under subsections 5 and 7 of this section shall be the later of one year from the date of the alleged disciplinary action or ninety days following the release of the state auditor's report.

9. The provisions of this section shall apply to public employees, notwithstanding any provisions of sections* [213.070](#) and * [285.575](#) to the contrary.

(L. 1987 H.B. 659 § 1, A.L. 1993 S.B. 180, A.L. 2000 S.B. 788, A.L. 2004 H.B. 1548, A.L. 2010 H.B. 1868, A.L. 2018 S.B. 1007)



Constitution State of Missouri

Constitution of the United States

**JOHN R. ASHCROFT
SECRETARY OF STATE**

Revised January 2021

by courts of law, or by one or more of the judges thereof. The general assembly shall designate by general law the court or judge by whom the several classes of election contests shall be tried and regulate the manner of trial and all matters incident thereto; but no law assigning jurisdiction or regulating its exercise shall apply to the contest of any election held before the law takes effect.

Source: Const. of 1875, Art. VIII, Sec. 8 (Amended February 26, 1924).

Section 6. Penalty for nepotism.—*Any public officer or employee in this state who by virtue of his office or employment names or appoints to public office or employment any relative within the fourth degree, by consanguinity or affinity, shall thereby forfeit his office or employment.*

Source: Const. of 1875, Art. XIV, Sec. 13 (Adopted February 26, 1924).

Section 7. Appointment of officers.—Except as provided in this constitution, the appointment of all officers shall be made as prescribed by law.

Source: Const. of 1875, Art. XIV, Sec. 9.

Section 8. Qualifications for public office—nonresidents.—No person shall be elected or appointed to any civil or military office in this state who is not a citizen of the United States, and who shall not have resided in this state one year next preceding his election or appointment, except that the residence in this state shall not be necessary in cases of appointment to administrative positions requiring technical or specialized skill or knowledge.

Source: Const. of 1875, Art. VIII, Sec. 10 (Amended February 26, 1924).

Section 9. Disqualification by federal employment—exceptions.—No person holding an office of profit under the United States shall hold any office of profit in this state, members of the organized militia or of the reserve corps excepted.

Source: Const. of 1875, Art. XIV, Sec. 4.

Section 10. Equality of sexes in public service.—No person shall be disqualified from holding office in this state because of sex.

Source: Const. of 1875, Art. VIII, Sec. 11 (Adopted August 2, 1921).

Section 11. Oath of office.—Before taking office, all civil and military officers in this state shall take and subscribe an oath or affirmation to support the Constitution of the United States and of this state, and to demean themselves faithfully in office.

Source: Const. of 1875, Art. XIV, Sec. 6.

Section 12. Tenure of office.—Except as provided in this constitution, and subject to the right of resignation, all officers shall hold office for the term thereof, and until their successors are duly elected or appointed and qualified.

Source: Const. of 1875, Art. XIV, Sec. 5.

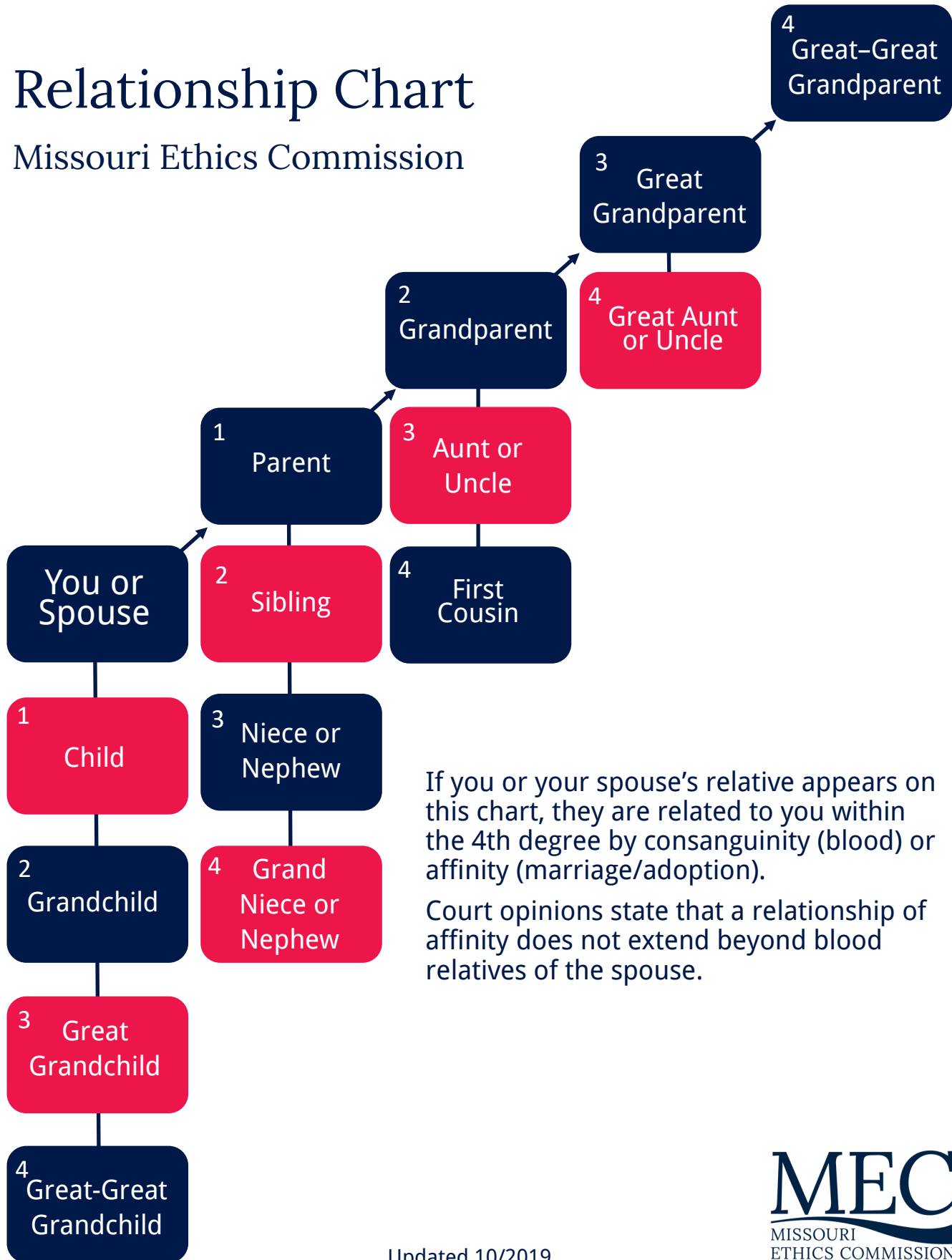
Section 13. Limitation on increase of compensation and extension of terms of office.—The compensation of state, county and municipal officers shall not be increased during the term of office; nor shall the term of any officer be extended.

Source: Const. of 1875, Art. XIV, Sec. 8.

Section 14. Statement of actuary required before retirement benefits substantially changed.—The legislative body which stipulates by law the amount and type of retirement benefits to be paid by a retirement plan covering elected or appointed

Relationship Chart

Missouri Ethics Commission



If you or your spouse's relative appears on this chart, they are related to you within the 4th degree by consanguinity (blood) or affinity (marriage/adoption).

Court opinions state that a relationship of affinity does not extend beyond blood relatives of the spouse.

Updated 10/2019

MEC
MISSOURI
ETHICS COMMISSION

This document is intended only as a guide to aid in understanding Conflict of Interest law. For the law's complete requirements, consult the law itself, codified at Chapter 105 and 130, RSMo and the Missouri Constitution.

HOUSING AUTHORITY OF _____

Annual Certification of MHAPCI Member Compliance with the Requirements for MHAPCI Liability Coverage for Directors and Officers

Purpose: Pursuant to policy adopted by the Missouri Housing Authorities Property & Casualty, Inc. (MHAPCI), every MHAPCI Member is required to: review MHAPCI's Board Policy entitled "Requirements for Liability Coverage for Directors and Officers and for Employment Practices;" review the MHAPCI Fiduciary Duties and Ethics for Public Housing Authority pamphlet; adopt a Code of Ethics; and require each Commissioner and Employee of the Authority to complete and sign a statement acknowledging having read and understood the ethics policy and agreeing to comply with the policy.

Certification: We, the Chair and Executive Director of the _____ Housing Authority ("the Authority") state as follows:

- a. The Board of Commissioners and Executive Director of the Authority have received a copy of:
 - i. the MHAPCI Board Policy Section O entitled "Requirements for Liability Coverage for Directors and Officers and for Employment Practices", amended April 9, 2020; and
 - ii. the pamphlet entitled "Fiduciary Duties and Ethics for Public Housing Authority Officials.
- b. The Board of Commissioners of the Authority has reviewed and discussed these documents in a meeting of the Board of Commissioners on _____, 20__.
- c. Each employee and Commissioner of the Authority has (i) received a current copy of the Authority's ethics policy; (ii) signed a statement attesting that such person has read and understood the policy and agrees to comply with the policy.
- d. Current copies of the executed statements are on file with the Authority.

Date

Chair of the Board of Commissioners

Date

Executive Director