



Jackson County Missouri

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Legislation Text

File #: 4395, Version: 0

IN THE COUNTY LEGISLATURE OF JACKSON COUNTY, MISSOURI

AN ORDINANCE repealing sections 902., 913., 916., 917., 920., 7400., 7401., 7402., 7403., 7404., 7405., 7406., 7407., 7408., 7409., 7410., 7411., 7412., 7413., 7414., 7415., and 7416., Jackson County Code, 1984, relating to the Ethics Commission and Office of Human Relations and Citizen Complaints, and enacting, in lieu thereof, twenty new sections relating to the Office of Ethics, Human Relations and Citizen Complaints.

ORDINANCE #4395, February 27, 2012

INTRODUCED BY Dan Tarwater, Scott Burnett, Theresa Garza Ruiz, Crystal Williams, Fred Arbanas, James D. Tindall, Dennis Waits, Greg Grounds, and Bob Spence, County Legislators

WHEREAS, the 2010 Jackson County Charter, adopted by the County's voters, provided for the consolidation of the former Ethics Commission and Office of Human Relations and Citizen Complaints into a new Office of Ethics, Human Relations and Citizen Complaints, which includes a new Commission on Ethics, Human Relations, and Citizen Complaints; and,

WHEREAS, with this adoption, the County's ethics functions are now administered by an independent, full-time staff; and,

WHEREAS, the adoption of the 2010 Charter requires the amendment of the County Code chapters governing the former Ethics Commission and Office of Human Relations and Citizen Complaints to bring those chapters into compliance with the new charter; and,

WHEREAS, this amendment is in the best interests of the health, welfare, and safety of the citizens of Jackson County; now therefore,

BE IT ORDAINED by the County Legislature of Jackson County, MO as follows:

Section A. Enacting Clause. Sections 902., 913., 917., 920., 7400., 7401., 7402., 7403., 7404., 7405., 7406., 7407., 7408., 7409., 7410., 7411., 7412., 7413., 7414., 7415., and 7416., Jackson County Code, 1984, are hereby repealed, and twenty new sections enacted in lieu thereof, to be known as sections 902., 913., 917., 920., 7400., 7401., 7402., 7403., 7404., 7405., 7406., 7407., 7408., 7409., 7410., 7411., 7412., 7413., 7414., and 7415., to read as follows:

902. Definitions.

For purposes of this chapter, the following terms, phrases, words and their derivatives shall have the meanings given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meanings unless the context suggests otherwise. When a right or duty pertains to the holder of a specific position, the same right or duty pertains to any designee to whom the holder of the position may lawfully delegate the right or duty.

902.1. Appointing authority means the County Executive, County Legislature, department director, or any other person or entity who appoints a person to a public position.

902.2. Associated, when used with reference to a business or an organization, includes any business or organization in which a public servant or a public servant's partner in interest is a director, officer or trustee, or owns or controls, directly or indirectly, and severally or in the aggregate, at least 10% of the outstanding equity, or any business or organization in which a public servant or a partner in interest has a personal interest.

902.3. Benefit means:

(1) anything, regardless of its monetary value, perceived or intended by either the one who offers it or the one to whom it is offered to be sufficient in value to influence a public servant in the performance or non-performance of an official action; or

(2) anything, regardless of its monetary value, which, under the circumstances, a reasonably prudent person in the position of the public servant to whom the thing is or may be offered, would recognize as being likely to be intended to influence the public servant in the performance or non-performance of an official action; and

(3) the term "benefit" includes, but is not limited to, a valuable act, advance, award, contract, compensation, contribution, deposit, emolument, employment, favor, fee, forbearance, fringe benefit, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these things will be conferred in the future.

902.4. Board means any voting body

(1) which is established to participate as a body in some manner in the conduct of the County government, including participation which is merely advisory, whether established by state law, county charter, ordinance, contract, executive action or any other lawful means; and

(2) any part of whose membership is appointed by the County Executive or County Legislature acting on behalf of the County; but the term "board" does not include a board, commission or committee which is the governing body of a separate political subdivision of the State, or whose membership, after appointment, is not subject to any regulation by the County Legislature; nor does it include any County administrative agency, bureau, department, division or office which is administered by individuals rather than by a body.

902.5. Business means an activity, association, commercial entity, corporation, enterprise, firm, franchise, holding company, joint stock company, organization, partnership, receivership, self-employed individual, sole proprietorship, trust or other legal entity established to earn or otherwise obtain money, whether for profit or non-profit, excluding a municipal corporation or governmental entity.

902.6. Business with which a public servant is associated means a business in which any of the following applies:

(1) The public servant is an owner, partner, director, officer, employee or independent contractor in relation to the business; or

(2) A public servant's partner in interest is an owner, partner, director or officer; or

(3) The public servant or a partner in interest is a stockholder of close corporation stock which is worth at least \$5000 dollars at fair market value or which represents more than a 10 percent equity interest; or

(4) The public servant or a partner in interest is a stockholder of publicly traded stock which represents more than 2 percent equity interest, other than publicly traded stock under a trading account if the public servant reports the name and address of the stockholder; or

(5) Any business, regardless of ownership or value, by whom or for whose benefit a decision maker is influenced to act in the hope or expectation of obtaining a personal benefit for the public servant or for a partner in interest of the public servant.

902.7. Candidate means an applicant for county employment or for an appointive county position.

902.8. Child means a son or daughter, whether or not the son or daughter is the biological offspring of the legal parent or parents and whether or not the son or daughter is financially dependent on the parent or parents.

902.9. Commission means, when used with the article "the," as in any reference to "the Commission,@ the Ethics, Human Relations, and Citizens Complaints Commission established by the County Charter, unless the context clearly indicates otherwise, or, when used in reference to matters relating to an elected official, the Missouri Ethics Commission, as established by State law.

902.10. Confidential information means information which has been obtained in the course of holding public employment, an independent contract or otherwise acting as a public servant, and which information is not available to members of the public under the Missouri Open Records Act, chapter 610, RSMo, or other law or regulation and which the public servant is not authorized to disclose, including:

(1) any written information that could lawfully be excepted from disclosure pursuant to state law, unless the public servant disclosing it is authorized to do so by state law, or pursuant to some other pertinent law, policy or procedure; and

(2) any non-written information which, if it were written, could be excepted from disclosure under state law, unless the public servant disclosing it is authorized to do so by the state law, or pursuant to some other pertinent law, policy or procedure; and

(3) information which was obtained in the course of or by means of a record or oral report of a lawful closed session, whether or not the disclosure of the information would violate state law, unless the public servant disclosing it is authorized by state law to do so, or unless the public servant disclosing it has been properly authorized to disclose it pursuant to an applicable law, policy or procedure; however, when such information is also available through channels which are open to the public, this provision does not prohibit public servants from disclosing the availability of those channels.

902.11. Compensation means any benefit conferred upon or received by any person in return for services rendered or to be rendered.

902.12. Conflict of interest means not only a personal interest, as defined in this chapter, but also a professional or non-pecuniary interest, such as arises when the County Counselor is precluded from representing one public servant because of the County Counselor's preexisting attorney-client relationship with another public servant.

902.13. Controlled or illegal substance means any drug or other substance, the use of which is regulated by federal or state law, except that within the meaning of this chapter the term does not include any drug or substance which has been lawfully prescribed by an authorized person for the use of a public servant, and which is used by the public servant in accordance with the prescription.

902.14. Decision maker means any public servant or group of public servants empowered to act in a discretionary manner on behalf of the County in any capacity whatsoever, including the making of recommendations. Decision maker includes, but is not limited to, any County agency, bureau, department, division, office, administrator or person who is charged with implementing and administering particular legislation or executive or administrative decisions, and, to the extent this chapter is applicable to them, any volunteer or independent contractor who is empowered to exercise any discretionary power which could influence a public servant in the performance or nonperformance of an official action. In this chapter, the term "decision maker" is used to represent any and every public servant who could take any discretionary action regarding a matter in which a public servant or a partner in interest has or may have a conflict of interest, or as a result of which a public servant might receive a personal benefit.

902.15. Decision making means the exercise of any discretionary public power in any capacity whatsoever, including the making of recommendations, by any public servant whose action pertains to a matter in which a public servant or a public servant's partner in interest has or may have a conflict of interest, or as a result of which a public servant might receive a personal benefit.

902.16. Disclose means, unless the context of this chapter indicates otherwise, to file, with the Commission, or other appropriate authority and the Clerk of the County Legislature, a document, in a form required or authorized under this chapter, signed and sworn to by the public servant who is required to file the document, which informs the public in accordance with the requirements of this chapter of a conflict of interest or a potential conflict of interest, and any other information pertinent to the purpose of filing the document, including the name and address of any person alleged to have a conflict of interest or a potential conflict of interest; or, when this chapter permits, the filing of an accurate copy of the official minutes of a governing body or board which informs the public of the required information. Unless this chapter or a law which supersedes it requires or permits another procedure, information shall be deemed disclosed if any public servant within a reasonable time before any official action is to be taken by the decision maker, files an affidavit with the Clerk of the County Legislature disclosing the nature and extent of the public servant's conflict of interest, and identifying the decision maker(s) who may act on the matter. For purposes of this provision, "within a reasonable time" means within adequate time to allow the Clerk of the County Legislature, acting within the County's normal schedule and procedures for transmitting written documents, to forward the disclosure to the decision maker(s) before whom the matter is pending or may be brought, and within adequate time to allow the decision maker(s) to review the disclosure before taking any official action.

902.17. Domestic partner means an adult, unrelated by blood, with whom an unmarried or separated official or employee* has an exclusive committed relationship, maintains a mutual residence, and shares basic living expenses.

902.18. Employee means a person, other than an elected public officer, employed and paid a wage or salary to work for the County, whether under civil service or not, whether full-time, part-time, or on a contract basis, and including those officially selected but not yet serving; but does not include an independent contractor; and, for purposes of establishing ethical obligations under this chapter and for no other purpose, the term "employee" includes volunteers, notwithstanding the fact that they are unpaid or paid a stipend.

902.19. Gift means any benefit or thing or act of value which is conveyed to or performed for the benefit of a public servant or a partner in interest, including any advance, award, contract, contribution, deposit, employment, favor, forbearance, gift, gratuity, honorarium, loan, payment, service, subscription, or the promise that any of these things or acts of value will be conferred in the future, if such thing or act of value is conferred or performed without the lawful exchange of consideration which is at least equal in value to the thing or act conferred or performed.

902.20. Governing body means the elected officials who comprise the County Legislature, as defined by the Jackson County Charter.

902.21. Immediate family means:

- (1) a public servant's spouse or domestic partner or child; and
- (2) a public servant's relative by marriage, lineal descent or adoption; and
- (3) a public servant's parents, parents-in-law, sisters, sisters-in-law, brothers, brothers-in-law, stepparents, stepbrothers or stepsisters; and
- (4) an individual claimed by the public servant or the public servant's domestic partner as a dependent under the United States Internal Revenue Code.

902.22. Interest means any personal benefit accruing to a public servant or the public servant's partner in interest, whether in the public servant's own name or the name of any person or business from which the public servant is entitled to receive any personal benefit, as a result of a matter which is or which is expected to become the subject of an official action by or with the County.

902.23. Loan means a transfer of money, property or anything else of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part.

902.24. Matter means, unless the context of this chapter indicates otherwise, any act, action, agenda item, allegation, application, amendment, auction, bill, business, case, charge, claim, consideration, contract, controversy, decree, deed, deliberation, discussion, hearing, issue, lease, license, measure, offer, order, ordinance, permit, personnel action, petition, policy, presentation, procedure, privilege, proceeding, project, proposal, proposition, purchase, recommendation, regulation, rental, request, resolution, sale, subject, transaction, use,

variance or other discretionary choice pending before a County decision maker when a public servant or a partner in interest has a personal interest in the outcome of the decision, or the decision may result in a personal benefit to a public servant or a partner in interest.

902.25. Ministerial action means an action that a public servant performs in a given set of circumstances in a prescribed manner in obedience to the mandate of legal authority, without regard to the exercise of the public servant's own judgment as to the propriety of the action being taken.

902.26. Negotiating concerning prospective employment means one or more discussions between a public servant and a potential employer other than the County concerning the possibility of the public servant or a partner in interest considering or accepting employment with the employer, in which discussion(s) the public servant responds in a positive way.

902.27. Office means any of the following:

- (1) An elective position within the government of the County; or
- (2) A County Attorney; or
- (3) An appointive County position in which a public servant serves for a specified term, except a position limited to the exercise of ministerial functions or a position filled by an independent contractor; or
- (4) An appointive County position which is filled by the governing body or the executive or administrative head of the County, and in which the incumbent serves at the pleasure of the appointing authority, except a clerical position, a position limited to the exercise of ministerial functions or a position filled by an independent contractor.

902.28. Officer means any person elected or appointed to hold an office, as defined in this code or the Jackson County Charter.

902.29 (1) Official action means any act, action, approval, decision, denial, directive, disapproval, inaction, order, performance, nonperformance, recommendation, vote, or other direct result of a public servant's exercise of discretionary authority in connection with the public servant's public position.

(2) Official duty means any official action or ministerial action which a public servant is obligated or authorized to perform by virtue of being a public servant.

902.30. Official records means any minutes, papers, documents, completed forms, or other records maintained by a public agent for the purpose of fulfilling the disclosure requirements of this chapter.

902.31. Organization means, unless the context indicates otherwise, any non-profit business other than an individual or governmental agency.

902.32. Partner in interest means, when used in this chapter in connection with a public servant, as in the phrase "a public servant or a partner in interest" any and all of the following:

- (1) a member of the public servant's immediate family defined herein.
- (2) anyone whose primary residence is in the official=s or employee=s home, including non-relatives who are not rent payers or servants.
- (3) a business with which the public servant or a member of the public servant's immediate family is associated; or
- (4) any other person with whom the public servant or a member of his immediate family is in business, or is negotiating or has an agreement concerning future employment or the future conferring of any personal benefit, whether in the public servant's own name or the name of any business or person from whom the public servant is entitled, or expects to become entitled, to receive any personal benefit, as a result of a contract or transaction which is, or which is expected to become, the subject of an official action by or with the County. The term partner in interest does not imply or require any form of legal partnership or formal agreement.
- (5) When used in the phrase "a public servant or a partner in interest," the term "partner in interest" refers only to a partner in interest of the public servant to whom reference is being made, and not to any other person's partner in interest.

902.33. Personal benefit means any benefit which is offered or received, or perceived to be offered or received, for the purpose of influencing the manner in which a public servant performs or refrains from performing an official action, so that an attempt is made to induce the public servant, or the public servant is induced, to act in favor of some interest other than the public interest on the basis of an expectation or hope that the public servant or a partner in interest of the public servant will obtain some private gain by acting against the public interest; provided, however, that the term "personal benefit" within the meaning of this chapter does not include any of the following, which, although they may benefit individual public servants, are deemed to be primarily public benefits rather than personal benefits:

- (1) payment by the County of salaries, compensation or employee benefits; or payment by an employer or business other than the County of salaries, compensation, employee benefits or pursuant to a contract, when the payment is unrelated to a public servant's status as a public servant and is not made for the purpose of influencing, directly or indirectly, the official action or decision of a public servant; or
- (2) fees, expenses, or income, including those resulting from outside employment, which are permitted and reported in accordance with the policies of the County; or

- (3) authorized reimbursement of reasonable, or actual and necessary expenses; or
- (4) admission, regardless of value, to events to which public servants are invited in their official, representative capacity as public servants; or
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- (5) hospitality extended for a purpose unrelated to the official business of the County; or
- (6) reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official County business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity; this provision applies only if the County does not also pay the person for the same activity; or
- (7) reasonable gratuities given by a group in appreciation for a public servant speaking or making any presentation before that group; or
- (8) awards publicly presented in recognition of public service, acts of heroism or for solving crimes; or
- (9) gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities; or
- (10) anything of value, regardless of the value, when the thing of value is offered to the County, is accepted on behalf of the County, and is to remain the property of the County; or
- (11) commercially reasonable loans made in the ordinary course of the lender's business in accordance with prevailing rates and terms, and which do not discriminate against or in favor of an individual who is a public servant because of such individual's status as a public servant; or
- (12) complimentary copies of trade publications; or
- (13) any unsolicited benefit conferred by any one person or business if the economic value totals less than \$ 50 per calendar year, and if there is no express or implied understanding or agreement that an official action or decision of a public servant will be influenced; or
- (14) reasonable compensation for a published work which did not involve the use of the County's time, equipment, facilities, supplies, staff or other resources, if the payment is arranged or paid by the publisher of the work; or
- (15) reasonable compensation for a published work which did involve the use

of the County's time, equipment, facilities, supplies, staff or other resources, if the payment of the compensation to the public servant is lawfully authorized by a representative of the County who is empowered to authorize such compensation; or

- (16) anything of value, if the payment, gift, or other transfer of value is unrelated to and does not arise from the recipient's holding or having held a public position, and if the activity or occasion for which it is given does not involve the use of the County's time, equipment, facilities, supplies, staff or other resources in any manner or degree which is not available to the general public; or
- (17) anything of value received as a devise, bequest or inheritance; or
- (18) a gift received from a relative within the fifth degree of consanguinity, under the civil law computation method, to the public servant, or the spouse of such a relative; or
- (19) a gift received from a spouse of a public servant, or a spouse's relative within the fifth degree of consanguinity to the spouse, under the civil law computation method.
- (20) allowance, stipends or reasonable reimbursement for service on Public Boards or Commissions that a Public Servant is required to serve on as a matter of State or Federal Law.

902.34. Personal interest means a direct or indirect interest having value peculiar to a particular individual or group, whether the value is pecuniary or non-pecuniary, which value may accrue to such individual or group or result in such individual or group deriving or potentially deriving a personal benefit as a result of the approval or denial of any ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a public servant, and which interest is not shared by the general public; it is to be stressed that the phrase "personal interest of a public servant" includes not only the personal interest of the individual public servant, but also the interest of any partner in interest.

902.35. Public servant means any member of the governing body or of any County agency, board, commission, committee, or other voting body, and any agent, department head, employee, official, supervisor, volunteer, or other person, whether elected or appointed, legally authorized by contract or in any other manner to act in any capacity under the authority of the County.

902.36. Relative means a person who is related to an official or employee as spouse or as any of the following, whether by marriage, blood or adoption: parent, child, brother, sister, aunt, uncle, niece, nephew, first cousin, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, brother-in-law or sister-in-law.

902.37. Statement when used in reference to the financial disclosure requirements

established by this chapter, means the prescribed form(s) for fulfilling the financial disclosure requirements.

902.38. Volunteer means an individual who is permitted by the County, or by a person authorized to act on behalf of the County, to assist public servants in performing any kind of official duty or action, including actions which are clerical, menial or merely advisory, without any expectation of receiving compensation.

902.39. Voting body means any nonelected County authority, board, commission, committee, council, or group, regardless of whether its function is administrative, quasi-administrative or quasi-judicial, or any combination thereof, which, in order to take any official action, even if the action is merely advisory, must act as a body on the basis of a vote of some or all of its members.

913. Other Abuses or Misuses of Position.

(a) No public servant shall hold any other office, elected or appointed, in any other governmental entity, when the duties of such office are incompatible with or have the appearance of being incompatible with the proper discharge of the public servant's duties with the County. For purposes of this chapter, the holding of any office, elective or appointive, with any other governmental entity is hereby prohibited in any one of the following circumstances:

- (1) where one office is subordinate to the other; or
- (2) where one office carries the power of removal of the other; or
- (3) where the occupancy of both offices is prohibited by the County Charter or by other provision of law.

(b) No public servant shall intentionally act, or create the appearance of acting, on behalf of the County by making any policy statement, or by promising to authorize or to prevent any future official action of any nature, when such public servant is not authorized to make such a statement.

(c) No public servant shall falsely represent his or her personal opinion to be the official position of the County, and no public servant shall falsely represent his or her personal opinion to be the official position of any County administrators. This subsection shall not apply to the professional opinions of County officers or employees rendered in the course of performing their duties, provided that such opinions are clearly identified as professional opinions.

(d) No public servants shall use or attempt to use their official positions improperly to unreasonably request, grant, or obtain in any manner any unlawful or unwarranted privileges, advantages, benefits or exemptions for themselves, or others, and no public servants shall use, or attempt to use, their positions to avoid the consequences of illegal acts for any person; nothing in this provision shall be construed to prohibit or discourage any public servant from performing any official duty or action zealously and enthusiastically.

(e) All public servants have a fiduciary duty to use County fiscal and human resources in a manner which advances the public interest, and to refrain from using County resources for their personal benefit; therefore, public servants are prohibited from using County resources in any manner which violates any applicable law or policy, and are expressly prohibited from using any County resource to obtain any personal benefit.

(f) Except as otherwise provided by law, no public servant who is a member of a voting body which is empowered to vote on a matter in which the public servant or a public servant's partner in interest has an interest shall discuss, debate, deliberate, participate in, vote upon or act otherwise act upon, a matter relating to any business in which the public servant or a partner in interest has a conflict of interest.

(g) No public servant shall suppress any public document, record, report or any other public information available to the general public because it might tend to unfavorably affect the public servant's private financial, personal, or political interest.

(h) Nepotism-Influence in an Official Action Prohibited.

No public servant shall participate by means of approval, deliberation, disapproval, recommendation or other means of exerting the public servant influence in an official action to hire, promote, discipline, layoff, receive a pay increase, or take any other personnel action regarding any employee or prospective employee who is a relative or partner-in-interest of the public servant.

(i) Approval of Merit System Commission Required.

No relative or partner-in interest of a county legislator, the County Executive, a department head or director under the County Executive, the Human Resources Director, the Prosecuting Attorney, the Sheriff, the County Counselor, the Medical Examiner, the Public Administrator, the Legislative Auditor, the Director of Ethics, Human Relations, and Citizens Complaints, the members of the Ethics, Human Relations, and Citizens Complaints Commission, and the members of the Board of Equalization shall be employed with Jackson County unless the employment of the person is approved by the Merit System Commission.

(j) Approval by the Legislature Required.

No relative or partner-in-interest of a member of the Merit System Commission shall be employed with Jackson County unless the employment of that person is approved by the County Legislature.

(k) Employment Before Election or Appointment.

If any relative or partner-in-interest of a public servant is elected or appointed to an office described in (j) and (k) of the this section, the public servant may retain his or her employment without having the approval of the Merit System Commission or the County Legislature.

(l) Except as otherwise provided by law, no public servant who is a member of a board which is empowered to vote shall discuss, debate, publicly deliberate about, participate in, vote or otherwise act upon, any contract, the making of loans or grants of public funds, the granting of subsidies, fixing of rates, issuance of permits or certificates, or other regulation, supervision or profit-making activity relating to any business with which the public servant is associated, or

any business with which any partner-in-interest of the public servant is associated.

(m) When a public servant, in the course of carrying out his or her duties, has been offered or is discussing future employment with a business that is presently dealing with the County concerning matters within the public servant's current official duties, that person should disclose such possible future employment to the County Executive.

(n) No public servant shall represent a person for compensation, beyond the salary and other compensation or reimbursement to which the public servant is entitled for the performance of his or her official duties, before the County Legislature, a County board, department, or employee, except:

(1) in a contested case which involves a party other than the County, and the interests represented by the public servant are the County's interests, are essentially the same as the County's interests, or are not averse to the County's interests; or

(2) in a matter that involves only ministerial action by a County department; or

(3) when the representation is by a public servant acting within the scope of his or her official duties; or

(4) when the representation is merely for the purpose of obtaining information on behalf of a person or business and the public servant receives no compensation for the representation beyond the salary and other compensation or reimbursement to which the public servant is entitled for the performance of his or her official duties.

916. Jackson County Ethics, Human Relations, and Citizens Complaints Commission, General.

(a) The Jackson County Ethics, Human Relations, and Citizens Complaints Commission is created by article [XII] X, section [5] 2 of the Jackson County Charter.

(b) The County Legislature shall provide such staff support for the Commission as the County Legislature determines to be necessary for the Commission to fulfill its duties. The County Counselor is designated to be the legal advisor for the Commission, except that the County Counselor is not authorized to represent the Commission in any legal action if doing so would create a conflict which would prevent the County Counselor from also representing the County Executive or County Legislature. If a conflict should arise, the County Counselor shall provide for alternative representation.

917. Ethics Commission, Duties and Powers.

(a) In addition to the powers and duties specified in chapter 74 of this code, [T] the Commission has the following powers and duties:

(1) To prescribe and promulgate rules and regulations governing its own internal organization and procedures in a manner consistent with this code;

(2) To identify who will serve as legal custodian of the Commission's records, and who will accept, file, maintain and administer, in accordance with all applicable laws, any information related to the purposes of this chapter; and

(3) To prepare and provide forms for complaints and for annual, applicant, and transactional disclosure statements;

(4) To render, index, and maintain on file opinions and advisory opinions;

(b) Opinions of the Commission shall be filed with the Clerk of the County Legislature and are open to public inspection. To the extent permitted by law, confidential opinions and any records obtained or filed in connection with requests for confidential opinions, whether the records are written, tape recorded, videotaped, or otherwise recorded shall be kept confidential; and confidential advisory opinions rendered shall be closed in whole to public inspection. Confidential opinions, summaries of them, or open references to them shall be drafted in such a way as not to reveal confidential information.

(5) To review, index, maintain on file, and dispose of sworn complaints, and to make notifications and conduct investigations;

(6) To conduct investigations and hearings, apply and recommend disciplinary action, assess penalties, make referrals, and initiate appropriate actions and proceedings. In order to do so, the Commission may:

(i) when it deems it appropriate, request the County Counselor for assistance in compelling the production of documents and witnesses to assist the Commission in the conduct of any investigation or hearing, as pursuant to article XII, section 7 of the Charter; and,

(ii) when circumstances make it necessary to do so, request the retention of outside legal counsel and other experts as needed after solicitation of recommendations from the County Counselor and, when required, obtain approval from the County Executive for a contract for services as applicable and as approved as to form by the County Counselor.

(7) To respond, as it deems appropriate, to requests for confidential advisory opinions;

(8) To render and publish formal opinions on any matter within the scope of the Commission's authority which it may deem appropriate; the Commission may initiate opinions on its own motion or upon request; any formal opinion shall be in writing;

(9) To prepare and publish special reports, technical studies, and recommendations to further the purposes of this chapter.

(10) To provide training and education to officials, employees, and those doing business with the county;

(i) within one year from the effective date of this chapter, submit to the County Executive for approval and promulgation, an ethics handbook for the use of all public servants and the public; the Department of Human Resources shall document that each County officer and employee receives a copy of the handbook and acknowledges receipt of the handbook in writing; and

(ii) in coordination with the County Counselor and Director of Human Resources and other appropriate County personnel, participate in a training session, which shall serve as an orientation for new Commission members and an opportunity for experienced members to explore specific issues in depth; attendance at this workshop shall be made a condition of service as a member of the Commission, and, before taking office, Commission members shall commit themselves to attend it.

(11) To, no later than 1 July of each year, submit an annual report to the County Executive concerning its action in the preceding year and recommending any legislative or administrative actions regarding the County's policies and practices which the Commission believes would or could enhance the ethical environment in which public servants work; and,

(12) To establish a process for systematically and regularly evaluating all significant aspects of the administration and implementation of this chapter, which shall include an annual review of the full scope of operations of the Commission and its procedures, and which shall insure that the both the public and all public servants are provided a reasonable opportunity, and are encouraged, to participate in the process.

(c) At the request of a person, the County Counselor may render an informal opinion with respect to the prospective conduct of such person. An informal opinion need not be written, and may be provided directly to the requestor of such opinion. Nothing in this chapter shall be construed to prohibit a request for an informal opinion by any public servant from the County Counselor regarding a potential conflict of interest. Neither a request for an informal opinion, nor the making of a statement concerning a potential conflict of interest made by a member of the County Legislature in the course of abstaining from voting or making a motion of self-recusal, shall create a presumption or inference that a public servant actually has a personal interest in the matter about which the opinion was requested; if the County Counselor declines to render an informal opinion, nothing shall preclude the person requesting the opinion from requesting the Commission for an opinion.

920. Complaints, Hearing Procedure.

(a) Any person may file a verified, written complaint, signed and sworn, with the County Counselor alleging a violation of Article XII of the Jackson County Charter or this chapter.

(b) A complaint shall specify the provisions of the Jackson County Charter or this chapter alleged to have been violated and facts alleged to constitute the violation.

(c) Upon receipt of such a complaint, but in any event not later five (5) business days after

receipt, the County Counselor shall acknowledge receipt to the complainant(s), and forward the complaint simultaneously to the Commission and, the respondent or respondents. The notice must include a copy of the complaint, a statement indicating the commission meeting date and time when the matter will be addressed and the commission=s Rules of Procedure.

(d) At the next regular meeting, or within thirty (30) days, whichever is sooner, following receipt of the complaint, the Commission shall review and consider the complaint and, if a hearing is to be held, shall within 14 days set a date certain for the hearing to take place no earlier than thirty (30) days, unless otherwise waived by both the complainant and respondent from the date of the written notice of the hearing.

(e) As soon as practicable after giving due consideration to a complaint, or, if a hearing was held, after the hearing, the Commission shall take any action or combination of actions which it deems appropriate and which it is lawfully empowered to take, including, but not limited to the following:

(1) dismiss the complaint based on any of the following grounds:

(i) the complaint does not allege facts sufficient to constitute a violation of article XII of the County Charter or this chapter; or

(ii) the Commission has no jurisdiction over the matter; or

(iii) failure of the complainant to cooperate in the Commission's review and consideration of the complaint; or

(iv) the complaint is defective in a manner which results in the Commission being unable to make any sound determination; and

(v) the complaint is frivolous;

(2) determine that no violation of this chapter has occurred; or

(3) determine that the complaint alleges facts sufficient to constitute a violation of this chapter and that the Commission will conduct a hearing, in which case the Commission shall promptly send written notice of such determination to the respondent and to the complainant; or

(4) determine that further information must be obtained in order for the Commission to determine whether the complaint alleges facts sufficient to constitute a violation of the chapter; and

(i) conduct its own investigation with respect to any alleged violation; or

(ii) request the County Counselor or Director of Human Resources to investigate the complaint and report all findings back to the Commission; or

(iii) schedule the complaint for further review and consideration at a future time certain, in which case the Commission shall promptly send written notice of such determination to the respondent and to the party who made the complaint; or

(iv) refer the complaint to any appropriate authorities for criminal investigation or prosecution; or

(5) Any time a complaint is dismissed, the notice shall be in writing and contain the reasons for the dismissal.

(f) During any investigation and during any hearing which is conducted to determine whether a violation of this chapter has occurred,

(1) the respondent or his or her representative, if any, shall have an opportunity to challenge the sufficiency of any complaint which has been filed against him or her

(2) the complainant and the respondent(s) may be represented by counsel of their own choosing; and

(i) examine all documents and records obtained or prepared by the Commission in connection with the matter heard;

(ii) bring witnesses;

(iii) establish all pertinent facts and circumstances; and

(iv) question or refute testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(g) The following principles shall apply to evidence in connection with hearings conducted by the Commission:

(1) The Commission shall not be bound to adhere to statutory Rules of Evidence, but shall be fundamentally fair in its administration of evidence;

(2) During any hearing conducted by the Commission to determine whether a violation of this chapter has occurred, all evidence including certified copies of records which the Commission considers shall be fully offered and made a part of the record in the proceedings;

(3) The respondent or any other person under investigation shall be afforded adequate opportunity to rebut or offer countervailing evidence;

(4) The Commission shall inform the respondent or his or her counsel of exculpatory evidence in its possession; and,

(5) The standard of evidence in hearings conducted under this chapter shall be a preponderance of evidence admitted at the hearing.

(h) Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the Commission and who, may be adversely affected thereby, may, upon request of the person or a representative of the person, or upon the request of any member of the Commission, appear at the hearing to testify on his or her own behalf or have a representative appear to so testify, and the Commission may permit any other person to appear and to testify at a hearing.

(i) No later than thirty (30) days after the date the hearing is concluded the [Ethics] Commission will determine whether to dismiss the complaint, or upon a finding of violation of this chapter, to make appropriate penalty recommendations pursuant to section 925. of this chapter, or to recommend action to the County Executive or Appointing Authority where such action is recommended. The commission may issue any additional reports, opinions and recommendations as it deems advisable under the circumstances. All such reports shall be in compliance with all state and local laws governing confidentiality, open meetings and records, open government, and torts.

(j) A finding of violation of this chapter requires the affirmative vote of [three] four members of the [Ethics] Commission that there is a preponderance of evidence that the respondent has violated this chapter. Any member not present at all public hearings and deliberations may not vote. The written final decision must specify the sections violated and provide a factual explanation supporting each violation or, if no violation is found, finding of fact and reasons for dismissal. When determining the appropriate penalty, the following should be considered: the severity of the respondent=s offense; the position and responsibilities of the respondent; the presence or absence of any intention on the part of the respondent to conceal, deceive or mislead; whether the violation was deliberate, negligent, or inadvertent; and whether the incident was isolated or part of a pattern. The [Ethics] Commission must file its memorandum of decision with the County Counselor=s office, and send it to the complainant and respondent, within ten days after it votes. When a party to the proceeding has appeared by counsel, service upon the counsel shall be deemed service upon the party.

(k) In any contested case, as defined by section 536.010(4), RSMo, before the Commission, any person aggrieved by a final decision of the Commission shall be entitled to judicial review thereof, as provided in sections 536.010 - .140, RSMo.

7000. Establishment of the Office of Ethics Human Relations and Citizen Complaints.
The Constitutional Home Rule Charter of Jackson County, Missouri, was adopted by vote of the citizens of Jackson County on November 3, 1970. The charter became effective on January 1, 1973. A revised charter was approved by vote on August 3, 2010, and became effective on August 23, 2010. The Office of Ethics, Human Relations, and Citizen Complaints (OEHRCC) was created pursuant to article X of the charter.

7000.1 Charter Powers May Not be Limited.
OEHRCC's functions, powers, and duties as delineated in the charter may not be limited, except by charter amendment authorized by a vote of the citizens of Jackson County. OE

HRCC may not be abolished or reorganized by the county executive. However, the legislature, by ordinance, and the county executive, by executive order, may expand its duties, functions, and powers.

7001.

Title and Definitions of Common Terms.

7001.1

Title.

The official title of the office shall be the "Office of Ethics, Human Relations, and Citizen Complaints." This title shall be used on official correspondence, reports, and publications of the office or the director. [The shorter title "Ombudsman" may be used as a proper and popular identification. Reference may be made accurately to "the Ombudsman (director)," the "Ombudsman Office," or the "Ombudsman Commission."]

7001.2

Definitions.

a. "Act of an Agency" shall mean any action, decision, failure to act, omission, rule, regulation, interpretation, recommendation, policy, practice, or procedure of any agency of the county.

b. "Agent" or "Agency" shall mean any officer, employee, department, office, board, commission, council, committee, or other governmental institution of Jackson County.

c. "Charter" shall mean the Constitutional Home Rule Charter of Jackson County.

d. "Citizen Complaints" shall identify the office specifically as an ombudsman institution. As used herein, an "Ombudsman" is an independent official of county government who receives complaints against county agencies and officials from aggrieved persons, who investigates the complaints and who, if the complaints, are justified, makes recommendations to remedy or resolve the complaints.

e. "Commission" shall mean the [eight] ~~seven~~ member citizen commission which selects and advises the director, as defined in article X of the charter.

f. "Contractor" shall mean any individual, partnership, corporation, association, or other entity or a combination of the foregoing which enters into a contract with the county.

g. "County" shall mean Jackson County, Missouri, and, specifically, all agents and agencies subject to the Jackson County Home Rule Charter, unless otherwise exempted by law.

h. "Director" shall mean the director of OEHRCC, as defined in article X, sections 2 and 3 of the

charter; the county ombudsman.

i.

"Discrimination" shall mean any act or practice which discriminates or segregates on the basis of race, color, religion, national origin, creed, [sex] gender, [physical] disability [where such is not exempted by law], political activity or lack thereof, [or] union membership or non-membership, age, pregnancy status, sexual orientation, gender identity, marital status, familial status, veteran status, or any other class protected under federal or state law.

j.

"Executive"

shall mean the Jackson County Executive, who is the chief [administrative] executive officer of Jackson County, elected by vote of the citizens of Jackson County.

k.

"Human

Relations" shall include, but not be limited to, issues creating tensions, discrimination, or affecting the quality of interpersonal relations which may exist between individuals or groups of people of diverse circumstances. In the context of the charter, the term connotes the civil rights and civil liberties of individuals and groups and includes relations between citizens in the county as well as between citizens and their government.

l.

"Legislature"

shall mean the Jackson County Legislature, as defined by article II of the charter.

m.

"Office"

shall

mean the Office of Ethics, Human Relations, and Citizen Complaints and may be abbreviated "OEHRCC."

n. "Person" shall mean any individual or aggregate of individuals, corporation, partnership, or unincorporated association residing or located within the boundaries of Jackson County and/or employed or doing business therein.

7002.

Mission of OEHRCC.

The mission of OEHRCC shall be as follows:

7002.1

Secure and Protect Individual Rights.

OEHRCC shall seek to secure and protect the individual rights of citizens of Jackson County.

7002.2

Reconcile Problems.

OEHRCC shall seek to reconcile problems, issues and tensions, promote justice, and improve human relations within government between citizens, and between citizens and their government.

7002.3

Improve Government Administration.

OEHRCC shall seek to improve the quality of government administration in regard to residents of Jackson County and its employees or agents.

7002.4 Assist Legislative Oversight.
OEHRCC shall assist legislative oversight and propose reform where existing ordinances or resolutions are inadequate or unfair to the citizens of Jackson County.

7402.5 Enforce Ethics Provisions.
OEHRCC shall enforce the provisions of articles X and XII of the charter and chapter 9 of this code relating to ethics.

7003. Commission on Ethics, Human Relations, and Citizen Complaints.
Within OEHRCC there shall be a citizen commission.

7003.1 Qualifications.
The commission shall consist of [eight] seven members who shall neither hold nor be a candidate for any other [county] public office. The membership of the commission at all times shall be composed of at least one and not more than two residents of each county legislative district.

7003.2 Terms.
After the initial terms set out in article X, section 2 of the charter, commission members shall serve terms of four years.

7003.3 Appointment and Removal.

a. Appointment.
Commissioners are appointed by the county executive [and are not subject to the legislature's power to disapprove executive appointments] from among those nominated to the commission by the nominating committee established pursuant to article X, section of the charter. OEHRCC shall notify the county executive of any vacancy sixty days prior to the expiration of a commissioner's term.

b. Vacancy.
In the event of a vacancy on the commission due to resignation, ineligibility, or any other reason, the county executive shall appoint a new member to serve out that commissioner's unexpired term from among those nominated by the nominating committee established pursuant to article X of the charter. If the nominating committee fails to recommend nominees within ninety days of any vacancy, on the commission, the county executive will appoint a qualified person to fill the position.

c. Forfeiture.
A member of the commission shall forfeit office if the member is absent for more than three consecutive regular meetings of the commission, unless excused by vote of the commission, if the commissioner ceases to reside in the county legislative district from which he or she was appointed, or if the commissioner violates any provision of article X of the charter.

d. Removal.
A commissioner may [only] be removed from office [as provided by law] for any reason

by a two-thirds vote of the county legislature.

7003.4

Chair.

The county executive shall annually designate one member of the commission to serve as chair.

7003.5

Powers, Duties, and Responsibilities.

The OEHRCC commission shall have the following powers, duties, and responsibilities:

a.

Appoint

Director.

The commission shall appoint, evaluate, and have the power to remove the director.

b.

Advise

Director.

The commission shall advise the director regarding the affairs of the office.

c.

Hold

Monthly

Meetings.

The commission shall hold [monthly] meetings at least quarterly.

d.

Conduct

Hearings.

The commission may conduct hearings with respect to complaints or other subject matters which the office is authorized to investigate or review, and in the course of any such hearing, the commission may subpoena witnesses, administer oaths, take testimony under oath, and require production for examination of books, papers, or records.

e.

Publish

Findings.

In any matter in which the commission has conducted a hearing, the commission shall publish its findings and recommendations.

7003.6

Compensation.

Members of the commission shall be compensated at the rate of \$100 per meeting, but shall not receive total compensation of more than \$1,200 in any calendar year. "Meeting" shall be interpreted to include hearings, regular and special meetings of the commission, and meetings of commission committees. Commissioners shall also be entitled to the reimbursement of their expenses actually incurred on commission business subject to approval by vote of the commission and budgetary limitations.

7003.7

Conflict of Interest.

a. Subject to All Provisions.

Commissioners shall be subject to all state law, charter, and county code provisions regarding conflicts of interest.

b. Disclaimer.

Each commissioner shall file the most complete financial interest statement required of any county official, in accordance with state law. Each commissioner shall further disclose, on an annual basis, any contribution to a candidate for county office and membership in or employment by any "committee," as that term is defined in section 130.011, RSMo, which accepts contributions from, makes contributions to, or endorses any candidate for county office.

c. Hold No Other Public Office.

No member of the commission shall hold or be a candidate for any other public office.

d. Recusal.

To avoid any appearance of a conflict of interest, any commissioner who is an elected or appointed member of any committee of any political party, or is a member of any political club or organization the main purpose of which club or organization is to promote or defeat any candidate or issue, shall refrain and recuse themselves from any participation in or deliberations regarding an ethics complaint.

7004.

Director, Staff, and Budget.

7004.1

Director.

a. Appointed _____ by
Commission.

The director shall be appointed by majority vote of the commission.

b. Draft _____ Job
Descriptions.

The director shall draft and submit job descriptions for all positions needed within OE HRCC. The director shall, not less than every two years, review these descriptions and make recommendations appropriate for any changes needed.

c. Term _____ and
Removal.

The director shall serve without term and shall not be subject to the county merit system. The director may be removed by majority vote of the commission.

d. Duties _____ and
Responsibilities.

In order to bring about the orderly and efficient implementation of OEHRCC 's duties and powers, it shall be the responsibility of the director:

To _____ select,
supervise, evaluate, and remove office personnel;

To _____ plan _____ and
to oversee the office budget;

To _____ manage
the administration of office operations,
information/communication systems, and record keeping; and

To _____ establish
and maintain the information and procedures necessary to guide the office in:

processing and investigating complaints as are authorized in section 7505. of this chapter;

conducting technical reviews of county [procedures personnel policies, and county] contracts to [eliminate] prevent any discriminat[ion]ory [or segregation] employment practices on the part of county contractors;

(c) selecting, on the basis of determined priorities and available resources, educational activities, initiative projects, and legislative proposals to improve [public administration and] human relations in the county; and

(d) performing the functions of an ombudsman.

7004.2

Staff.

a. _____ Director _____ to
Appoint Staff.

The director shall appoint such staff as are necessary to perform the work of OEHRCC, subject to budgetary limitations.

b. _____ Staff _____ Subject
to Merit System.

Staff shall be appointed by the director, but with the exception of the director's secretary, are subject to the county merit system.

c. _____ Secretary
Exempt from Merit System.

The director's secretary shall not be subject to the county merit system and shall serve at the pleasure of the director.

d. _____ Duties.
Staff members shall have such duties and responsibilities as are assigned by the director, compatible with each member's job description.

e. _____ Annual
Review.

The director shall review annually the performance of all office personnel under the county's merit system.

7004.3

Qualifications.

The director and staff shall be persons of recognized good judgment, objectivity, and integrity. To the greatest extent practicable, the director and the staff, considered collectively, shall have specialized knowledge and skills in the areas of administrative law, policy, and practice, interpersonal communications and human relations, civil rights and liberties, investigative methods and reporting, organizational development, intergovernmental relations, governmental ethics, and community resources.

7004.4

Compensation.

The legislature determines pay scales for employees under the merit system and sets ranges of compensation for those not under the merit system.

a.

Director.

The commission may make recommendations to the legislature for the salary of the director. The commission shall seek to maintain the salary at a level comparable to other positions within county government exercising similar responsibilities.

b.

Staff.

The director shall submit, in connection with the proposal and review of job descriptions for the office, recommended pay schedules for staff positions, comparable to other positions within county government exercising similar responsibilities.

c.

Increases.

The director, in connection with the annual performance reviews of staff or as necessary, shall take appropriate action to recommend compensation increases for office personnel as warranted, within budgetary limitations.

7004.5

Budget.

a.

Director's

Proposed Budget.

The director shall annually prepare a proposed budget for the office in accordance with procedures and at such times as may be established by the county executive.

b.

Present

Budget to Commission.

The director shall present the proposed budget to the commission prior to submission to the county executive, in order to receive advice on the proposed budget in conjunction with OEHRCC 's overall program.

c.

Recommend

Additional Appropriations.

The director and commission shall make recommendations to the county executive and legislature for any appropriations for additional programs or expenses of the office's operation such times as may be necessary outside the annual budget cycle.

7030.

Functions, Powers, and Duties.

7030.1

[Director] Commission.

The [director] commission shall have the following functions, powers, and duties:

a. Receive and Investigate Complaints, [Discrimination] Ethics Provisions.

The [director] commission shall have the power to receive and investigate complaints of [discriminatory acts or practices with respect to employment, public accommodations, and housing, provided the acts or practices complained of violate federal or state law or a provision of the charter or county code] violations of the conflicts of interests provisions of the county ethics code, the financial interest disclosure and lobbying registration and disclosure provisions of the charter, the code, and county ordinances, and the statutory and common law of the State of Missouri as they apply to county officers, employees, members of county boards or commissions, and persons dealing therewith as lobbyists, as that term may be defined by law or county ordinance. To avoid a real or perceived conflict of interest, any ethics complaints against the county executive or a county legislator shall also be referred to the state ethics commission. Further, in receiving and investigating complaints regarding ethics provisions, the commission shall follow the procedures established in this chapter and those established in chapter 9 of this code. In the event of a conflict between the procedures set out in these chapters, the procedures of chapter 9 shall govern.

b. Receive and Investigate Complaints, Unfair Actions and Discrimination.

The [director] commission shall have the power to receive and investigate complaints of harsh, oppressive, unjust, discriminatory, or unfair actions or omissions affecting the complaining party on the part of any county officer, board, commission, or employee in the performance of official duties.

c. [Review County Personnel Policies.

The director shall review county personnel policies and practices and make recommendations to the legislature and appropriate commissions and officers of the county for the improvement of such policies and practices.

d.] Review Contracts.

The [director] commission shall review contracts and commitments of the county for the purpose of ensuring that adequate provisions are made to prohibit conflicts of interest and discriminatory employment practices on the part of those who are parties to such contracts or who benefit from such commitments and to facilitate the participation of women and minority-owned businesses in such contracts.

[e] d. Encourage Reconciliation of Problems.

The [director] commission shall encourage the reconciliation[, by peaceful means,] of problems [tending to create tensions between individuals and groups of peoples of diverse circumstances and interests and] between citizens and the county government, and promote the improvement of human relations and the protection of civil rights and civil liberties, all through educational programs and recommendation of necessary or

appropriate ordinances to the legislature.

[f] e. Make Findings and Recommendations.

The [director] commission shall make findings and recommendations with respect to the subject matter of any investigation or inquiry which the [director] commission is authorized by charter or code to undertake, and, in the director's discretion or at the direction of the commission, shall publish such findings and recommendations.

f. Study Issues.

The commission may study issues and problems concerning the application and enforcement of provisions relating to conflicts of interest, financial interest disclosure, lobbying registration and disclosure, ethical standards in county government, or discriminatory practices and recommend policies, procedures, county ordinances, and legislation based upon the results of such studies.

[7405.2 Commission.

The commission shall have the following functions, powers, and duties.]

[a] g. Conduct Hearings.

The commission may hold hearings with respect to any complaint or other subject matter which the director is authorized to investigate or review.

[b] h. Compel Attendance of Witnesses.

In connection with any hearing, the commission may subpoena witnesses, compel their attendance, administer oaths, and require the production for examination of books and papers, relating to any matter under consideration by the commission.

(1) A subpoena issued by the commission shall be enforced as provided by law for the enforcement of subpoenas in civil actions in the circuit courts of Missouri upon the commission's application to the circuit court and the witness' failure to show cause why a subpoena to testify or a subpoena duces tecum should not be enforced.

7405.[3] 2 Ombudsman Powers.

The commission [or the director] may exercise the following ombudsman powers.

a. Provide Alternative Solution.

The commission [or director] may provide an alternative solution for administrative problems or issues without resort to the courts and formal adversarial proceedings.

b. Provide Forum.

The commission [or director] may provide a forum for resolution of tensions, issues, and/or problems affecting county residents, but may not give legal advice, nor be a personal representative, nor negotiate settlements in an adversary proceedings.

7405.3 Complaint Procedures.

The commission may act and investigate based on complaints accepted from an individual, or on its own initiative with the affirmative vote of at least four of its members. The commission

shall accept from an individual a verified complaint in writing that states the name of a person alleged to have violated the conflicts of interests, financial interests disclosure, or lobbying registration and disclosure provisions described in subsection 7405.1 of this section and/or sets forth the alleged violation or citizen complaint. Notice of the receipt of a verified complaint or of the commission's determination to initiate an investigation or other proceedings shall be given to any persons alleged to have committed a violation or who have a complaint levied against them and they shall have an opportunity to respond.

7405.4 Discretionary Power to Decline Complaint.

a. Grounds for Declination.

OEHRCC has the discretion to decline a complaint without investigation when:

There is presently available another adequate remedy which the complainant could reasonably be expected to utilize;

The complaint is primarily related to matters beyond OEHRCC's jurisdiction and power;

The complaint has been so long delayed that an investigation could produce no adequate remedy;

(4) OEHRCC has inadequate resources to investigate, or is already preoccupied with other complaints considered priorities for attention;

(5) The complaint is so general, unspecific, trivial, or in such bad faith, that a remedy cannot be identified or reasonably obtained; or

(6) The complainant is unwilling to cooperate or will not provide information available only to the complainant and necessary to the investigation.

7406. Rights of Complainants.

7406.1 Notice.

When OEHRCC has made a determination to investigate, OEHRCC shall notify the complainant. The complainant will be advised of the procedure OEHRCC will follow, and what further information may be provided to the complainant.

7406.2 Information With Declination.

When a determination has been made to decline a complaint, OEHRCC shall notify the complainant of such decision and, as far as is feasible, provide information regarding other grievance procedures and remedies available to the complainant.

7406.3 Status Report.

OEHRCC shall, if requested by the complainant, report periodically on the status of the investigation to the complainant. If an investigation has not been completed within sixty days from the receipt of a complaint, OEHRCC shall so advise the complainant.

7406.4 Report Of Result.

After investigation of a complaint, OEHRCC shall inform the complainant of its conclusion or recommendation and, if appropriate, any action taken or to be taken by the agency involved.

7406.5 Sanctions.

No citizen or county employee who files a complaint to OEHRCC shall be subject to any administrative penalties, sanctions, or restrictions imposed by any county agency, in connection with that person's dealings or employment with any county agency.

7407. Rights of Agencies.

7407.1 Notice.

When OEHRCC receives a complaint, OEHRCC shall give written notice of the complaint to the agency involved within seven (7) days.

7407.2 Reports.

After investigation of a complaint, OEHRCC shall inform the agency in writing of its conclusion, together with any recommendations based on the findings.

7407.3 Opportunity to Respond to Adverse Finding.

Before publishing a report that criticizes or is adverse to an agency, the [director] commission shall consult with the head or designated spokesman of that agency and allow the agency a reasonable opportunity to reply in writing to the investigation and conclusions of the report.

7408. Recommendations After Investigation.

7408.1 Procedures.

If, after investigation, the [director] commission is of the opinion that the investigated agency should consider the matter further, modify or cancel an act or procedure, alter a regulation, practice or ruling, explain more fully the act in question, rectify an omission, or take any other action, the director shall prepare in writing a summary of the findings and proposed recommendations to the agency. The agency shall be requested to inform OEHRCC within ten working days of any action taken on the recommendations or to provide, in writing, the agency's reason(s) for not implementing the recommendations.

7408.2 Action If No Compliance.

If, after ten days, the agency has not replied or has not implemented the recommendation or has declined to implement in writing, the [director] commission shall reevaluate the case and determine if the recommendation should be forwarded to the [commission,] the county executive[,] or the legislature, or [the general public through the news media, or not at all] addressed through other means.

7408.3 Action If Practice Complained of is Illegal or Unjust.

If the [director] commission believes an action complained of is prohibited by law, statute, or

code, or that orders have been entered or acts taken results of which are unfair, unjust, or oppressive, and if the [director] commission believes that such orders or acts could be revised by legislative action or executive order, the [director] commission shall report the situation with recommendations to the legislature or the county executive, and give notice to the agency involved.

7408.4 Action If Practice Complained of Warrants Criminal or Disciplinary Proceedings.
[If the director believes that any public official, employee, or other person has acted in a manner warranting criminal or disciplinary proceedings, the director shall refer the matter to the appropriate authorities.] The commission shall make recommendations of appropriate action to state or county officials, agencies, and appointing authorities when the commission finds probable cause that a violation has occurred or the basis for the complaint was valid. Notwithstanding any confidentiality or closed records provisions of law or this charter, the commission may turn over to appropriate authorities evidence of an apparent violation of law.

7409. Appeals.

7409.1 Appeals to the Commission.

Any citizen, county official, or employee who feels aggrieved by the actions of the director or OEHRCC, and who is unable or unwilling to conciliate the matter with the director, may appeal such action to the commission within ten (10) days. In this instance, the director shall have the same right as that of an agency to respond.

7409.2 Commission Decisions.

Any decision by the commission on an appeal, which is contrary to the original recommendation of the director, shall stand as advice and recommendation to the director and shall be an act of public record of the commission to be included in the director's report.

7409.3 Appeals From the Commission.]

Any citizen, county official or employee who feels aggrieved by an act of the commission may report such an action to the county executive or the legislature. Any act of the county executive or legislature contrary to the recommendation of the director or the commission shall not reverse or nullify the commission's action, but shall stand as advice to the commission.

7410. Hearings.

7410.1 Purpose.

The commission may hold a hearing for the following purposes:

a. Receive or Investigate Complaints.

To receive or investigate complaints within the commission's jurisdiction;

b. Provide Appropriate Forum.

To provide an appropriate forum for the gathering of data, testimony, and information advantageous to the preparation of proposals for administrative or legislative change, recommendations, or other reports;

c. [Hear Appeals.

To hear appeals from the actions of the director; and

d.] Hear Application Requests.

To hear applications from persons who desire such a hearing, upon a showing of good cause.

7410.2 Procedures.

The commission shall adopt its own procedures consistent with its purposes and powers.

7410.3 Quorum.

No hearing of the commission shall be called without a majority of members consenting. No hearing shall be held without at least ~~[five]~~ four members present. The chairman of the commission shall preside or may appoint a hearing officer to conduct the proceedings.

7410.4 Hearings to be Open, Exception.

All hearings of the commission may shall be open, unless a closed meeting is authorized by and properly convened pursuant to state law.

7411. Personnel Review.

7411.1 Function.

The director shall have the duty and power to review county personnel policies and procedures and to make recommendations to the legislature and to any commission or officer of the county for the improvement of such policies and procedures.

7411.2 Limitations.

In reviewing personnel policies and procedures, OEHRCC shall recognize existing agencies' defined authority to handle personnel grievances, such as the merit system commission, whose decisions are final and appealable only to circuit court. OEHRCC may only investigate and make recommendations on aspects of an employment policy or procedure which do not involve a "significant act" defined by §7520.10 of this code, which are within the exclusive jurisdiction of the merit system commission.

7412.] Contract Review to Prohibit Discrimination or Segregation.

741[2] 1.1 Function.

The ~~[director]~~ commission shall review contracts and commitments of the county for the purpose of ensuring that adequate provisions are made to prohibit discriminatory employment practices on the part of those who are parties to such contracts or who benefit from such commitments. This duty shall include, but shall not be limited to the duty:

a. Review Contracts.

To review all contracts and commitments to insure the inclusion of adequate non-discriminatory provisions;

b. Receive Information.

To receive from persons and agencies entering or seeking to enter such contracts and commitments with the county, information and documentation to substantiate past,

current, or planned employment practices;

c. Receive Complaints.

To receive and investigate complaints of discrimination concerning any person or agent entering or seeking to enter a contract with the county;

d. Monitor Compliance.

To monitor compliance with the provisions of county contracts by means of reviewing documentation, making on-site inspections, or other suitable means; and

e. Make Reports.

To make reports and/or recommendations to the legislature and county executive regarding the employment practices or procedures of county contractors.

741[2] 1.2 General Limitations.

a. Legislative.

It shall be the power and duty of the legislature [alone] to contract, authorize the making of contracts, and to establish, by ordinance, the limitations and procedures for making and reviewing such contracts.

b. County Executive.

Nothing in these provisions shall be construed to derogate the power and duty of the county executive to see that all contracts with the county are faithfully performed and to cause to be instituted in the name of the county appropriate actions thereon.

741[3] 2. Educational or Training Programs.

[7413.1 Director.

The director may undertake educational or training programs to improve human relations and other educational activities preliminary to the recommendation of ordinances to the legislature.

7413.2 Commission.]

The commission may undertake educational or training activities, on its own initiative or on request of the director. Such activities and programs may be conducted by the commission as a whole, by a committee of the commission, or by the commission in cooperation with other government or community agencies, associations, or groups.

741[4] 3. Reports.

741[4] 3.1 Investigative Reports.

The [director] commission shall make findings and recommendations and[, in the director's discretion or upon the direction of the commission,] may publish the same, with respect to the subject matter of any investigation or inquiry which the [director] commission is authorized to make by the charter or by code.

741[4] 3.2 Director's [Monthly] Quarterly Report.

The director shall report to the commission [monthly] quarterly, in connection with the

commission's *[monthly] quarterly* meeting, unless a different reporting schedule is requested by the commission.

741[4] 3.3 Annual Report.

The director shall prepare an annual report to be distributed to the commission, the legislature, the county executive, and the public, concerning OEHRCC 's activities during the preceding year. This report shall summarize the office's activities and accomplishments for the year.

741[4] 3.4 Other Reports.

The *[director] commission* may make such additional reports as the *[director] commission* deems appropriate, on topics including, but not limited to:

a. Studies.

Studies of the patterns or nature of complaints;

b. Investigation Findings.

The findings of any investigation;

c. Hearing Findings.

The findings and conclusions of any hearing; and

d. Areas of Specialized Review.

The county's status or the office's activities in any area of specialized review such as personnel policies and procedures, contracts, civil rights and liberties, ombudsman activities, and other areas of human relations.

741[5] 4. Records.

741[5] 4.1 Complaints.

OEHRCC shall maintain a record of complaints by number received, subject matter, respondent agency, and county legislative district of origin.

a. Results.

To the extent practicable, after investigation, OEHRCC shall determine and record whether or not complaints were substantiated, whether or not resolved or conciliated, and, consequently, whether or not the results have been thought satisfactory by the complainants, or whether the complaints were not investigated.

b. Remedies.

When complaints are substantiated, OEHRCC shall determine whether the complaints and their causes were rectified, and, if not, why not. If recommendations have been made, OEHRCC shall keep a record of whether such recommendations were followed.

741[5] 4.2 Confidentiality.

To the extent permitted by state law, the contents of investigative files shall be closed records, unless waived by the complainant.

741[5] 4.3 Disposition of Files.

The individual case file on a complaint, other than a summary complaint record shall not

ordinarily be maintained more than twenty-four months beyond the end of the year in which the complaint was received. Care shall be taken to maintain and dispose of records with safeguards for confidentiality.

741[6] 5. Fees and Contracts.

741[6] 5.1 Prohibition of Fees.

There shall be no fee charged to any complainant for the making or investigation of any complaint.

741[6] 5.2 Ability to Contract.

OEHRCC, but only with the authority of the legislature and the county executive, may contract with other public agencies to provide such services, within Jackson County, as are described in this chapter.

741[6] 5.3 Option to Charge.

Consistent with Jackson County policy, OEHRCC may charge for other services, such as educational and training programs, reproduction and circulation of reports, and the like. Any revenue received from such charges shall be credited to the county's general fund.

Effective Date: This Ordinance shall be effective immediately upon its signature by the County Executive.

APPROVED AS TO FORM:

Chief Deputy County Counselor

County Counselor

I hereby certify that the attached Ordinance, Ordinance #4395 introduced on February 27, 2012, was duly passed on February 27, 2012 by the Jackson County Legislature. In the votes thereon were as follows:

Yeas 9

Nays 0

Abstaining 0

Absent 0

This Ordinance is hereby transmitted to the County Executive for his signature.

Date

Mary Jo Spino, Clerk of Legislature

I hereby approve the attached Ordinance #4395.

Date

Michael D. Sanders, County Executive