

CHAPTER 75

MERIT SYSTEM COMMISSION

COMMISSION

7500. Merit System Commission Established.

Pursuant to Article IX, Section 3 of the Jackson County Charter, there is established the Jackson County Merit System Commission. (Ord. 553, Sec. 4.1, Eff. 12-20-77)

7501. Appointment.

The County Executive shall appoint five (5) residents of Jackson County to the Merit System Commission subject to the disapproval of the County Legislature. (Ord. 553, Sec. 4.2, Eff. 12-20-77)

7501.1 Appointment on Expiration of Term.

The County Executive shall make appointments to the Merit System Commission at least thirty (30) days before the expiration of a term of a commissioner. (Ord. 553, Sec. 6.4, Eff. 12-20-77)

7501.2 Appointment to Fill Vacancy.

If a vacancy occurs due to the resignation, death, sickness, disability or disqualification of a commissioner, the County Executive shall appoint a new commissioner to complete the unexpired term of that commissioner.

a. Time to Appoint.

The County Executive shall make the appointment within thirty (30) days after the vacancy occurs.

b. Failure of Executive to Appoint.

If the County Executive fails to make the appointment within the time set forth in paragraph a., the County Legislature, by resolution, may recommend three (3) persons to fill the vacancy. The County Executive shall have (30) days from the date of the adoption of the resolution to fill the vacancy from the persons suggested in the resolution or a person chosen by the County Executive. (Ord. 553, Sec. 6.2, Eff. 12-20-77)

7502. Requirements of Merit Commissioners.

The following requirements apply to persons appointed to the Merit System Commission.

7502.1 Political Affiliation.

No more than three (3) commissioners shall be from the same political party. (Ord.

553, Sec. 4.2, Eff. 12-20-77)

7502.2 In Sympathy With Merit System.

The commissioners shall be in sympathy with the Merit System of public employment. (Ord. 553, Sec. 4.2, Eff. 12-20-77)

7502.3 Hold no Other Office.

Commissioners shall not hold any other public or political office. (Ord. 553, Sec. 4.2, Eff. 12-20-77)

7503. Merit Commissioners, Terms.

The commissioners shall serve staggered terms of four (4) years commencing January 1. (Ord. 553, Sec. 6.1, Eff. 12-20-77)

7503.1 Serve Until Successors Appointed and Qualified.

Commissioners serve until their successors are duly appointed and qualified. (Ord. 553, Sec. 6.3, Eff. 12-20-77)

7503.2 Terms of Commissioners Serving on Effective Date.

Commissioners serving on the Merit System Commission on the effective date of this ordinance shall continue to serve until the expiration of their terms, resignation or disqualification. (Ord. 553, Sec. 6.5, Eff. 12-20-77)

7504. Forfeiture of Office.

A commissioner shall automatically forfeit his office if either of the following occur. (Ord. 553, Sec. 7, Eff. 12-20-77)

7504.1 Cease to Meet Charter Qualifications.

A commissioner shall automatically forfeit office if that commissioner ceases to meet the qualifications set forth in Article IX, Section 3 of the Jackson County Charter. (Ord. 553, Sec. 7, Eff. 12-20-77)

7504.2 Absent Without Excuse.

A commissioner shall automatically forfeit office if that commissioner is absent from more than four (4) consecutive regularly called meetings or hearings of the Merit System Commission unless excused by resolution of the commission and entered in its record. (Ord. 553, Sec. 7, Eff. 12-20-77)

7505. Merit System Commission, Powers and Duties.

The Merit System Commission shall have the following powers and duties: (Ord. 553, Sec. 8, Eff. 12-20-77)

C/R: 730.04, Waiver of residency requirements; 751.00, removal of Personnel Director.

7505.1 Recommend Policy.

The Commission may recommend to the County Legislature and the County Executive policies for the operation of the merit system. (Ord. 553, Sec. 8.1, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7505.2 Hold Regular Meetings.

The Commission shall meet at least quarterly at a regularly scheduled time. (Ord. 553, Sec. 8.2, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7505.3 Annual Report to Legislature and Executive.

The Commission shall make an annual report to the County Legislature and County Executive on the status of the merit system on or before the first of June of each year. (Ord. 553, Sec. 8.3, Eff. 12-20-77)

7505.4 Other Reports.

The Commission shall make other reports as deemed necessary by the Commission, County Executive or County Legislature. (Ord. 553, Sec. 8.4, Eff. 12-20-77)

7505.5 Review Certain Disciplinary Actions.

Upon request by an affected employee, the Commission shall review any demotion, termination, suspension, or budgetary layoff of any merit employee other than probationary employees, to determine if the act was the result of discrimination based on the race, creed, color, religion, national origin, gender, age, ancestry, disability, political activity or lack of political activity, union membership or nonmembership, pregnancy status, sexual orientation, gender identity, marital status, familial status, veteran status, or membership in any other class protected under federal or state law of the employee or was otherwise without cause, as that term is defined in the Personnel rules. (Ord. 553, Sec. 8.5, Eff. 12-20-77; Ord. 4056, Eff. 11-10-08; Ord. 4305, Eff. 5-2-11)

7505.6 Promulgate Rules of Procedure.

The Commission shall promulgate reasonable rules of procedure for its meetings and hearings. To the maximum extent practicable, the Commission's rules shall provide for expedited hearings that minimize the need for prolonged oral testimony and encourage the presentation of evidence in a written format. (Ord. 553, Sec. 8.6, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7506. Compensation.

Each commissioner shall receive seven hundred dollars (\$700) per month, for each month he or she personally attends scheduled meetings and/or hearings, but shall not receive more than eight thousand four hundred (\$8,400) for any calendar year. For each month in which a commissioner attends one or more, but not all, scheduled meetings and/or

hearings, that commissioner's compensation for that month shall be reduced by the amount of two hundred dollars (\$200) for each meeting or hearing not attended. (Ord. 634, Sec. 5, Eff. 9-28-78; Ord. 3123, Eff. 02/13/01; Ord. 4716, Eff. 2/17/15)

7507. Reimbursement.

Commissioners shall be reimbursed for all reasonable expenses incurred subject to the approval of the Director of Revenue. (Ord. 634, Sec. 5.3, Eff. 9-28-78)

7508. - 7519. RESERVED

DEFINITIONS

7520. Definitions.

The following words and phrases are defined as follows.

7520.1 Appointing Authority.

Appointing authority means an elected official, charter officer, division manager, department director of the designee of that person. (Ord. 553, Sec. 1.1, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7520.2 Commission.

Commission means the Merit System Commission. (Ord. 553, Sec. 1.2, Eff. 12-20-77)

7520.3 Continuous County Service.

Continuous county service means employment with Jackson County without interruption except for authorized leaves of absence. (Ord. 553, Sec. 1.12, Eff. 12-20-77)

7520.4 Merit Employee.

Merit employee means any county employee not exempted from the merit system pursuant to the charter. (Ord. 553, Sec. 1.4, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7520.5 Non-Merit Employee.

Nonmerit employee means an employee excluded from the merit system by the Jackson County charter or by ordinance. (Ord. 4305, Eff. 5-2-11)

7520.6 Part-Time Employee.

Part-time employee means an employee who regularly works less than forty (40) hours per week or less than four (4) weeks a month. (Ord. 553, Sec. 1.9, Eff. 12-20-77)

7520.7 Permanent Employee.

Permanent employee means an employee who has completed the applicable probationary period for his or her position. (Ord. 553, Sec. 1.6, Eff. 12-20-77; Ord. 4056, Eff. 11-10-08)

7520.8 Probationary Employee.

Probationary employee means a merit employee during his or her probationary period as defined in section 723 of this code. (Ord. 553, Sec. 1.5, Eff. 12-2-77; Ord. 2638, Eff. 03/13/97; Ord. 4305, Eff. 5-2-11)

7520.9 Seasonal Employee.

Seasonal employee means a temporary employee who works in county service within a particular season of the year and may regularly work from year to year. (Ord. 553, Sec. 1.10, Eff. 12-20-77)

7520.10 Special-Fund Employee.

Special-fund employee means an employee funded by a special fund provided by a grant of any other governmental entity or foundation, or from any source other than county revenues. (formerly Sec. 7520.11; Ord. 553, Sec. 1.11, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

APPEAL PROCEDURES

7530. Merit Appeal by Right.

The following may appeal to the Merit System Commission.

7530.1 Permanent Merit Employees.

Every permanent merit employee shall have the right of appeal to the Merit System Commission of any demotion, termination, suspension, or budgetary layoff. (Ord. 553, Sec. 16, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

C/R: 723.05, Appeals by promoted merit employee; 7531.00, budgetary layoff appeals.

7531. Waiver of Appeal Rights.

The failure of an employee to file an appeal in the manner, form and within the time required or the failure to prosecute an appeal before the Merit System Commission shall be a waiver of all appeal rights. (Ord. 553, Sec. 24, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7532. Notice of Appealable Disciplinary Action.

The appointing authority shall notify a merit employee in writing of any demotion, termination, suspension, or budgetary layoff taken against that employee. (Ord. 553, Sec. 17.1, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7532.1 Contents of Notice.

The notice shall include the following:

a. Name.

The name of employee;

b. Position.

The position of the employee with the county; and

c. Reason.

The reason of the action. (Ord. 553, Sec. 17.2, Eff. 12-20-77)

7532.2 Inform of Right of Appeal.

The notice shall also inform the employee of his right of appeal and the deadline for that appeal as set out in section 7533 of this chapter. (Ord. 553, Sec. 17.2, Eff. 12-20-77; Ord. 4305, Eff. 5-2-11)

7532.3 Copy to Personnel Director.

The appointing authority shall file a copy of the notice with the Personnel Director. (Ord. 553, Sec. 17.1, Eff. 12-20-77)

7533. Time to Appeal Significant Act.

The employee shall have ten (10) working days from the receipt of the notice to file an appeal with the Merit System Commission. (Ord. 553, Sec. 17.3, Eff. 12-20-77)

7534. Form of Appeals.

All appeals shall be in writing on forms provided by the Human Resources Director. (Ord. 553, Sec. 17.4, Eff. 12-20-77)

C/R: 754.02, duty of Human Resources Director to assist on request.

7534.1 Contents.

The written appeal shall contain the following:

a. Name.

The name of the employee;

b. Position.

The position of the employee with the county;

c. Action Taken.

The nature of the action taken against that employee; and

d. Reason for Appeal.

The reason for the appeal. (Ord. 553, Sec. 17.5, Eff. 12-20-77)

7534.2 Where Filed.

All appeals shall be filed with the Human Resources Director. (Ord. 553, Sec. 17.4, Eff. 12-20-77)

7535. Procedure When Appeal Filed.

On receipt of an appeal the Human Resources Director shall proceed as follows. (Ord. 553, Sec. 18.1, Eff. 12-20-77)

7535.1 Notify Chairman.

The Personnel Director shall notify the Chairman of the Merit System Commission. (Ord. 553, Sec. 18.1, Eff. 12-20-77)

7535.2 Notify All Parties.

The Human Resources Director shall notify in writing all parties of the time and place of the hearing. (Ord. 553, Sec. 18.1, Eff. 12-20-77)

C/R: 754.03, authorize Human Resources Director to investigate grievances.

7536. Hearing Date.

The Chairman of the Merit System Commission shall set date for the hearing of the appeal. (Ord. 553, Sec. 18.1, Eff. 12-20-77)

7536.1 Time to Schedule.

The hearing date shall be scheduled by the Chairman within fourteen (14) days of the filing of the appeal. (Ord. 553, Sec. 18.2, Eff. 12-20-77)

7536.2 Time for Hearing to Commence.

The hearing must commence within twenty-one (21) days of the filing of the appeal unless continued as provided by Section 7536.03. (Ord. 553, Sec. 18.2, Eff. 12-20-77)

7536.3 Continuances.

The following apply to continuances:

a. Obtain a Quorum.

A hearing may be continued by the Chairman in order to obtain the presence of a quorum at the hearing.

b. By Consent.

A hearing may be continued by the Chairman with the consent of the employee and the appointing authority.

c. By Request.

A hearing may be continued by the Chairman on the request of either party for good cause shown.

d. Notice and Objection.

The opposing party shall be notified of the request for a continuance referred to in paragraph c. If the opposing party objects to the continuance, the hearing shall proceed as scheduled to provide an opportunity to state those objections. (Ord. 553, Sec. 18.4, Eff. 12-20-77)

7536.4 Failure to Hold Timely Hearing.

Except where the hearing is continued as provided in section 7536.03, the failure to commence the hearing within the prescribed time period shall result in a reversal of the action taken against the employee subject to the provisions of sections 7542.01 to 7542.03. (Ord. 553, Sec. 18.5, Eff. 12-20-77)

7537. Hearing.

The following apply to Merit System Commission hearings. (Ord. 553, Sec. 19, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.1 Quorum.

Three (3) commissioners at the hearing constitute a quorum. However, no hearing shall be conducted with only four Commissioners present. If the Chairman determines that less than the full membership of the Commission will be available to hear any appeal, the Chairman shall appoint a panel of three commissioners to hear the appeal. (Ord. 553, Sec. 18.3, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92; Ord. 4393, Eff. 03/05/12)

7537.2 Place.

All hearings shall be held at either the Kansas City Courthouse or the Independence Courthouse. However, for the convenience of the parties, the commission may decide to hold the hearing at the building where the complaining part was or is employed. (Ord. 553, Sec. 19, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.3 Open to Public.

All hearings shall be open to the public. (Ord. 553, Sec. 119, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.4 Human Resources Director.

The Human Resources Director shall attend all hearings. (Ord. 553, Sec. 20.1, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.5 Representation.

Employees may be represented by counsel or other representative at the hearing.

(Ord. 553, Sec. 20.2, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.6 Attendance.

The appointing authority of the complaining employee, the Human Resources Director and other county employees as deemed necessary by the Merit System Commission shall attend the hearings and be available for testimony and other examination by the commission and the employee. The commission may request the attendance to the hearing of other parties who in its opinion may have pertinent information on the subject matter. (Ord. 553, Sec. 20.3, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.7 Refusal to Attend.

Failure or refusal of any county employee to attend and testify when requested by the Merit System Commission shall be grounds for dismissal. No employee shall be terminated or be subject to any other action detrimental to the county employment of that employee by reason of the legitimate exercise of any privilege protected by the Constitution or laws of Missouri. (Ord. 553, Sec. 21, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.8 Testimony.

Either party may offer testimony and information as may be necessary to his or her case. The Merit System Commission may limit or restrict any testimony and other evidence that is not pertinent to the issue or is repetitious. (Ord. 4305, Eff. 5-2-11; Ord. 553, Sec. 20.4, Eff. 12-20-77; Ord. 2084, Eff. 03/26/92)

7537.9 Discovery.

There shall be no discovery in proceedings before the Merit System Commission except that which is explicitly authorized under the Commission's rules of procedure. Specifically, there shall be no discovery by way of depositions, written interrogatories, or requests for admissions. (Ord.4305, Eff. 5-2-11)

7538. Decision of Commission.

In each case, the appointing authority shall have the burden of proof to convince the Merit System Commission by a preponderance of the evidence that the action against the employee was taken for cause and/or was not taken for a prohibited reason, as further described in section 7505.5 of this chapter. All decisions of the Merit System Commission shall be final. (Ord. 553, Sec. 22.1, Eff. 12-20-77; Ord. 4393, Eff. 03/05/12)

7538.1 Who Makes Decision.

All final decisions shall be rendered by a majority of the commissioners who are qualified to vote on the appeal.

a. Qualified to Vote.

A commission member is qualified to vote on a decision if the commission member has attended the entire hearing. (Ord. 553, Sec. 22.2, Eff. 12-20-77)

7538.2 Decision in Writing.

The decision shall be rendered in writing, signed by the Chairman and agreed to by a majority of the commissioners who are qualified to vote on the appeal. (Ord. 553, Sec. 22.1, Eff. 12-20-77; Ord. 4393, Eff. 03/05/12)

7538.3 Time to Render.

The decision shall be rendered within fourteen (14) days of the conclusion of the final hearing. (Ord. 553, Sec. 22.1, Eff. 12-20-77)

7539. - RESERVED

ACTIONS BY COMMISSION

7540. Merit System Commission Actions.

The Merit System Commission may take the following actions:

7540.1 Budgetary Layoff.

In an appeal of a budget-reduction layoff, the Merit System Commission may reverse the decision of the appointing authority only where the commission finds that the choice of employees to be laid off was made on the basis of race, creed, color, religion, national origin, gender, age, ancestry, disability, political activity or the lack of political activity, pregnancy status, sexual orientation, gender identity, marital status, familial status, veteran status, union membership or non-membership, or membership in any other class protected under federal or state law. (formerly Sec. 7541; Ord. 4305, Eff. 5-2-11; Ord. 553, Sec. 23, Eff. 12-20-77)

7540.2 Reinstatement or Recommended for Modified Discipline.

In an appeal of a demotion, suspension, or termination, the Merit System Commission may reinstate an employee with or without back pay. In reaching its decision on an appeal, if the Commission determines that cause exists for any disciplinary action against the employee and/or that the action taken against the employee was not for a prohibited, discriminatory reason, the Commission shall uphold the disciplinary action and shall not substitute its own judgment as to the degree of disciplinary action appropriate for the judgment of the appointing authority. However, the Commission in its decision may recommend the appointing authority consider an alternate or modified discipline. In any event and even without the recommendation of the Commission, the appointing authority shall retain the right to substitute alternate discipline for the demotion, suspension, or termination. In the event subsequent discipline is issued by the appointing authority and is either

a demotion or suspension, the employee shall retain the right to file an appeal with the Merit System Commission within ten working days. (formerly Sec. 7542; Ord. 4305, Eff. 5-2-11; Ord. 553, Sec. 25.1, Eff. 12-20-77; Ord. 4056, Eff. 11-10-08; Ord. 4393, Eff. 03/05/12)

a. Computation of Back Pay.

Back pay, if awarded, shall be computed at the rate the employee earned at the time of suspension demotion or dismissal including any increases received by the class of that employee during the period, and less any unemployment compensation payments, wages or income received from other sources during that period of time. (formerly Sec. 7542.1; Ord. 4305, Eff. 5-2-11; Ord. 553, Sec. 25.2, Eff. 12-20-77)

b. Intent of Section.

It is the intent of this section that a reinstated employee be reimbursed for only the income that is actually lost by reason of any wrongful suspension, demotion or dismissal, and that setoff of wages earned or other income shall not apply to income which was regularly received by the employee from other sources prior to the period in question. (formerly Sec. 7542.2; Ord. 553, Sec. 25.2, Eff. 12-20-77)

c. Back-pay Disputes.

The Merit System Commission may continue or reopen an appeal hearing in order to resolve a back-pay dispute. (formerly Sec. 7542.3; Ord. 553, Sec. 25.2, Eff. 12-20-77)

d. Documentation.

The Human Resources Director or the Merit System Commission may require the employee to furnish any documents necessary to determine whether income was received from other sources, or the amount of that income, including copies of federal income tax returns, bank records, payroll-check stubs or other documentation. (formerly Sec. 7542.4; Ord. 553, Sec. 25.2, Eff. 12-20-77)