

MISSOURI ETHICS COMMISSION  
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James Klahr  
Executive Director

April 25, 2018

**Re: Advisory Opinion No. 2018.04.CI.003**

Dear .

At the April 25, 2018 meeting of the Missouri Ethics Commission, your request for an opinion was discussed.

**Opinion**

Pursuant to §105.955.16, RSMo, the Missouri Ethics Commission may issue a written opinion regarding any issue on which the Commission can receive a complaint pursuant to §105.957, RSMo. The Commission has the authority to receive complaints concerning conflict of interest laws under Chapter 105. This opinion is issued within the context of Missouri's statutes governing such issues, and assumes the facts presented by you in your letter.

The questions presented and responses for each question are as follows:

*The requester is currently employed by the Missouri Department of Health and Senior Services as a director of a division, and has been Acting Deputy Director for the department since December 2017. The requester previously worked for the Department of Social Services/Children's Division leaving that department in May 2010.*

*The requester is seeking a position as the Executive Director of a contractor with the Department of Social Services to manage the foster care program in 5 counties in Southwest Missouri for the Department of Social Services/Children's Division. The requester has no involvement with foster children or any contracts with the contractor in the current position.*

*Is there a conflict of interest under Chapter 105 if the requester takes the position with the contractor with the Department of Social Services, Children's Division?*

§105.454.1, RSMo provides, in pertinent part,

No elected or appointed official or employee of the state or any political subdivision thereof, serving in an executive or administrative capacity, shall:

...


(5) Perform any service for consideration, during one year after termination of his or her office or employment, by which performance he or she attempts to influence a decision of any agency of the state, or a decision of any political subdivision in which he or she was an officer or employee or over which he or she had supervisory power...

(6) Perform any service for any consideration for any person, firm or corporation after termination of his or her office or employment in relation to any case, decision, proceeding or application with respect to which he or she was directly concerned or in which he or she personally participated during the period of his or her service or employment.

Because the requester has not served in an administrative or executive position with the Children's Division for approximately eight years, it appears that the one year period of §105.454.1(5), RSMo does not apply. To the extent it may be relevant, the requester should be aware of §105.454.1(6), RSMo.

The following previous opinions are instructive: MEC No. 2005.01.101 (an individual, previously employed by the state, may work for a contractor with a state contract overseeing various business functions; however, the employee cannot represent the new employer in any proceeding with which the employee was directly involved with the previous department); MEC No. 2003.07.103 (a former Department of Elementary and Secondary Education employee cannot attempt to influence a decision of the department for one year after going to work for a state contractor); MEC No. 2000.11.113 (a former executive director of a state board may act as a technical consultant).

Sincerely,



James Klahr  
Executive Director