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

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

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

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

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

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

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

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

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

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

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

4. This section shall not be construed as:

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

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

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

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

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

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

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

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

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

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

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

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

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

*Word "section" appears in original rolls.

---- end of effective 28 Aug 2018 ----

use this link to bookmark section 105.055

- All versions

	Effective	End
105.055	8/28/2018	

105.055	8/28/2010	8/28/2018
105.055	8/28/2004	8/28/2010

Click here for the **Reorganization Act of 1974 - or - Concurrent Resolutions Having Force & Effect of Law**

In accordance with Section **3.090**, the language of statutory sections enacted during a legislative session are updated and available on this website on the effective date of such enacted statutory section.

▶ Other Information

▶ Other Links

Missouri Senate **MO.gov** **Missouri House**

Errors / suggestions - WebMaster@LR.mo.gov

History and Fun Facts

©Missouri Legislature, all rights reserved.

SHARE