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**Rules of**  
**Missouri Family Trust**  
**Division 10—Director and Board of Trustees**  
**Chapter 2—Missouri Family Trust**

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## Title 21—MISSOURI FAMILY TRUST

### Division 10—Director and Board of Trustees

#### Chapter 2—Missouri Family Trust

#### 21 CSR 10-2.010 Terms and Conditions of the Missouri Family Trust

*PURPOSE: This rule sets forth the terms and conditions of the Missouri Family Trust.*

(1) Contribution to the Missouri Family Trust Fund. In order to establish an account with the Missouri Family Trust Board of Trustees, a donor shall contribute the property described in the Missouri Family Trust Agreement (the Agreement) signed by the donor and an authorized representative on behalf of the board of trustees. The minimum contribution necessary to establish an account shall be five hundred dollars (\$500). Upon receipt of the contribution, the board of trustees shall open an account for the benefit of the beneficiary designated in the Agreement (referred to as the beneficiary). No account shall list more than two (2) donors, although contributions may be made to any particular account by an unlimited number of contributors. Additional contributions may be made in increments of not less than one hundred dollars (\$100) each. The Missouri Family Trust may accept contributions from any source, including trustees, personal representatives, personal custodians under Chapter 404, RSMo and other fiduciaries other than directly from the beneficiaries and their spouses.

(2) Separate Account for Beneficiary. The board of trustees shall hold the contributed property and the earnings on it as part of the Missouri Family Trust (the Trust) on the terms and conditions described in this rule, in the Agreement and as provided in sections 402.199—402.225, RSMo. The board of trustees shall maintain a separate account for that property and its earnings for the benefit of the beneficiary. The beneficiary shall not have the power to assign, convey, alienate or otherwise encumber any interest acquired in the income or principal of any trust estate referred to in this rule, nor shall that income or the principal or any interest of the beneficiary be liable for any debt incurred by the beneficiary, nor shall the principal or income of any trust estate be subject to seizure by any creditor of the 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 the beneficiary.

(3) Annual Agreement on Use of Funds. The designated cotrustee, if any, with the consent of the board of trustees shall agree annually 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 for the beneficiary. It is the purpose of the trust to supplement, not replace, any government benefits for the beneficiary's basic support to which that beneficiary may be entitled and to improve 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. Income or principal, or both, may be used to pay funeral and burial costs of the beneficiary. 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 as 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. Each quarter, any undistributed income shall be added

to the principal. Expenditures shall not be made for the primary support or maintenance of the beneficiary, including his/her basic food, shelter and clothing being provided by state government and other governmental programs if, as a result, the beneficiary would no longer be eligible to receive public benefits or assistance to which s/he is then entitled. In the event that the board of trustees and the donor, serving as the designated cotrustee, shall be unable to agree either on the amount of income, principal, or both, to be used or the benefits to be provided, then none of the income or principal shall be used. In the event that the board of trustees and the designated cotrustee, other than the donor, shall be unable to agree either on the amount of income, principal, or both, to be used or the benefits to be provided, then either the board of trustees or the cotrustee shall have the right to request that the matter be resolved by arbitration, as provided in sections 402.199—402.225, RSMo.

(4) Donor May Revoke. The donor, during his/her lifetime, may revoke, in whole or in part, any gift made in accordance with this rule; provided, however, the donor first shall have given thirty (30) days' written notice to the board of trustees of the amount to be returned to the donor upon revocation; and, except in the case of revocation in whole, the amount remaining in the beneficiary's account, after a partial revocation, shall not be less than the current minimum contribution required to open an account for a beneficiary, pursuant to section (1). Every notice of revocation must be signed by the donor(s) of the account, unless either of the donors has died or become incapacitated, in which event the surviving donor shall have the right to revoke. In the event that at the time the donor shall have revoked his/her gift to the trust, the beneficiary shall not have received any benefits provided by use of trust income or principal, then an amount equal to one hundred percent (100%) of the original contribution (as defined in section (8)) shall be returned to the donor. Any undistributed net income shall be distributed to the charitable trust established, maintained and administered by the board of trustees pursuant to sections 402.199—402.225, RSMo (referred to as the charitable trust). In the event that at the time the donor shall have revoked his/her gift to the trust, the beneficiary shall have received any benefits provided by the use of trust income or principal, then an amount equal to ninety percent (90%) of the original contribution, reduced by any distributions or encroachments of principal previously made, shall be returned to the donor. The balance of



the original contribution, as reduced, together with all undistributed net income, shall be distributed to the charitable trust. Any donor at any time voluntarily may waive the right to revoke by written notice to the board of trustees.

(5) **Cotrustee (Other Than Donor) May Revoke.** Any designated cotrustee, other than the original donor, shall have the right, for good and sufficient reason stated in thirty (30) days' written notice to the board of trustees and the Missouri Department of Mental Health, to withdraw all or a portion of the original contribution, reduced by any distributions or encroachments previously made for the benefit of the beneficiary. In that event, the applicable portion of the original contribution (in accordance with sections 402.199—402.225, RSMo), as reduced by distributions or encroachments made for the benefit of the beneficiary, then shall be distributed to the Successor Trust created pursuant to and described in section (9); and the balance of the original contribution, as reduced, together with all undistributed net income, shall be distributed to the charitable trust. In the event that the board of trustees and the cotrustee shall be unable to agree upon whether the cotrustee has stated a good and sufficient reason to make that withdrawal, then either the board of trustees or the cotrustee shall have the right to request that the matter be resolved by arbitration, as provided in sections 402.199—402.225, RSMo.

(6) **Termination by Board of Trustees.**

(A) In the event that a court, pursuant to a lawfully convened hearing with notice to the board of trustees, or a governmental agency shall make a determination that the trust's principal or income shall be liable for the beneficiary's primary support or maintenance otherwise provided at public or private, or public and private expense, or that any public benefits or assistance then being received by the beneficiary or to which the beneficiary may otherwise be entitled are denied or terminated by reason of the existence of the trust, then in that event, the board of trustees shall terminate the trust as to that beneficiary and the balance in the beneficiary's account shall be distributed in accordance with the provisions of section (4), if the donor is living, or in accordance with the provisions of section (5), if the donor is not living.

(B) In the event that a beneficiary shall cease to be eligible to participate in the trust and the cotrustee shall not exercise his/her right to revoke pursuant to either section (4) or (5) of this rule, then the board of trustees, upon not fewer than thirty (30) days' written

notice, shall terminate the trust as to that beneficiary and the balance in the beneficiary's account shall be distributed in accordance with the provisions of section (4), if the donor is living, or in accordance with the provisions of section (5), if the donor is not living.

(C) In the event that extenuating circumstances shall arise which, in the reasonable opinion of the board of trustees, make the continuation of the trust for the beneficiary impractical or uneconomical, then, in that event, the board of trustees may terminate the trust as to that beneficiary and the balance in the beneficiary's account shall be distributed in accordance with the provisions of section (4), if the donor is living, or in accordance with the provisions of section (5), if the donor is not living. In the event that the board of trustees and the acting cotrustee shall be unable to agree upon whether the continuation of the trust for the benefit of the beneficiary is impractical or uneconomical, then either the board of trustees or the cotrustee shall have the right to request that the matter be resolved by arbitration, as provided in sections 402.199—402.225, RSMo.

(7) **Death of Beneficiary.**

(A) If the beneficiary dies before receiving any benefits provided by the use of trust income or principal, then an amount equal to one hundred percent (100%) of the original contribution shall be distributed to that person(s) as the donor shall have designated in the Agreement. Any undistributed net income shall be distributed to the charitable trust. If at the date of death of the beneficiary, the beneficiary shall have been receiving benefits provided by the use of trust income, principal, or both, then in that event, an amount equal to seventy-five percent (75%) of the original contribution, reduced by any distributions or encroachments of principal previously made, shall be distributed to the person(s) designated by the donor in the Agreement; and the balance of the original contribution, as reduced, together with all undistributed net income, shall be distributed to the charitable trust. Prior to making any distribution pursuant to the provisions of this section, the board of trustees may use income or principal, or both, to pay the funeral and burial costs of the beneficiary.

(B) In the event the trust is created as a result of a distribution from a personal representative of an estate of which the life beneficiary is a distributee, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, an amount equal to one hundred percent (100%) of the original contribution shall be

distributed to such person or persons who are the life beneficiary's heirs at law. The balance, if any, of the original contribution, together with all undistributed income shall be distributed to the charitable trust. If at the time of death of the life beneficiary the life beneficiary shall have been receiving benefits provided by the use of trust income or principal or income and principal, then, an amount equal to seventy-five percent (75%) of the original contribution, reduced by any distributions or encroachments of principal previously made, shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the original contribution, together with all undistributed income, shall be distributed to the charitable trust.

(C) In the event the trust is created as a result of the recovery of damages by reason of a personal injury to the life beneficiary, then if the life beneficiary dies before receiving any benefits provided by the use of trust income or principal, the state of Missouri shall receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the *United States Code*, and then to the extent there is any amount remaining in the trust, an amount equal to one hundred percent (100%) of the original contribution shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance, if any, of the original contribution, together with all undistributed income, shall be distributed to the charitable trust. If at the time of death of the life beneficiary, the life beneficiary shall have been receiving benefits provided by the use of trust income or principal, or income and principal then the state of Missouri shall receive all amounts remaining in the trust up to an amount equal to the total medical assistance paid on behalf of such life beneficiary under a state plan under Title 42 of the *United States Code*, and then to the extent there is any amount remaining in the trust, an amount equal to seventy-five percent (75%) of the original contribution, reduced by any distribution or encroachment of principal previously made, shall be distributed to such person or persons who are the life beneficiary's heirs at law. The balance of the original contribution, together with all undistributed income, shall be distributed to the charitable trust.

(8) **Definition of Original Contribution.** For the purposes of these rules, original contribution shall mean the current principal balance of all contributions made to a particular account, but not including any appreciation in

value of investments or accretions to the account which result from any source, such as dividends, interest and capital gains; in no event shall original contribution mean more than the total of all contributions made to a particular account.

(9) Successor Trust. Upon receipt of a notice of withdrawal from a designated cotrustee, other than the original donor, and a determination that the reason for that withdrawal is good and sufficient, the board of trustees shall distribute and pay over to the designated trustee of the successor trust, in trust, the applicable portion of the original contribution, reduced by any distributions or encroachments previously made for the benefit of the beneficiary. The designated trustee of the Successor Trust shall hold, administer and distribute the principal and income of the Successor Trust, in his/her discretion, for the maintenance, support, health, education and general well being of the beneficiary, recognizing that it is the purpose of the Successor Trust to supplement, not replace, any government benefits for the beneficiary's basic support to which that beneficiary may be entitled and to improve 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, 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 trustee of the Successor Trust, in his/her 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. Quarterly any undistributed income shall be added to the principal. 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. On the death of the beneficiary, the entire balance of the Successor Trust shall be distributed to that person(s) as the donor shall have designated in the Agreement.

(10) Powers of the Trustee of the Successor Trust. The trustee of the Successor Trust shall have all powers granted to trustees acting pursuant to Chapter 456, RSMo and shall have any powers specifically granted to the trustee of Successor Trust under sections 402.199—402.225, RSMo.

(11) Compensation of Trustees.

(A) The board of trustees may charge a reasonable fee to pay the costs and expenses of administration and organization of the trust in accordance with 21 CSR 10-4.010.

(B) The designated cotrustee of the Family Trust and the trustee of the Successor Trust shall be entitled to reasonable compensation for his/her services, unless otherwise provided in the Agreement. Any corporate trustee of the Family or Successor Trust shall be entitled to compensation in accordance with its published schedule of fees in effect at the time services are rendered. No trustee shall be required to audit or examine the books of a prior trustee and no trustee shall be required to post bond as a condition of serving as a trustee.

(12) Responsibility for Investments. The responsibility and authority for investment and management of the funds 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 except, if the beneficiary's account balance exceeds five thousand dollars (\$5,000), the donor shall have the right to select investments, in accordance with the Investment Options Agreement executed by the donor and the board of trustees. The income earned, after deducting administrative expenses of the trust and of the board of trustees, shall be credited to the accounts of the respective beneficiaries as provided in sections 402.199—402.225, RSMo.

(13) 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 investment counselors, managers and advisors and to pay reasonable fees for those services.

*AUTHORITY: section 402.210.6, RSMo (1994) and 402.215.2(1), RSMo (Cum. Supp. 1996).\* Original rule filed July 30, 1992, effective April 8, 1993. Amended: Filed Nov. 2, 1994, effective March 30, 1995. Amended: Filed April 11, 1997, effective Sept. 30, 1997.*

*\*Original authority: 402.210.6, RSMo (1989), amended 1991, 1993 and 402.215(1), RSMo (1989), amended 1991, 1993, 1996.*