

**Rules of
Missouri Family Trust
Division 10—Director and Board of Trustees
Chapter 3—Charitable Trust**

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Title 21—MISSOURI FAMILY TRUST

Division 10—Directors and Board of Trustees

Chapter 3—Charitable Trust

21 CSR 10-3.010 Charitable Trust Regulations

PURPOSE: This rule sets forth the regulations of the Charitable Trust of the Missouri Family Trust.

Editor's Note: The secretary of state has determined that the publication of this rule in its entirety would be unduly cumbersome or expensive. The entire text of the material referenced has been filed with the secretary of state. This material may be found at the Office of the Secretary of State or at the headquarters of the agency and is available to any interested person at a cost established by state law.

(1) Acceptance. The board of trustees shall accept and hold all monies, assets and properties contributed or distributed to and received by it on behalf of the Charitable Trust established pursuant to section 402.215.2(10), RSMo.

(2) Responsibility for Investments. The responsibility and authority for investment and management of the funds held in the Charitable Trust shall be vested in the board of trustees. The board of trustees shall have full power and authority to manage and control the trust funds held by it. The income earned, after deducting administrative expenses and fees of the trust and of the board of trustees, shall be used as provided in this rule.

(3) Powers of the Board of Trustees. The board of trustees shall have all powers granted to trustees acting pursuant to Chapter 456, RSMo and shall have any powers specifically granted to the board of trustees pursuant to sections 402.199—402.225, RSMo. The board of trustees shall have authority to appoint those investment counselors, managers and advisors as it may select and to pay reasonable fees for those services.

(4) Compensation of Trustees. The board of trustees may charge a reasonable fee to pay the costs and expenses of administration and organization of the Charitable Trust in accordance with 21 CSR 10-4.020.

(5) Beneficiaries.

(A) Any person who has a handicap, as defined in section 402.200(4), RSMo, or who is eligible for services provided by or through the Missouri Department of Mental Health and who either has no immediate family or whose

immediate family, in the reasonable opinion of the board of trustees, is financially unable to make a contribution to the trust sufficient to provide benefits for that individual, while maintaining that individual's eligibility for governmental entitlement funding, shall be eligible to become a beneficiary of the Charitable Trust. For the purposes of this rule, the term immediate family includes spouse, parents, children and siblings. The Missouri Department of Mental Health and others may recommend to the board of trustees persons to become beneficiaries of the Charitable Trust.

(B) Pursuant to a Contract for Payment of Client Funeral Services between the Department of Mental Health (DMH) and board of trustees, a DMH Client Funeral Account was established within the Charitable Trust. DMH, from time-to-time, shall authorize the board of trustees to make payment out of this account on behalf of DMH for the funeral services of clients of DMH. Any such DMH client for whom a payment is authorized shall be deemed to be a beneficiary of the DMH Client Funeral Account of the Charitable Trust.

(C) Anyone, with the consent of the board of trustees, may establish a restricted account within the Charitable Trust and shall be permitted to determine, with the consent of the board of trustees, the beneficiaries of this restricted account.

(6) Use of Funds. Annually the board of trustees and the Missouri Department of Mental Health shall agree on the amount of income or principal, or both, to be used to provide benefits and the nature and type of benefits to be provided to the beneficiaries of the Charitable Trust. It is the purpose of the Charitable Trust to supplement, not replace, any government benefits for the beneficiary's basic support to which that beneficiary may be entitled and to increase the quality of that beneficiary's life by providing him/her with those amenities which cannot otherwise be provided by public assistance or entitlement or other available sources. Permissible expenditures include, but are not limited to, more sophisticated dental, medical and diagnostic work or treatment than is otherwise available from public assistance, private rehabilitative training, supplementary education aid, entertainment, periodic vacations and outings, the transportation of the beneficiary or of friends or relatives of the beneficiary to visit him/her, expenditures to foster the interests, talents and hobbies of the beneficiary, and expenditures to purchase personal property and services which will make life more comfortable and enjoyable for the beneficiary but which will not defeat his/her eligibility for public assistance. The board of trustees, in its discretion, may make payments for a person to accompany the

beneficiary on vacations and outings and for the transportation of the beneficiary or of friends and relatives of the beneficiary to visit him/her. The board of trustees may make payments and distributions in any one (1) or more of the following ways as the board of trustees may deem advisable, in those amounts and for those uses that will not defeat the beneficiary's eligibility for public assistance, namely:

(A) Directly to the beneficiary;
 (B) To the legal guardian of the beneficiary;
 (C) To any adult relative of the beneficiary to be held and expended by that relative for the support, education and welfare of the beneficiary;

(D) To any adult relative of the beneficiary as custodian for that beneficiary pursuant to the Missouri Transfers to Minors Law, the Missouri Personal Custodian Law or any other statute of similar import; or

(E) By the board of trustees itself expending that income or principal for the support, education, welfare and comfort of the beneficiary and, to that end, the board of trustees may make payments to any person, firm, corporation or governmental agency. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including his/her basic food, shelter and clothing if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which s/he is then entitled.

(7) Unused Income. Any income not used shall be added to the principal annually.

(8) Spendthrift. No beneficiary of the Charitable Trust shall have the power to assign, convey, alienate or otherwise encumber any interest acquired in the income or principal of the trust estate, nor shall that income or the principal or any interest of any beneficiary in the trust be liable for any debt incurred by that beneficiary, nor shall the principal or income of the trust estate be subject to seizure by any creditor of any beneficiary under any writ or proceeding in law or in equity, until that income or principal shall have been actually paid over and delivered to that beneficiary.

(9) Dissolution. Upon the dissolution of the Charitable Trust, the board of trustees, after paying or making provisions for the payment of all of the liabilities of the Charitable Trust, shall dispose of all the assets of the Charitable Trust exclusively for the purposes of the Charitable Trust in a manner, or to that organization(s) organized and operated exclusively for charitable, educational, religious or scientific purposes as, at the time, shall qualify as an exempt organization(s) under Section 501(c)(3) of the *Internal Revenue Code* or to a



governmental agency, as the board of trustees shall determine. Any assets not so disposed of shall be disposed of by the circuit court of the county in which the principal office of the Charitable Trust is then located, exclusively for those purposes or to those organization(s), as that court shall determine, which are organized and operated exclusively for those purposes. Upon that dissolution, the assets not owned by the Charitable Trust, but held in trust by it as trustee in accordance with sections 402.199—402.225, RSMo, shall be transferred to another trustee.

*Auth: section 402.210.6. and 402.215.1., RSMo (1994). * Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed Nov. 2, 1994, effective March 30, 1995.*

**Original authority 1989, amended 1991, 1993.*