



## MISSOURI ETHICS COMMISSION

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James Klahr  
Executive Director

### Missouri Ethics Commission

*Avoiding a Conflict of Interest - Effective Representation of Political Subdivisions under the conflicts of interest law, Chapter 105, RSMo, while complying with Supreme Court Rule 4.*

**James Klahr and Liz Ziegler**

**July 16, 2017**

The below are summaries of the facts involved for each of the cases cited. To better understand the legal issues involved in each of these cases, please go to our website [www.mec.mo.gov](http://www.mec.mo.gov) and then click on "Commission Business." From there, you will see "Commission Actions" – click on that tab and you can search for the final Commission action (dismissal letter, consent agreement or order after hearing) for any case from 2010 to present. If you would like to review the language from a case resolved before 2010, you may contact our office at 573-751-2020 and request a copy.

In addition, you should consult Advisory Opinions also available on the website at [http://mec.mo.gov/MEC/Commission\\_Business/OpinionsSearch.aspx](http://mec.mo.gov/MEC/Commission_Business/OpinionsSearch.aspx).

#### **Use of Public Funds - §115.646, RSMo**

§115.646, RSMo prohibits the expenditure of public funds for advocacy. The Commission receives a number of complaints alleging that officials from a political subdivision have spent public funds to advocate in support of or opposition to a ballot issue or candidate. This includes reviewing the materials to determine whether the language advocates support or opposition to a ballot issue or candidate.

The Commission has interpreted §115.646, RSMo, as a regulation conducive to the public good to protect the public from the expenditure of public funds for or against a particular ballot issue, and should be liberally construed to accomplish the greatest good.

The Commission has historically proceeded against the officials or employees of the political subdivision who directly spent the funds, or who knew, authorized or participated in the expenditure. Unlike Chapter 130 in which a "person" is specifically defined to include a political subdivision, the legislature did not expressly name political subdivisions in §115.646, RSMo.

In determining the meaning of "expenditure of public funds," the Commission has applied a broad construction including anything that was paid for by that public entity. There is no express definition of public funds for purposes of this statute and the Commission is often called upon to determine whether using public resources is prohibited. Where possible, Commission investigations have quantified the cost to the political subdivision when public resources are used. While the use of word "directly" in §115.646, RSMo, is open to different interpretations, the Commission has not equated it with the words, "direct contribution or expenditure of public funds."

**130.031.8 – Paid for by Disclaimers**

These cases overlap with “paid for by” disclaimer issues as the materials (whether informational or advocacy) often omit the sponsorship information.

The “paid for by” statute, §130.031.8, RSMo, requires any person to include a “paid for by” disclaimer when publishing, circulating or distributing printed matter relative to a candidate for public office or any ballot measure. This statute applies to material related to a candidate or ballot measure even if the material does not advocate.

In numerous cases, the Commission has found no improper use of public funds for distributing informational material about ballot issues. However, the Commission has entered into consent orders in some of those cases for violation of the paid for by statute.

The following is a list of use of public funds cases considered by the Commission:

**Complaints Involving Ballot Issues – Commission Orders**

15-0028 – January 29, 2016 – Jeff LaGarce, City Manager of Hannibal – The city manager was responsible for spending public funds for a brochure and five paid newspaper advertisements regarding Propositions related to a Use Tax for the City of Hannibal. The materials were found to support the Proposition by encouraging voters to favor the propositions. The materials did not contain a paid for by disclosure. The funds exceeded the monetary threshold to file a non-committee expenditure report.

Hearing Order: The Commission assessed a fee of \$1,900, allowing payment of \$280, and staying the remainder for two years. The Commission also ordered the filing of a non-committee expenditure report with the county clerk.

14-0004 – July 2, 2015 - Reynolds County Commissioners – The Commissioners authorized payment over \$1,500 to distribute a mailing that opposed a Proposition which would have eliminated a sales use tax, stating, “Buying out-of-state hurts our economy! Vote No.” The use of public funds also met the requirement to file a non-committee disclosure report.

Consent Order: The parties agreed that in lieu of a fee, they would repay the county \$1,512.04. They also filed a non-committee expenditure report showing the expenditure.

15-0015 – June 18, 2015 – President and Treasurer of St. Clair Fire Protection District – The officials spent \$765 to distribute a mailer appealing to voters, the taxpayers for more funds relating to a bond issue and tax levy. The use of public funds also met the requirement to file a non-committee disclosure report.

Consent Order: The Commission entered a global settlement, imposed \$1000.00, and the Respondents paid \$100.00 (remainder was stayed for 2 years). They also filed a non-committee expenditure report showing the expenditure.

14E120 – January 23, 2015 - Dr. Scott Springston, Superintendent, and Park Hill School District – The school district put out multiple materials concerning a tax levy. Some of the materials stated, “In order to prepare our students for 21<sup>st</sup>-century college and careers, the Park Hill School District is asking voters to approve a levy increase ...” Some of the material failed to include a paid for by disclosure.

Consent Order: The district agreed to adopt a procedure for the superintendent or designee to review all publicly funded materials about ballot issues prior to distribution. The Commission imposed a fee of \$1,000, and the Respondent paid \$100.00 (remainder was stayed for 2 years.).

14E003, 14E008, 14E009, 14E010 – August 19, 2014 – Smithville Area Fire Protection District, Chief and Board Members – The district circulated mailers stating, “We know that a tax increase has an impact on your budget; however, it is a small price to pay for improved response items and overall safety for your family and the community; It has been brought to our attention that influences outside of our community have been trying to downplay the importance of this issues to our citizens... We are now asking for your support to enhance our resources and abilities to provide the quality service the community deserves. Please don’t listen to outside influences who don’t know the facts and who do not suffer from inadequate emergency services or who are not affected by public safety services in our community.”

Consent Order: The Commission entered a global settlement, imposed \$1000.00, and the Respondents paid \$100.00 (remainder was stayed for 2 years.).

12E043, 12E044, 12E049 – June 19, 2013- City of Richmond, Chair of Board of Trustees, Village Clerk and Chief of Police – The parties listed above used city funds, resources and police and medics to distribute fliers in support of a ballot measure, with information about the issue, and stating that” YOUR Board of Trustees is 100% supporting this small tax increase. We know just how important it is to be able to maintain our services to all of us. We all will be voting yes and believe it is really needed to Support our Village, our police, our fire and our ambulance and parks.” There was also a paid-for-by violation. The Commission dismissed complaints against board members who were not involved.

Consent Order: The Commission entered a global settlement, imposed \$1,100.00, and the Respondents paid \$200.00 (remainder was stayed for 2 years.).

11E141 – January 10, 2012 - Michael Diekmann, Superintendent, and Climax Springs Schools – The Superintendent caused the school district to provide copying and postage for a brochure advocating and/or supporting passage of a school bond issue. The district spent approximately \$865.08 for printing and postage, and was later reimbursed by a campaign committee. The district printed a newsletter advocating support of the ballot measure, and the campaign committee encouraged volunteers to call him at the school -- he accepted calls at the School District regarding the bond issue. The complaint was filed against the superintendent of Climax Springs who had brochures and a newsletter issued advocating for the passage of a ballot measure.

Consent Order: The Commission imposed \$1,000.00, and the Respondent paid \$100.00 (remainder was stayed for 2 years.).

10E090 – November 16, 2010 – Tom Motley, President of the Board of Directors of Robinwood West Community Improvement District – The President wrote an article in the monthly newsletter which advocated support for a ballot issue. The article stated: Please vote **YES** for the proposition to renovate our community center restrooms to meet ADA requirements. We as a community should meet the needs of our residents.” The complaint was filed against the President who wrote the article for violation of §115.646.

Consent Order: Commission imposed \$1,000.00, and Respondent paid \$100.00 (remainder was stayed for 2 years.). Respondent also voluntarily reimbursed the district for the cost of the newsletter.

10E042 – Oct. 26, 2010 - Earlene Luster, Chair of the Velda Village Board of Trustees – The Chair signed a village check for \$215.70 for 25 yard signs which used the phrase, “Vote Yes for Prop 1, November 3, 2009. This is not a Tax Increase.” The signs stated “Paid for by the Board of Trustees Earlene Luster, Chairman, Mollie Bradford, Pro Tem Chairman.” The Complaint was filed against the Chair who signed the check.

Consent Order: The Commission imposed \$1,000.00, and Respondent paid \$100.00 (remainder was stayed for 2 years.). Respondent also voluntarily reimbursed the Village for the cost of the signs prior to entry of joint stipulation

09E278 – August 6, 2010 – City of Moline Acres, Michele DeShay and Shonte Harmon-Young (aldermen), Nina Walker (city clerk) – The complaint alleged the aldermen and city clerk violated §115.646 by creating a flyer in support of a ballot issue, purchasing paper, using the city copy machine and distributing it to voters. The flyer stated, “Vote YES for Proposition A, Merchant License Fee Increase, April 2008.” Complaint alleged the city and the 3 respondents were also in violation of §130.031.8 by not including the paid-for-by on the flyer.

Consent Order: The Commission entered a letter of reprimand to the clerk and aldermen. The Commission also entered into a consent order with the city for violation of the paid-for-by law, but issued a letter of reprimand rather than a fee as that would have required payment of taxpayer funds.

09E221, 09E238 and 09E253 – June 2, 2010 – North Kansas City School District (7 Director District) – §115.646 and School Board Policy - Complaint was filed against the school district when the district placed links on its website to editorials and endorsements of four candidates for school board. The former superintendent and communications director at the time approved the posting of the websites. The use of the website was a use of public funds.

Consent Order: Prior to the filing of the complaint, the district agreed to filing of the complaint against the district (and not former employees) in order to hold the district accountable. The Commission entered a letter of reprimand against the school district.

08E189 and 08E190 – November 16, 2010- Joseph Washington, Chair and Peter O’Neal, Fire Chief of the Northeast Ambulance and Fire Protection District. – A complaint was filed against the Chair and Chief who had knowledge and directed on-duty district employees to distribute campaign literature in support of a ballot issue for the District. This included use of personnel, vehicles, equipment and fuel. A complaint against another board member was dismissed because there was no evidence of his knowledge and direction.

Hearing Order: Commission imposed a \$1,000.00 fee against each Respondent.

09E060 - June 6, 2009 – Steve Huff, Assistant to the Superintendent for St. Joseph School District - 115.646 and School Board Policy - The Assistant to the Superintendent sent a facsimile to 4 media outlets, identified from the school district and from the school fax machine. The facsimile was a news release from a campaign committee and listed Mr. Huff as the campaign spokesperson. The complaint alleged that use of district personnel, equipment including a printer and fax machine, paper and the official fax cover sheet was an expenditure of public funds under §115.646.

Consent Order: Entered with the Assistant to the Superintendent. The Commission issued a letter of reprimand, and notified the school board as the appropriate disciplinary authority.

08E193 - April 1, 2009 – Chris Belcher, Superintendent of Kearney R-1 School District (7 Director District) - §115.646 and School Board Policy – A district office clerical employee purchased envelopes, labels, and used the district copier and postage meter to send a letter from a parent stating, “I hope you will take a moment to consider the upcoming bond issue on November 4<sup>th</sup>...As a parent, I stand in support of the bond...Please join me in voting yes on the upcoming bond issue.” The clerical employee made the copies, stuffed the envelopes and mailed the letters. The school district paid \$5.52 for envelopes and \$2.59 for paper, and was reimbursed by a campaign committee for \$199.50 for the postage.

Consent Order: Entered with Superintendent as the chief executive officer of the district. The Commission accepted the proposal of the Respondent to issue a letter of reprimand, notify the school board as the appropriate disciplinary authority, reimbursement of \$10.70, and to provide materials and training to district personnel regarding use of public funds.

**Claims Involving ballot issues Dismissed by the Commission:**

15-0053 – November 9, 2015 - Ian Thomas, Columbia Ward 4 Councilman – A council member used a city provided email address to send an email in support of a local ballot issue. The Commission dismissed because he used a private server and no public funds were used. The Commission cautioned him to avoid the appearance of impropriety when communicating with constituents on ballot issues.

15-0035 – July 20, 2015 - Platte County R-3 School District Superintendent and Board Members

The complaint alleged that staff used school resources to support the 2015 school levy proposal when a continuing committee used the district's phone and address, and when staff sent out communications in support of the proposal, including Facebook. The Commission dismissed because the committee had amended its statement of committee organization changing the addresses and contact 6 months prior to the complaint, and the communications were within the district's technology policy. There was no specific evidence that communications made on Facebook were made with district resources.

15-0003 – March 26, 2015 – John Mulford, Superintendent, West Plains R-7 School District –

The Superintendent provided information at a meeting of school personnel and followed up by emailing the material. The information did not advocate support for the ballot issue.

14E205 et. seq. – October 6, 2014 – Mayor Thomas Schneider and Board of Aldermen, City of

Florissant – No violation of Section 115.646 or Chapter 130 when the Mayor issued a “Newsletter/News Release” in support of a ballot measure because the statute contains a “safe harbor” allowing a public official to issue a news release. Section 130.031.8 (paid-for-by) did not apply since the news release was disseminated via email and it was not a printed document.

14E193, et.al – October 6, 2014 – Mayor Sly James, City of Kansas City Council Members –

The city approved a contract to conduct community outreach regarding a proposed streetcar project. There was no evidence that the outreach included advocacy for the project.

14E176, et. seq. – August 14, 2014 – Ferguson-Florissant School District, Superintendent and

Board Members – A school marquee displayed a message supporting a ballot measure for the August 5, 2014. The investigation showed that a principal instructed the custodian to post the sign. The Commission found no evidence that the school board or its superintendent authorized or knew about the message.

14E123 – February 7, 2014 – Mayor Pat Kelly, City of Brentwood – Public Funds were not used to pay for campaign material, and while there was no paid for by, the city did not pay for, circulate or distribute the material.

13E134 - February 7, 2014 - Leo Morton, Chancellor, UMKC –

The Chancellor distributed information concerning Jackson County Question 1 appearing on the November 5, 2013 ballot. While the University argued that it was not a political subdivision, the Commission dismissed the case on the basis that the letter was informational in nature.

13E106 – October 25, 2013 – Bleu Deckerd, Altenburg School Board President–

An email was sent from a school district email asking voters to vote “yes” on a school ballot measure. The investigation showed that no public funds were used. The Commission cautioned the president to avoid the appearance of impropriety because the emails led the public to believe they were being sent from the school.

13E010 – September 26, 2013- Bruce Borchers, Superintendent Rockwood School District – The School District distributed informational flyers and emails about a ballot issue, and included an informational display at Parent Teacher Conferences. The Commission found the material to be informational and dismissed that claim.

NOTE: The Commission referred for a paid-for-by violation.

12E238 –March 20, 2013 - St. Louis County Library District Director and Board - The complainant alleged public funds were used to support the passage of a proposition in support of the library district. Materials included bookmarks, counter cards on display in the library, and a direct link on the website to the campaign committee’s website. These were reviewed by the library’s director and communications director but not legal counsel in advance. Library funds were used to pay for the following materials:

- The link was removed on advice of counsel and was in place for 72 days. They were removed prior to receipt of the complaint and approximately one month before the election.
- Two counter cards were placed at each library. They were considered informational but were removed because they contained the campaign committee’s website on them. These were also removed upon advice of counsel.
- Information brochures were placed on library counters. The back of the brochures stated “only 6 cents” and it stated the time since the last tax levy, stating, “That’s almost 30 years!”
- The Communications Director sent an informational email to employees letting them know where to direct questions about the campaign if asked.

The Commission dismissed the allegations concerning §115.646 given the overall timing and tenor of the materials, and the library’s corrective actions in removing materials which include the campaign committee’s address. The dismissal letter cautioned the library in the future.

NOTE: The Commission referred the case failure to include Paid-for-by disclaimers on the materials.

11E185 – 11E192 – March 14, 2012- Superintendent and Members of Liberty School District Board of Education – These individuals were alleged to have used public funds because the coach and athletic director organized a mandatory service project of the football team. The mandatory service project was handing out literature supporting a ballot measure. The Commission dismissed this case because there was no evidence the superintendent or school board members had prior knowledge or gave approval of these actions. In addition, the School’s contract with the coach did not incorporate service projects as part of the coach’s paid or regular duties. In the dismissal letter, the Commission reminded the district to avoid the appearance of impropriety and the responsibility to comply with local policies and state statutes governing campaign activities.

11E057 – June 24, 2011 – Curt Mitchell, Roy Sisson and Danny Miller, Commissioners of Pike County – An economic development authority associated with the county advocated support for a ballot issue. The economic development authority was not a political subdivision and while it received funds annually from the county commission, the payments by the authority did not meet the definition of direct expenditure of public funds by a political subdivision.

10E038 – June 4, 2010 - John Nations, Mayor of Chesterfield – The Mayor wrote a letter in the quarterly newsletter regarding a Proposed one-half percent sales tax for public transportation in St. Louis County. The letter stated: “I encourage you to take a strong interest in the critically important issue of public transportation in our community.” The Mayor argued that the letter was informational and that the statute permits the official to issue news releases. The Commission dismissed stating the letter did not advocate and did not violate the statute. In addition, the city was not required to file a non-committee expenditure report as this was not an expenditure.

09E231 – April 20, 2010 – City of University City- The Commission dismissed the portion of the complaint that alleged that information put out by the City regarding a ballot issue. The Commission found the brochure was informational. The Commission however entered a Consent order because the pamphlet did not contain required paid-for-by information.

09E224 – October 6, 2009 – Chad Reynolds and Doug Van Zyl, President of Board of Directors and Superintendent of Harrisonville R-IX School District - The district displayed and distributed materials that were informational and did not advocate support for the ballot issue. The materials informed people of the ballot issue, explained how the funds would be used and reminded people to vote.

09E062 – June 5, 2009 – Dr. Melody Smith, Superintendent of St. Joseph School District – The superintendent issued an email on her own time and created a social network site which was informational about the district’s resources. There was no evidence that the email advocated support for a ballot measure and the social network was not created utilizing the district’s resources.

08E206 – Roy Robinson, Mayor of Crestwood – Use of city newsletter, town hall meetings and 911 system (to announce a meeting) to advocate support of ballot issue – The investigation showed that the newsletter and 911 system announced town hall meetings with information relating to the ballot issue. At the meeting, supporters spoke and provided a presentation in which the last page read, “Please vote yes on August 5!” The supporters paid for the meeting rooms. The mayor was not involved with this portion of the newsletter, the aldermen were responsible for setting the meetings where the presentation was given, and the 911 system was used automatically to announce all meetings.

08E183 – Mayor Mark Funkhouser, Kansas City – January 28, 2008 – The mayor distributed videos and multiple press releases regarding the Light Rail ballot issue. No public funds were spent to develop them. The Commission dismissed as the statute provides that the public official may put out press releases and make public appearances.

### **Complaints involving Candidate issues – Commission Orders**

The following is a review of MEC cases involving an alleged violation of §115.646, RSMo concerning candidates:

09E071 – September 22, 2009 – Gale Crite, Robert Smith, John Haimes, Directors of the Public Water Supply District No. 2 of Cape Girardeau County – The Board approved sending flyers supporting a candidate for the Millersville Rural Fire District Board in the water bills for the month of April. The complaint alleged the use of district personnel to include the flyer in the mailing, a total cost of \$328.70 for postage and envelopes was a use of public funds under §115.646.

Consent Order: The Commission issued letters of reprimand and notified the appropriate disciplinary authority.

08E065 – November 25, 2008 – Linda Fisher, Candidate for State Representative – The candidate was a teacher with the North St. Francois County R-1 School District. The candidate sent an e-mail on the district’s network identifying herself as a teacher and candidate for state representative. She attached her campaign flyer “Vote for Linda Fischer 107” paid for by her candidate committee. The flyer asked for volunteers to distribute literature and appear in parades, and suggested the artwork to be displayed and distributed. Because the case involved the use of email, the complaint alleged a violation of the school district’s Internet policy which prohibited use for political purposes.”

Consent Order: The Commission issued a letter of reprimand and notified the appropriate disciplinary authority.

### **Complaints involving Candidate Issues Dismissed by the Commission**

17-0036-I – June 30, 2017 – Ken McClure, Candidate for Mayor, Springfield – The Commission dismissed a complaint against the city councilmember who was a mayoral candidate. The candidate was riding on a privately owned fire truck, and the use of the truck was reported as an in-kind contribution from a firefighters PAC.

17-0023 –I and 17-0035-I – June 15, 2017 – Bob Stephens, Mayor of Springfield – The Commission dismissed two complaints finding that city resources were not used by the mayor in support of councilmember /mayoral candidate. The complaints involved the appearance of city officials in parades, alleged use of a fire truck in a parade which was privately owned, production of a video featuring councilmembers, a city newsletter and use of a private Facebook page.

14-0007 – January 30, 2015 – Jennifer Florida, St. Louis City Recorder of Deeds – The complaint alleged that the recorder of deeds was utilizing the city’s office and employees to support her candidacy. While she posted a report relating to the conduct of her opponent (the former recorder) her actions appeared to be directly related to her duties.

14-0008 et. al – January 30, 2015 –Board members of the Vernon County Ambulance District – A contribution from the private employee fund to a candidate did not constitute use of public funds.

12E126 – 12E131- August 17, 2012 - City of Brentwood Aldermen and Mayor - This case is related to Glenn Jamboretz (12E132) in which the consultant distributed materials opposing a

candidate with no paid-for-by information. The Commission entered into the consent order with Mr. Jamboretz. There was no use of public funds and the Commission dismissed the complaint.

12E021 – May 10, 2012 – David Stokely, Christian County Assessor – The incumbent assessor paid for an advertisement personally that provided contact and service information for the assessor’s office. The Commission found no violation of §115.646, RSMo, but found a violation of the paid-for-by law.

11E032 – July 8, 2011 – Joe Creamer, Alderman, Raytown – The complaint alleged an incumbent candidate for alderman distributed city business cards which contained the city’s logo while also distributing campaign literature, and used the city’s email address on campaign literature. The business card did not itself support the candidacy and there was no evidence that the card was included with any campaign literature. There was no evidence that the city’s email was actually used to support the expenditure of public funds. In the dismissal letter the Commission cautioned the candidate not to display or otherwise include city resources while engaging in campaign activities.

10E077 – August 16, 2010 - Linda Williams, Circuit Clerk of Jasper County - The complaint alleged that the elected clerk approached employees about placing campaign signs in their yard and asking if they intended to vote for her, and that she spoke with citizens about placing campaign signs in their yard when they came to the office. The clerk denied this but stated that she received a call from an individual asking if he could get yard signs. The Commission stated that the investigation did not show reasonable grounds of a violation of Chapter 115, that Jasper County ordinances did not address campaign actions/activities of elected officials in county supplied offices, and Supreme Court Operating Rule 7 did not apply to the elected clerk.

09E072 and 09E073 – June 4, 2009 – Mehlville Fire Protection District and Bonnie Stegman, Treasurer of the District – The district paid and produced a flyer concerning tax initiatives appearing on the ballot with the signature of the district treasurer, a candidate for the board. Secondly, a sign was posted about construction of a new fire house with the name of Bonnie Stegman as treasurer, prior to her filing as a candidate for the District. The flyer and the sign were informational and did not advocate support for her as a candidate. Two newsletters provided information about the tax initiatives but did not advocate support of the issues.

08E105 – December 11, 2008 – Mikel Stewart, Superintendent, and Ste. Genevieve Schools - A superintendent gave an email, which supported a candidate for state senate, to a secretary to distribute on the school network. The school district’s policy was not specific regarding use of the district’s technology for political purposes and there was no quantifiable evidence of the dollar amount of public funds to support a violation of §115.646 by the sending of the email.

The Commission closed the case, reminding the Respondent “to be vigilant in the use of public resources. The commission has serious concerns about the use of public resources when it is alleged that the resources are being used for political purposes, and cautions you of the appearance of impropriety which may exist to the public as well as other members of the school district when resources are used in this manner.”



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**James Klahr and Liz Ziegler**

**July 16, 2017**

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### **Conflict of Interest Final Actions Available on the MEC Website**

#### **Confidential Information - §105.452.2 and 3**

The public official cannot use or 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, his spouse, his dependent child in his custody, or any business with which he is associated;

#### Dismissal

15-0065 – March 9, 2016 - Patrick Miller, Mayor of Bethany – The complaint alleged that the mayor disclosed confidential information for to financially benefit a relative when the city approved a bid for a community development district. The investigation showed the city administrator handled bidding documents, there was no evidence he disclosed confidential information, and he did not cast a vote for the contract.

**Public Official Performing Services with the Political Subdivision (either personally or by a business with which the official is associated) - §105.454(1), 105.454(2), 105.458(1), 105.458(2)**

The public official cannot be compensated for performance of official duties other than compensation for performance of official duties.

The public official cannot perform services, sell, rent or lease property to the political subdivision in excess of \$500.00 per transaction or \$5,000.00 per year unless there is public notice, and in the case of services and personal property, there is competitive bidding and the bid is the lowest received.

Businesses of members of legislative bodies cannot perform services, or sell, rent or lease property unless there is public notice, and in the case of services and personal property, competitive bidding and the bid is the lowest received.

Public officials serving in an executive or administrative capacity, cannot attempt to influence a decision of the state or political subdivision when the result is the performance of a service, sale rental or lease property in excess of \$500.00 per transaction or \$5,000.00 per year to the official, spouse, dependent child in custody or business the official is associated, without public notice, and in the case of services and personal property, competitive bidding and the bid is the lowest received.

Commission Orders

11E005 – December 30, 2011 - Steven and Phyllis Paro, Trustees of the Village of Riverview - §105.458.2 and 105.454(4) - Chapter 105 requires any services over \$500/transaction or \$5,000/year conducted with a public official be done after public notice and the public official's bid is the lowest bid. In this case, the two trustees owned a transmission shop. They voted to pay an invoice in which their company supplied a transmission into a dump truck which exceeded \$500. This transaction was not bid after public notice.

Consent order: The Commission imposed a fee of \$2,941.92 (the total amount of the transaction) and the Respondents paid 20% (\$588.38) within 45 days. The remainder was stayed for 2 years contingent on no further violations.

11E023A –April 12, 2013 - Nathan Day, Lincoln County Public Water and Sewer District Number 2 –§105.458.1, 105.458.2, - Nathan Day (Board Member) received payment for services through his trucking company without votes by the board and without bidding in which he was the lowest bidder.

Consent Order: \$11,223.00 with payment of \$2,240 with the remainder of the fee stayed for two years. The Commission also assessed a cease and desist order.

12E150 – April 12, 2013 - George Hall, Director, Benton County Water District  
Director was paid to perform administrative services for the sewer district while serving as a board member.

Following a hearing, Commission imposed a fee of \$6,000 (the amount he received in excess of the bidding requirement) and authorized payment of \$600.00 with the remainder of the fee stayed for two years.

Mr. Hall appealed to the Administrative Hearing Commission in Case No. 13-0649 EC. The AHC imposed a fee of \$6,012.56. This was upheld by the circuit court.

15-0043-I – March 30, 2016 - Kenneth Blankenship—Mr. Blankenship who is a city councilman in the City of Breckenridge Hills was also receiving additional compensation as the City Public Works Director based on city ordinances. As part of the settlement, the City agreed to enact an updated ordinance so that, in the future, the City may only contract with a council member for administrative services if the council member submits a bid and the appointment is made consistent with Sec. 105.458.2, RSMo. This allows the council member to enter into the contract so long the council member is doing so through a sole proprietorship, partnership, joint venture or corporation.

Consent Order: With the passage of the amended ordinance, the Commission issued a letter of “No Further Action”

16-0070 – I – December 8, 2016 - Brenda Henson, Alderman, City of Morehouse – The member of the board of aldermen was compensated \$914.19 for cleaning and organizing the city’s file room in violation of §105.458.1.

Consent Order: \$900 with payment of \$180 with the remainder of the fee stayed for two years.

#### Dismissals

14E002 – May 19, 2014 – Otis Schulte, Mayor of Gerald – The mayor owned a business that supplied materials to a construction company which contracted with the city for renovation of city hall. The mayor’s business was a third party vendor and the contract was publicly bid with the construction company being the lowest bidder. The mayor’s role in supplying materials for modifications to the contract did not exceed the monetary statutory threshold which would require bidding.

14E249 – December 12, 2014 – Charles Radabaugh, Sheridan Township Trustee – The complaint alleged that the township trustee was benefiting from hauling rock. The trustee had no ownership interest in the quarries submitting bids, and he was paid as an independent contractor by the contractor that was awarded the bid.

15-0044 – September 3, 2015 - Michelle Gass, Village Trustee, South Greenfield, Mo –  
The complaint alleged that the village trustee received a special monetary benefit when she authorized repairs resulting from storm damage to village streets, with the work on her street being superior than other streets. The investigation showed that the work was done through a FEMA grant and was approved by the board of trustees.

15-0049 – October 5, 2015 - Marlin O’Neal Sr., Mayor, City of Morley - The complaint alleged that the Mayor owned a local gas station where city vehicles are fueled and incidental items are purchased for the city. The investigation showed that the purchases did not exceed the monetary thresholds to require bidding and that the next closest gas station was three to five miles away.

17-0015 – I – David Thompson – June 6, 2017 – Treasurer, Lincoln County Resource Board – No violation of when treasurer of Lincoln County Resource Board also served as president of a bank where the board maintains bank accounts. The board member received no monetary benefit as a result of the board maintaining accounts at the bank, and he did not participate in any decisions in use of the bank.

**Voting on issues giving special monetary benefit or on issues in which there is an ownership interest - §105.452(3) and §105.454(3)**

These cases often involve the public official favorably acting to give the official, spouse or dependent child a special monetary benefit, defined as being materially affected in a substantially different manner or degree than the public in general.

Commission Orders

11E023, 11E023A – April 12, 2013 - Charles and Nathan Day, Lincoln County Public Water and Sewer District Number 2 – Charles Day (President) authorized monthly payments of \$150; reimbursement for mileage, gas, telephone bills and other expenses, payment of a monthly cellphone bill, personal use of vehicles owned or leased by the district. In addition to a special monetary benefit, he violated Section 247.060, RSMo regarding rates of pay for board members.

Consent Order: The Commission assessed a fee of \$25,000, with payment of \$5,000 with the remainder of the fee stayed. The Commission also issued a cease and desist order.

Nathan Day (Board Member) received payment for services through his trucking company without votes by the board and without the required bidding.

Consent Order: The Commission assessed a fee of \$11,223, with payment of \$2,240 with the remainder of the fee stayed. The Commission also issued a cease and desist order.

14E174 – April 17, 2015 - Scott Frankenberg, Board Member, Missouri Valley Levee District – The levy district board member participated in the decision to hire a contracting company owned by his wife to perform work for the district. The member was paid as an employee of the company to do the work. The Commission dismissed the complaint filed against the other members of the levee district.

Consent Order: The Commission assessed a fee of \$2,062.50 (the amount he received), with him paying \$410 (20%) and the remainder was stayed for two years pending no further violations of Chapter 105.

#### Dismissals

10E075 – July 26, 2010 – Lewis Bybee, Alderman for City of Sweet Springs  
The complaint alleged the Alderman voted on issues of pay raises and increases in health insurance expenses for their spouse who was also a city employee. There was no evidence of a special monetary benefit, but the Commission cautioned that it may be prudent for a public official to recuse from voting on financial matters when a spouse is employed.

10E145 et seq- December 12, 2010 – Phyllis, Mayor and J.T. Dieckmann, Alderman, City of Levasy - The complaint alleged the Mayor and Alderman participated in votes to close a railroad crossing. There was no evidence that the officials, spouse or dependent children obtained special monetary benefits.

11E114 – Robert Lee, Director, Northeast Ambulance and Fire Protection District  
The complaint alleged that the board member voted to approve payment of \$16,000 for his attorney fees in his successful challenge to his ouster from the board. The Commission dismissed finding no special monetary benefit because he was not personally liable for the fees, and the court entered an order for the district's payment of attorney's fees. The Commission cautioned him that voting in such way created an appearance of impropriety.

14E130 – July 28, 2014 – Donald Wilson, West Platte R-II School Board Member – The school board member held more than 10% interest in the Bank of Weston, the school district's bank. The board member abstained and did not participate in meetings in which the contract was discussed, and the board member did not personally benefit from the contract with the bank.

14E191 – September 5, 2014 - Dan Hausman – No conflict when county commissioner recused from voting on recommendations of a planning committee that he was associated with.

15-0030 – July 20, 2015 - City of Herculaneum, Mayor and Board of Aldermen– The complaint alleged that the board of aldermen approved rezoning of two tracts of land, benefitting to an alderman who was employed by the developer. The Commission dismissed as there was no evidence that alderman voted or used his position as an employee to influence the decision, and he had no direct financial interest in the rezoning result.

15-0017 – July 1, 2015 - Mark Furrer, Mayor Sunset Hills – The complaint alleged the mayor had a conflict when he presided over and voted on the board of aldermen actions related to the board's consideration of his potential impeachment. While he cast a tie-breaking vote about a proposed ordinance to authorize the city to retain legal counsel to provide advice, there was not sufficient evidence under the facts that this caused a special monetary benefit required under the statute, and his actions did not provide a direct pecuniary interest. At most his actions applied indirectly to the issue.

15-0059 – January 6, 2016 - Patrick Miller, Mayor of Bethany – The complaint alleged that the mayor participated in TIF (Tax Increment Financing) meetings benefitting himself and his family who own a substantial interest in property in the TIF district. While the mayor attended TIF meetings, he was not a member and did not vote. The investigation also showed he had no financial interest in the property under consideration.

15-0062 – February 9, 2016 - Michael Pennise, City of Valley Park – The complaint alleged the mayor received a financial benefit when the city vacated an alley where adjoining property is owned by his business because the city's action allowed him to make a claim on the vacated property. The mayor abstained from voting and there was no evidence he used his position to have the alley vacated.

16-0053 – August 12, 2016 - Superintendent and Board Members of the Sikeston R-6 School Board- The board president, employed by an insurance broker did not present proposals or have other involvement in the bidding process for insurance services for the school district.

16-0066 & 16-0069- I October 3, 2016 – Bill James, Alderman, City of Miner – An alderman did not receive a special monetary benefit when he voted to award a contract to his brother's excavating business. The Commission cautioned to comply with Chapter 105 public notice and bidding in the event his business seeks to perform services for the city.

**Other Family Members** – The Commission often receives complaints involving the official’s siblings, adult children or family members. The complaints are dismissed following an investigation showing that the official did not benefit, or that the adult children do not fall within the statutes.

Dismissals

10E120 – November 12, 2010 - Ronald Jost, Presiding Commissioner, Gasconade County - The complaint alleged the Presiding Commissioner awarded a contract to her brother’s business without bidding. The statutes did not apply to allegations of a conflict of interest in relation to the brother’s business. In addition the contract was properly bid.

10E175 et seq – March 23, 2011 – Frank Lewis, Superintendent of Clinton County R-III Schools - The complaint alleged the superintendent leased building space to the Clinton County School District for the Alternative School Classroom, and that the school district paid for the entire utility bill for the building, including for part of the building operated by his adult daughter’s business. There was no evidence that he, his spouse or a dependent child received any special monetary benefit, the lease entered into with the District complied with the requirements for public notice under Chapter 105, RSMo, and payment of the utility bill was a dispute to be resolved by the parties.

16-0001 – March 10, 2016 – Mary Jo Schebaum, Mayor of Westboro – The complaint alleged the mayor purchased property for use as a city hall by using funds without the city council’s approval., and that her son began renting a portion of the property after the city purchased it. The investigation showed that the aldermen approved the purchase, the individual was not her son, and there was no record that she cast a vote on either the purchase of the property or the rental agreement.

16-0021-I – May 19, 2016 – David Lange, Mayor, and David Grafrath and Nicholas Lange, Aldermen of Marthasville, Mo – There was no evidence that the mayor and aldermen received a special monetary benefit for themselves and family members, when they voted to accept certain streets into the city so the city could make repairs to the streets. The repairs benefitted all residents of the street.

**Receipt of Additional Compensation for Duties - §105.458.1(1) and Specific Statutes**

Public officials serving on governing bodies generally cannot receive compensation for service beyond that allowed for performance of official duties. There are additional cases listed which deal with violation of statute relating to the specific office.

Commission Orders

08E186 – July 9, 2009 – Jack Hogue - §105.458.1(1) – The mayor of Iberia received \$3,958.00 in addition to his statutory salary for services performed during an ice storm and for testifying in a deposition in a case filed against the city.

Consent order: The Commission imposed a fee of \$3,958.00 and he paid \$790.00 (20%). The remainder was stayed for two years.

Dismissals

09E013 – October 7, 2009 – Randall Sisson, Trustee, Buffalo Township

The complaint alleged that a township trustee received payment for work considered by the township as labor under Chapter 65. Prior to dismissing this case, the Commission received an Attorney General's opinion since there was a specific statute authorizing such work.

10E010 – March 15, 2010 - Mark Brufett, Township Trustee

The complaint alleged the township trustee violated Chapter 105 when he operated a grader for pay. Pursuant to Section 65.230, RSMo, township officials may receive an hourly wage set by the township board for labor performed for the benefit of the township.

10E014 – March 15, 2010 - Robert Radar, Township Trustee

The Township Trustee operated a grader for pay. Pursuant to Section 65.230, RSMo, township officials may receive an hourly wage set by the township board for labor performed for the benefit of the township. That portion of the complaint was therefore dismissed. It was also alleged that violations occurred pursuant to Section 65.190, RSMo, when he failed to take the oath for office of trustee. At the time of the dismissal he had been sworn in and paid a \$100.00 fine as required by statute.

10E075 – July 26, 2010 – Lewis Bybee, Alderman for City of Sweet Springs

The complaint alleged the alderman received compensation as zoning administrator while also serving as an alderman. A city ordinance allowed a person holding the position of zoning administrator to also hold another office or position concurrently with the city. City payroll records showed that he received no payment for work as zoning administrator during the time he received payment for work as an alderman.

11E007 and 11E008 - April 13, 2011 – Dustin Stone, Ed LeDure, Directors, Special Road District – Under Chapter 233, RSMo, road district commissioners may receive payment for expenses they incur in transacting business of the district and the payments related to their official capacity. The complaint alleged the directors were receiving compensation for services provided to the Special Road District of Scott County and not authorized by Chapter 233, RSMo. The Commission dismissed because there was no evidence that he received compensation for services. The Commission cautioned the road district to maintain records substantiating the actual expenses paid to the Commissioners.

The Commission also reviewed the allegation that the Road District does not hold an election of officers as required by Section 233.335.1, RSMo. While the Commission voted to dismiss this allegation it cautioned that the District to review the requirements of Section 233.335.1, RSMo, concerning election of officers and review its procedures for holding elections of officers.

15-0010 – June 1, 2015 – Dennis Young, Libourn City Administrator and Marshal - The board of aldermen appointed the city marshal to also serve as city administrator. There was no violation of Chapter 105 as he did not receive additional compensation.

16-0021-I – May 19, 2016 –David Grafrath, Alderman of Marthasville, Mo – An alderman received no additional compensation for his work using a city excavator to dig up part of a city street in preparation for repairs.

16-0136-I – March 27, 2017 - Donna McGregor, Scott City Council – The Commission dismissed the complaint as moot when the city mistakenly paid her \$127.50 for staffing the front desk as city hall. She returned the full amount to the city.

### **Performing Services for Compensation to Influence the Political Subdivision - §105.454(4)**

#### Commission Orders

12E006 – July 2, 2013 - Paul Lambi, Mayor of Wentzville - While Mayor of Wentzville, he was paid by another company to attempt to influence the city to pursue a technical college to locate with in the city. Payment was unclear and he resigned and recused from dealings.

Consent Order: The Commission imposed a fee of \$1,000, with payment of \$2,100 by Mr. Eaton. The remainder was stayed for two years pending no further violations.

12E027 – October 30, 2013 - Steve Smith, Board President, Rockwood School District  
The school board president was compensated as a project coordinator for a contractor doing business with the district. He also voted to approve change orders that the contractor later used to support a request for higher fees under the contract with the school board.

Consent Order: The Commission imposed a fee of \$10,000, with payment of \$2,000. The remainder was stayed for two years pending no further violations.

12E069 – February 13, 2014 – Dr. Steve Wilmoth, Superintendent, and Seneca R-7 School District - The Superintendent was compensated \$5,000 per month by “Ombudsman Educational Services” and worked with and contracted with the company to provide an alternative school contract. He failed to disclose the contract on his personal financial disclosure statements.

Consent Order: The Commission imposed a fee of \$55,000, with payment of \$8,250. The remainder was stayed for two years pending no further violations.

#### Dismissals

16-0009-I – April 21, 2016 – Ramona Dunn, Principal, Franklin Smith Elementary School; Scott Young and Annette Seago, Deputy Superintendents of Blue Springs School District – The former principal signed a contract with FranklinCovey to provide the Leader in Me program in the school. The current principal came to the school, while serving both principal and a paid consultant for FranklinCovey. The principal provided no consulting services related to the school, and the contract with FranklinCovey had no provision for bonuses or performance incentives related to the school’s participation in the program. The deputy superintendents had no contact with FranklinCovey and received no compensation regarding the contract.

**Acceptance of a Position of Influence Within One Year of Leaving Office - §105.454(5)** - Chapter 105 provides specific prohibitions against a public official in an executive or administrative position from being employed, up to one year after they leave office, in a capacity where they attempt to influence the decision of the political subdivision where they had administrative or supervisory responsibilities.

#### Commission Orders

11E010, 11E010C, 11E010D – February 29, 2012,- Terry Eaton, Former Mayor, Nina Gardner, and Karen Miller (Aldermen), City of Craig - The former mayor resigned and immediately accepted the position of city administrator with a weekly salary of \$200.00 per week. As city administrator, he specifically influenced the board on policy issues. The Commission proceeded against the aldermen for hiring the city administrator without passing an ordinance as required by §77.042, RSMo.

Consent Order: The Commission imposed a fee of \$1,000, with payment of \$100 by Mr. Eaton. The remainder was stayed for two years pending no further violations.

Letters of Reprimand were issued to the aldermen.

13E110 – July 22, 2014 – David Price, City of Aurora - An elected member of the city council and appointed Mayor of Aurora accepted employment as interim city manager within one year.

Consent Order: The Commission imposed a fee of \$8,500, with payment of \$850 by Mr. Price. The remainder was stayed for two years pending no further violations.

Dismissal

16-0108 –I – January 17, 2017 – Mike Sanders and Stephen Nixon –Former County Executive and County Counselor for Jackson County – The former county executive entered a consulting agreement, including technical and legal work finalizing details of the Rock Island Rail Corridor. There was no evidence that the county executive participated to influence the county’s decision to pursue the contract, and the nature of the work to be done was not that to influence decisions of the county

**Acceptance of a Position Relating to Case, Decision, Proceeding or Application Related to Former Service - §105.454(6)** - Chapter 105 provides specific prohibitions against a public official in an executive or administrative position from being employed after termination of his or her public 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 public service or employment.

Dismissal

13E118 – December 16, 2013 - Stephen Tibbetts, Board Member, Benton County Sewer District

The complaint alleged that while serving as a board member of the Benton County Sewer District #1, he voted and approved a contract with a company to perform services for the sewer district, and then went to work for WET RPM, LLC in July 2013 after resigning his board member seat. The Commission dismissed the complaint because the work done upon leaving the board was not related to this specific contract.

14E260 – December 12, 2014 – Travis Dierker, Former Alderman, St. Clair - There was no evidence that while serving as Assistant City Administrator, the former alderman took actions influencing the city council.

15-0029 – July 20, 2015 - Scotland County Memorial Hospital District, Board of Directors and Dr. Randy Tobler, Chief Executive Officer – The complaint alleged that the CEO has a conflict of interest when he continued to be employed as a physician with the hospital. While the CEO continued to work as a doctor, he was not compensated as CEO.

## **Violation of Local Bidding Requirements**

The Commission can receive complaints that local officials are violating their own local ordinances and regulations regarding competitive bidding.

### Commission Order

08E157 – March 1, 2009 – Robin Littrell, City Clerk, City of Richmond - Following a hearing, the Commission found that the city clerk of a third class city violated Chapter 135 of the municipal code by failing to advertise bids and then follow formal bidding procedures for a \$10,000.00 landscaping project.

The Commission issued a letter of reprimand.

10E147 – January 10, 2013 - Leatress Gideon, Alderman, City of Anderson – Local Ordinances related to Bidding - The Respondent's husband's sole proprietorship, Leuellen Plumbing, performed plumbing and/or backhoe excavating services approximately forty-two times for the city. There was no public notice or competitive bidding and the company was paid \$25,640.00 over a 2 year period. The Respondent did not recuse herself from voting on the payments.

Consent Order: The Commission assessed a fee of \$25,640, with payment of \$2,500 within 75 days of the order. The remainder was stayed for two years pending no further violations.

### Dismissals

10E018 – April 30, 2010 – Sheriff Jim Arnott, Greene County Sheriff - The complaint alleged the sheriff violated county bidding requirements in Chapter 50, and department regulations concerning towing services conducted for private vehicles which are involved in accidents, which are disabled, or which are involved in law enforcement investigations.

The Commission dismissed the complaint because the Greene County Sheriff's Department did not utilize a statutory bid procedure for towing services as the services did not meet the monetary threshold of \$4,500 which would trigger a bid process under Section 50.660(1), RSMo. The department, however, placed the towing services out for bid and utilized a temporary rotational policy until the bid process was completed.

10E040 – June 4, 2010 – Neil Bruntrager, St. Louis County Community Fire Protection District

The complaint alleged that the fire district sold property to an elected official of another political subdivision without public notice. The Commission dismissed the complaint because there was no provision which required bidding when a political subdivision sells real property.

11E088, 11E096, 11E107 – August 3, 2011 - Republic School Board Members

The Commission dismissed complaints against the school board members who followed the district's purchasing policies for bidding and public notice when they awarded a contract to Kagan for cooperative learning. In a related complaint, the Commission entered a consent order with the Superintendent for failing to disclose his employment with the company in Vern Minor (11E100).

13E017 – 13E025 – May 13, 2013 - City of Mountain Grove Mayor and Aldermen

The Commission reviewed the allegation that city failed to provide a contract for trash service to the lowest possible bidder when the contract was a business owned by the Mayor's nephew. The Commission also reviewed the purchase of an emergency vehicle by the city.

Chapter 105 did not apply to this contract with the nephew's business. The city followed its local ordinances when it accepted the bid for trash services and purchased an emergency vehicle, as those ordinances authorize awarding of a contract to the "lowest responsible bidder."

14E016 – May 6, 2014 – City of Mountain Grove – Dan Parker, City Marshal and Chief of Police – Complaint alleged that he was improperly holding office. Based upon local ordinance and Section 79.050, city marshal shall also be chief of police

15-0037 – August 7, 2015 – Norman McCourt, Mayor, and City of Black Jack - The complaint alleged the mayor hired a special prosecutor and authorized the city treasurer to pay bills without obtaining the city council's authority. The Commission dismissed the complaint since the city passed ordinances authorizing both actions.

15-0006 et. seq. – April 29, 2015 – Mayor Bart Nieder and city officials, City of Louisiana – The Commission dismissed the complaint that city officials were not complying with the competitive bid process to purchase certain products for the city. The investigation showed the city complied with the bidding policies during the two year period reviewed.

**Violations of Statutes and Ordinances Relating to Official Duties of Office -**

The Commission can receive complaints that public officials are violating the provisions of the constitution or state statute or order, ordinance or resolution of any political subdivision relating to the official conduct of officials or employees of the state and political subdivisions. The results may vary in these cases, including notification of the appropriate disciplinary authority.

Commission Order

11E143 – February 24, 2012 - Jim Kelly, Chair of Board of Ripley County R-IV School District

The complaint alleges the chair violated the school board's code of ethics by participating in the debate process and participating in interviews when his daughter was hired as a teacher in the district.

Consent Order: Consent Order: The Commission imposed a fee of \$1,000, with payment of \$100. The remainder was stayed for two years pending no further violations.

11E010 C and D – February 29, 2012 - Nina Gardner and Karen Miller, Board of Aldermen, City of Craig

The board of the fourth class city hired a city administrator (MEC Case No. 11E010) without passing an ordinance as required by §77.042, RSMo.

Consent Order – The Commission issued letters of reprimand to both parties.

15-0051 – Theodore and Lee Etta Hoskins, Mayor and City Council, Berkeley – The mayor received reimbursement from a contingency fund for legal fees related to an investigation of council manic interference. The action was in violation of a city ordinance stating that no city official shall vote on or participate in any decision making process if the official has a direct financial interest in the matter under consideration. Here the mayor made the motion to approve his request and his wife voted to approve it.

Consent Order – The mayor agreed to reimburse the city.

Referral

09E303 & 09E304 – March 15, 2010 – Brian Ostmann, Mayor and Brenda Nickles, City Clerk, City of Bellflower - A local ordinance required proposed ordinances be introduced to the board of aldermen and read two times prior to passage. The Commission referred the case to the board of aldermen to consider violation of the local ordinance.

Dismissals

10E010 – March 15, 2010 - Mark Brufett, Village Trustee - The township trustee violated §65.190, RSMo by failing to take the oath for office of trustee. At the time of the dismissal, the trustee was sworn in and paid a \$100.00 fine as required by the statute.

10E014 – March 15, 2010 - Robert Radar, Township Trustee

The Township Trustee operated a grader for pay. Pursuant to Section 65.230, RSMo, township officials may receive an hourly wage set by the township board for labor performed for the benefit of the township. That portion of the complaint was therefore dismissed. It was also alleged that violations occurred pursuant to Section 65.190, RSMo, when he failed to take the oath for office of trustee. At the time of the dismissal he had been sworn in and paid a \$100.00 fine as required by statute.

11E007 and 11E008 - April 13, 2011 – Dustin Stone, Ed LeDure, Directors, Special Road District - Under, Chapter 233, RSMo, road district commissioners may receive payment for expenses they incur in transacting business of the district and the payments related to their official capacity. The complaint alleged the directors were receiving compensation for services provided to the Special Road District of Scott County and not authorized by Chapter 233, RSMo. The Commission dismissed because there was no evidence that he received compensation for services. The Commission cautioned the Road District to maintain records substantiating the actual expenses paid to the Commissioners.

The Commission also reviewed the allegation that the Road District does not hold an election of officers as required by Section 233.335.1, RSMo. While the Commission voted to dismiss this allegation it cautioned that the District to review the requirements of Section 233.335.1, RSMo, concerning election of officers and review its procedures for holding elections of officers.

11E108 – August 17, 2011 – Flo Hickman, City Clerk of Bunceton

The complaint alleged the City Clerk also paid bills for the city when the City failed to publish semiannual financial statements pursuant to §79.160 and §79.165. Violation is a misdemeanor. The Commission dismissed the case as the statute did not technically apply and the city published the semiannual report.

13E143 – 13E146 – March 14, 2014 - City of Brentwood, Mayor and Aldermen

The complaint alleged that elected officials received health, dental and vision benefits in the absence of a specific ordinance designating appointment of benefits. It alleges they acted in a manner to provide themselves a special monetary benefit pursuant to state statute and Chapter 105, RSMo. All benefits costs were included in the city's annual budgets which were prepared by the Ways and Means Committee and submitted to the board of aldermen for approval each December for the upcoming year. The city's budget(s) was passed by ordinance. Following a state audit the city stopped providing these benefits in August 2012. Finding no legal authority to prohibit the political subdivision from authorizing the health, dental and vision benefits at issue within the city's budget ordinance, the Commission found no reasonable grounds to support either a state statute or a chapter 105 violation.

14E245 – December 15, 2014 - Sheriff Steve Korte – No statute nor county policies prohibited sheriff or deputies to transport children to and from school. Upon receipt of the complaint, the sheriff adopted a new policy on vehicle use that prohibited any non-official use of the vehicles.

14E250 and 14E251 – December 3, 2014 – Mayor and City Alderman, Trimble - The alderman did not use a city truck for personal use when, in returning from using the truck for city road maintenance, he stopped the truck to place posts on the mayor's property. No additional fuel or mileage was expended because the property was on the route back to the city shed where the truck was stored.

16-0110 – I- January 17, 2017 - Francine Dugger – Mayor Pro Tem, City of Jennings – No violation of 77.240 and 77.250 when the mayor pro tem voted as a council member to set a special election for the mayor vacancy and also voted as mayor-pro-tem to break the tie. AGO opinions states that a city councilperson of a 4<sup>th</sup> class city who is also serving as acting mayor during a vacancy may vote twice – once as a councilperson and in the case of a tie, as mayor. The council person also relied on the city attorney’s formal opinion that state statute required receipt of the salary for both councilperson and as mayor-pro-tem under these circumstances.

### **Violation of Residency Requirements by Elected Officials– State Statute**

The Commission receives complaints alleging that public officials do not meet the applicable residency requirements, often by moving while in office. The Commission will investigate the allegations but then refer to the appropriate legal body of there are reasonable grounds of a violation.

11E002 – April 1, 2011 - Jim Hoene, Public Water Supply District #6 – The board member resigned his position on the board. The Commission dismissed the issue as moot.

11E077 – July 15, 2011 – Jeff Bay, Board Member, City of Parkville  
Upon receiving the complaint that he did not reside in the city, he resigned his position. The Commission dismissed the complaint as moot.

11E115 – September 1, 2011 - Dennis Bradford, Madison County District 1 Commissioner - The complaint alleged the commissioner violated Section 49.020, RSMo when he temporarily moved while renting his home while building a second home. The Commissioner signed an affidavit regarding his residency. The Commission reviewed the law regarding residency and dismissed the complaint.

12E031 – May 14, 2012 – Harrisonville Mayor and Board of Aldermen- The complaint was filed against all of the board of aldermen and mayor for violation of the Chapter 79 residency requirements. The investigation showed one alderman’s term expired and she did not seek reelection, and that another alderman, William Mollenhour, met the requirement although he listed his dental office outside his district as an official residence.

12E037 and 14E124 – May 14, 2012 and August 7, 2014 - William Mollenhour, Harrisonville Gerald Board of Aldermen – The Commission received two complaints that Mr. Mollenhour was in violation of the residency requirement. During the second investigation, Mr. Mollenhour admitted that he lived at the Harrisonville address during his divorce several years ago. However, he currently was sleeping and staying at a Garden City address with his wife. The Commission referred this case to the mayor and board of aldermen for possible removal. He resigned his position.

**Criminal Referrals**

Chapter 104.478, RSMo creates a Class B misdemeanor for a knowing violation of Chapter 105. In a rare case, the Commission may choose to refer a case to a County Prosecutor for violations of criminal statutes.

11E051 - Kevin Rawling, Northland Regional Ambulance District – Platte County  
Prosecutor for violation of Section 576.050 (misuse of official information). Chapter 105 conflict of interest statute did not apply to this purchase of land. The Platte County Prosecutor filed charges under Chapter 576.