

Missouri Ethics Commission
Enforcement Actions
Frequently Asked Questions
UPD 05/17/2012

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Overview

1. **Question:** What laws govern the Missouri Ethics Commission's authority to conduct investigations?

Answer: The laws governing the Missouri Ethics Commission's authority to conduct investigations include Missouri Revised Statutes Section 105.955.14, 105.957, 105.959, 105.961, 130.054, 130.056, RSMo.

2. **Question:** What can the Missouri Ethics Commission conduct an investigation for? (Section 105.957, 105.959, 130.054 130.056, RSMo.)

Answer: The Missouri Ethics Commission's statutory responsibilities include receiving and reviewing formal complaints alleging violations of:

- ✓ campaign finance laws
- ✓ codes of conduct adopted by a department, division, state agency, and state institutions of higher learning
- ✓ conflict of interest laws
- ✓ lobbying laws
- ✓ personal financial disclosure laws
- ✓ a political subdivision's order, ordinance, resolution of any political subdivision relating to the official conduct of officials or employees, including constitutional provisions or state statutes

The Missouri Ethics Commission's statutory responsibilities also include reviewing, auditing, and investigating reports and statements required by the campaign finance disclosure laws, personal financial disclosure laws, and lobbyist registration and reporting laws.

Investigations

1. **Question:** Does an individual receive notice of an investigation being conducted by the Missouri Ethics Commission? (Section 105.957, 105.959.1, 103.054 RSMo.)

Answer: Within five (5) days of making a decision to conduct an investigation, the Missouri Ethics Commission notifies, by registered mail, the individuals and/or committees being investigated.

2. **Question:** What reports would the Missouri Ethics Commission audit? (Section 105.955.14(2), 105.959, RSMo.)

Answer: The Missouri Ethics Commission performs audits on filings, reports, and statements required to be filed, and the records supporting the required filing, either with the Missouri Ethics Commission and/or other appropriate officers, including campaign finance disclosure statements filed with local election authorities.

3. **Question:** Once an investigation has been undertaken, either through an audit or complaint, what are the next steps? (Section 105.961, RSMo.)

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Answer: The Missouri Ethics Commission, after notification to the person(s) being investigated and the complainant, assigns an investigator to the case, and conducts an investigation. The Missouri Ethics Commission takes one of the following steps:

- ✓ Dismisses the case when reasonable grounds are not found that a violation occurred *or*
- ✓ Refers the case to the Missouri Ethics Commission's general counsel in preparation of a hearing, when reasonable grounds are found that a violation occurred *or*
- ✓ Refers the case to a prosecuting attorney for violations of criminal law

4. **Question:** Can the public obtain information, from the Missouri Ethics Commission, about an ongoing investigation? (Section 105.959, 105.961, RSMo.)

Answer: No, the Missouri Ethics Commission cannot provide information to the public about an investigation. Missouri law provides that investigations are strictly confidential and that the Missouri Ethics Commission cannot confirm whether an investigation is being conducted.

5. **Question:** What information can the Missouri Ethics Commission provide to the public about an investigation? (Section 105.959, 105.961, RSMo.)

Answer: The law requires all information about any investigative work remain confidential, except for the final decision/action. The Missouri Ethics Commission post final actions on their website under [Commission Cases - Final Actions Search](#). *See also the Commission Actions section.* (updated 08/17/11)

6. **Question:** Does the Missouri Ethics Commission investigate alleged violations that are criminal in nature? (Section 105.961, RSMo.)

Answer: Yes, the Missouri Ethics Commission may investigate alleged violations of the criminal law relating to official conduct by public officials and employees and campaign finance disclosure laws. If in the course of the investigation, the Missouri Ethics Commission finds reasonable grounds that a violation of criminal law has occurred, the Missouri Ethics Commission refers the case to the appropriate prosecuting attorney.

Complaints

1. **Question:** Can the Missouri Ethics Commission receive and investigate complaints? (Section 105.957, 105.955.14, 105.961, and 130.054, RSMo.)

Answer: Yes, the Missouri Ethics Commission may receive complaints alleging violations of the law. Upon receipt of a complaint, Sections 105.957 and 130.054, RSMo., establishes the Missouri Ethics Commission's authority to investigate a complaint. These statutes and Section 105.961, RSMo., sets forth the procedure for receipt and investigation of complaints.

2. **Question:** How do I file a complaint with the Missouri Ethics Commission? (Section 105.957, RSMo.)

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Answer: The complaint must be filed in writing, using the Missouri Ethics Commission's *Official Complaint Form*. The complaint must contain all facts known by the complainant, be signed, and notarized by the complainant.

3. **Question:** Can I fax or email a complaint to the Missouri Ethics Commission? (Section 105.957, RSMo.)

Answer: No, the Missouri Ethics Commission may not receive a faxed or emailed complaint due to the original, notarized signature requirement by law.

4. **Question:** Can I file an anonymous complaint? (Section 105.957.2 and 130.054 RSMo.)

Answer: No, Section 105.957.2, RSMo provides that within 5 days of receipt of a complaint, the Missouri Ethics Commission must send a copy of the complaint, including the name of the person bringing the complaint, to the person, organization, or campaign committee against whom the complaint is brought. Certain campaign finance disclosure complaints filed under Section 130.054, RSMo are sent within one business day of receipt.

5. **Question:** Does the Missouri Ethics Commission investigate complaints against judges and prosecuting attorneys?

Answer: No, complaints against judges involving judicial ethics should be directed to the Commission on Retirement, Removal and Discipline of Judges as follows:

Commission on Retirement, Removal and Discipline of Judges
2190 South Mason Road
St. Louis, MO 63131
Phone: (314) 966-1007
Fax: (314) 966-0076

Complaints against prosecutors and other attorneys involving legal ethics should be directed to the Missouri Bar Office of Disciplinary Counsel as follows:

Office of Chief Disciplinary Counsel
3335 American Avenue
Jefferson City, MO 65109-1079
Phone: (573) 635-7400
Fax: (573) 635-2240

General questions to the Missouri Bar should be directed to:

The Missouri Bar
P. O. Box 119
Jefferson City, MO 65102
Phone: (573) 635-4128
<http://www.mombar.org>

6. **Question:** Does the Commission investigate complaints against circuit clerks?

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Answer: Yes, as locally elected officials, circuit clerks are subject to Chapter 105, RSMo. Deputy Circuit Clerks are state court employees and any complaints by deputies against circuit clerks may be subject to grievance procedures under the State Court's Operating Manual.

7. **Question:** Does the Missouri Ethics Commission investigate complaints involving the Sunshine Law?

Answer: No, complaints about violations of the Sunshine Law should be directed to the county prosecutor or Attorney General's Office.

8. **Question:** Are complaints received by the Missouri Ethics Commission public information? (Section 105.959.1, RSMo and Section 105.961.15, RSMo.)

Answer: No, state law requires the complaint process and all investigations by the Missouri Ethics Commission to be kept confidential. The Missouri Ethics Commission's final action on a complaint is the information that becomes public information.

9. **Question:** What violations of the law can the Missouri Ethics Commission investigate? (Section 105.957, RSMo and Section 130.054, RSMo.)

Answer: See Question #2 under **Overview**.

10. **Question:** Does an individual who a complaint is brought against (respondent) receive any notice from the Missouri Ethics Commission? (Section 105.957.2, 130.054, RSMo.)

Answer: Yes, within five days of receipt of a complaint, the Missouri Ethics Commission notifies the respondent and provides a copy of the complaint. Complaints filed against candidates under Section 130.054, RSMo for campaign finance violations are sent to the candidate within one business day after receipt by the Commission.

11. **Question:** If I have filed a complaint with the Missouri Ethics Commission, how do I know if the complaint is being investigated? (Section 105.957, RSMo.)

Answer: Within five days of receipt of a complaint (or one business day for those complaints received under Section 130.054, RSMO.), the Missouri Ethics Commission notifies the complainant if the complaint is being investigated. The complaint is not accepted for investigation if the allegations do not fall within the Missouri Ethics Commission's jurisdiction, the *Official Complaint Form* is not properly completed, or the complaint does not clearly provide the allegations.

12. **Question:** What is a frivolous complaint? (Section 105.957.4, RSMo.)

Answer: Frivolous is defined by state law as a complaint clearly lacking any basis in fact or law. The Missouri Ethics Commission may find a complaint to be frivolous in nature and dismiss the case.

The statute states, "A person submitting a frivolous complaint shall be liable for actual and compensatory damages to the alleged violator for holding the alleged violator before

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the public in a false light”. The Missouri Ethics Commission must issue a public report to the complainant and alleged violator stating the specific reasons for dismissal of the complaint; the complaint and all materials related to the complaint become public record after issuance of the report.

13. **Question:** Is there a time frame during which the Missouri Ethics Commission cannot accept a complaint related to a candidate? (Section 130.054, RSMo.)

Answer: Yes, the Commission cannot accept a complaint alleging misconduct on the part of a candidate for public office, other than an allegation of failure to file timely and accurately, a Personal Financial Disclosure statement or campaign finance disclosure reports, within 60 days before the primary election until after the general election. The Commission may not accept a complaint filed against a candidate or candidate committee within 15 days before to the primary or general election in which the candidate is running for office.

14. **Question:** Is there a statute of limitations for the Missouri Ethics Commission investigating complaints which allege violations by a public official or violations of campaign finance disclosure laws? (Section 105.957.3, RSMo.)

Answer: Yes, the Missouri Ethics Commission cannot investigate allegations in any complaint, which occurred more than two years before the complaint date. However, the Commission may investigate criminal violations which occur within the time period of the statute of limitations for the criminal law

15. **Question:** Does the Commission investigate conduct if it is the subject of litigation? (Section 105.957.3, RSMo)

Answer: The Commission may refuse to investigate any conduct which is the subject of civil or criminal litigation.

Hearings

1. **Question:** What is a Commission hearing? (Section 105.961.3, RSMo)

Answer: The Missouri Ethics Commission is an administrative body and can hold a hearing if it finds reasonable grounds that a violation of law has occurred, either from an investigation of a complaint or by an internal audit/investigation conducted by the Missouri Ethics Commission.

2. **Question:** Are there any Rules which govern Commission Hearings? (1 CSR 50-2)

Answer: 1 CSR 50 are Commission Rules published in the State Code of Regulations and govern Hearing Procedures before the Commission.

3. **Question:** How does the Missouri Ethics Commission determine if a violation occurred? (Section 105.961.3, RSMo)

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Answer: A hearing is conducted following procedures provided in the Administrative Procedure Act in Section 536.063 to 536.090, RSMo., for contested cases, and Commission Rules, 1 CSR 50 –2. The Commission members hear the facts of the case including any arguments and evidence presented by the respondent(s). At least 4 members must find that there is probable cause that a violation of law occurred. The Commission’s issues written findings and an order following a hearing.

In some instances, a settlement is reached where the parties involved agree to the Findings of Facts and Conclusions of Law. In these instances, a Commission hearing would not be conducted.

4. **Question:** Is a hearing open to the public? (Section 105.961.3, RSMo, 1 CSR 50-2.080(5))
Answer: No, a hearing is required by law to be a closed meeting and is not open to the public.
5. **Question:** Is a hearing a legal proceeding? (1 CSR 50-2)
Answer: Yes, a hearing is conducted as any legal proceeding. Witnesses testify under oath and a court reporter transcribes the testimony. Rules of evidence apply. An individual has the right to be represented by an attorney at the hearing. Commission Rules regarding hearing procedure can be found at 1- CSR 50-2.
6. **Question:** What is the standard of proof at a hearing? (Section 105.961.3, RSMo.)
Answer: The standard of proof for a violation is probable cause. At least 4 members must make a finding of probable cause of a violation.
7. **Question:** Can anyone attend a Commission hearing? (Section 105.961.3, RSMo, 1 CSR 50-2.080(5))
Answer: No. The statutes require the Commission hearings to be closed proceedings.
8. **Question:** When does the Missouri Ethics Commission schedule hearings? (Section 536.067(4), RSMo.)
Answer: The Missouri Ethics Commission schedules hearings, as necessary, to hear any cases. A person receives a written notice of the hearing at least 10 days before the hearing.
9. **Question:** Are the results of a hearing public? (Section 526.090, RSMo. and 1 CSR50-2.140.)
Answer: The Missouri Ethics Commission’s final actions, including those taken at a hearing, become public. At the conclusion of a hearing, the Commission issues findings of fact and conclusions of law and an order. The order is a final action of the Commission and is public.
10. **Question:** Is it possible to resolve a case without holding a hearing?

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Answer: Yes, the Commission can resolve cases by issuing joint stipulations of fact and law which serve as a settlement in the case between the parties. The Commission will issue a Consent Order, serving as the final order of the Commission.

Commission Actions

1. **Question:** What actions can the Missouri Ethics Commission take if they find violations of the law? (Section 105.961, RSMo.)

Answer: The Missouri Ethics Commission can, upon finding probable cause a violation exists:

- ✓ Notify the respondent to cease and desist the violations of law
- ✓ Assess civil penalties
- ✓ Assess fees for violations
- ✓ Require the filing of reports, statements, or other documents or information required in law
- ✓ Issue a letter of concern or reprimand
- ✓ Notify the appropriate disciplinary authority
- ✓ Order restitution for unjust enrichment
- ✓ Take no further action

2. **Question:** How does the Missouri Ethics Commission find probable cause? (Section 105.961.3, RSMo.)

Answer: In order to find probable cause, the Commission members, after hearing the facts of the case, vote to determine if probable cause exists that a violation of law occurred. There must be at least four Commission members, of the six, vote to find probable cause.

3. **Question:** Where can I get information about the Missouri Ethics Commission's actions?

Answer: The Missouri Ethics Commission's actions are available, in a searchable format, on its website at [Commission Cases - Final Actions Search](#). (updated 08/17/11)

4. **Question:** Has the Missouri Ethics Commission's investigations ever led to convictions of criminal violations of the law? (Section 105.961, RSMo.)

Answer: Yes, see the Commission's final actions at www.mec.mo.gov, Commission Meetings. If in the course of an investigation, the Missouri Ethics Commission finds reasonable grounds that a violation of criminal law has occurred, the Missouri Ethics Commission notifies the appropriate prosecuting attorney. This can lead to conviction of criminal violations of the law.